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**PUBLIC LAWS**  
OF THE  
**STATE OF RHODE-ISLAND**  
AND  
**PROVIDENCE PLANTATIONS,**

AS REVISED BY A COMMITTEE, AND FINALLY ENACTED BY THE GENERAL ASSEMBLY  
AT THE SESSION IN JANUARY, 1844.

TO WHICH ARE PREFIXED,

THE CHARTER OF CHARLES II., DECLARATION OF INDEPENDENCE,  
RESOLUTION OF GENERAL ASSEMBLY TO SUPPORT THE DECLARATION OF INDEPENDENCE,  
ARTICLES OF CONFEDERATION, CONSTITUTION OF THE UNITED STATES, PROCEED-  
INGS OF THE CONVENTION ON THE ADOPTION OF THE CONSTITUTION OF THE  
UNITED STATES BY RHODE-ISLAND, PRESIDENT WASHINGTON'S AD-  
DRESS OF SEPTEMBER, 1796, AND CONSTITUTION OF THE STATE  
OF RHODE-ISLAND AND PROVIDENCE PLANTATIONS.

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# THE CHARTER,

GRANTED BY KING CHARLES II.

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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: Whereas we have been informed, by the humble petition of our trusty and well beloved subject, Johu Clarke, on the behalf of Benjamin Arnold, William Brenton, William Coddington, Nicholas Easton, William Boulston, John Porter, John Smith, Samuel Gorton, John Weeks, Roger Williams, Thomas Olney, Gregory Dexter, John Coggeshall, Joseph Clarke, Randall Holden, John Greene, John Roome, Samuel Wildbore, William Field, James Barker, Richard Tew, Thomas Harris, and William Dyre, and the rest of the purchasers and free inhabitants of our island, called Rhode-Island, and the rest of the colony of Providence Plantations, in the Narragansett Bay, in New-England, in America, that they, pursuing, with peaceable and loyal minds, their sober, serious and religious intentions, of godly edifying themselves, and one another, in the holy Christian faith and worship, as they were persuaded; together with the gaining over and conversion of the poor ignorant Indian natives, in those parts of America, to the sincere profession and obedience of the same faith and worship, did, not only by the consent and good encouragement of our royal progenitors, transport themselves out of this kingdom of England into America, but also, since their arrival there, after their first settlement amongst other our subjects in those parts, for the avoiding of discord, and those many evils which were likely to ensue upon some of those our subjects not being able to bear, in these remote parts, their different apprehensions in religious concernments, and in pursuance of the aforesaid ends, did once again leave their desirable stations and habitations, and with excessive labor and travel, hazard and charge, did transplant themselves into the midst of the Indian natives, who, as we are informed, are the most potent princes and people of all that country; where, by the good Providence of God, from whom the Plantations have taken their name, upon their labour and industry, they have not only been preserved to admiration, but have increased and prospered, and are seized and possessed, by purchase and consent of the said natives, to their full content, of such lands, islands, rivers, harbors and roads, as are very convenient, both for plantations and also for building of ships, supply of pipe-staves, and other merchandize; and which lie very commodious, in many respects, for commerce, and to accommodate our southern plantations, and may much advance the trade of this our realm, and greatly enlarge the territories thereof; they having, by near neighborhood to and friendly society with the great body of the Narragansett Indians, given them encouragement, of their own accord, to subject themselves, their people and lands, unto us; whereby, as is hoped, there may, in time, by the blessing of God upon their endeavors, be laid a sure foundation of happiness to all America: And

whereas, in their humble address, they have freely declared, that it is much on their hearts (if they may be permitted) to hold forth a lively experiment, that a most flourishing civil state may stand and best be maintained, and that among our English subjects, with a full liberty in religious concerns; and that true piety, rightly grounded upon gospel principles, will give the best and greatest security to sovereignty, and will lay in the hearts of men the strongest obligations to true loyalty: Now know ye, that we, being willing to encourage the hopeful undertaking of our said loyal and loving subjects, and to secure them in the free exercise and enjoyment of all their civil and religious rights, appertaining to them, as our loving subjects; and to preserve unto them that liberty, in the true Christian faith and worship of God, which they have sought with so much travail, and with peaceable minds, and loyal subjection to our royal progenitors and ourselves, to enjoy; and because some of the people and inhabitants of the same colony cannot, in their private opinions, conform to the public exercise of religion, according to the liturgy, forms and ceremonies of the Church of England, or take or subscribe the oaths and articles made and established in that behalf; and for that the same, by reason of the remote distances of those places, will (as we hope) be no breach of the unity and uniformity established in this nation: Have therefore thought fit, and do hereby publish, grant, ordain and declare, That our royal will and pleasure is, that no person within the said colony, at any time hereafter, shall be any wise molested, punished, disquieted, or called in question, for any differences in opinion in matters of religion, and do not actually disturb the civil peace of our said colony; but that all and every person and persons may, from time to time, and at all times hereafter, freely and fully have and enjoy his and their own judgments and consciences, in matters of religious concerns, throughout the tract of land hereafter mentioned, they behaving themselves peaceably and quietly, and not using this liberty to licentiousness and profaneness, nor to the civil injury or outward disturbance of others; any law, statute, or clause, therein contained, or to be contained, usage or custom of this realm, to the contrary hereof, in any wise, notwithstanding. And that they may be in the better capacity to defend themselves, in their just rights and liberties, against all the enemies of the Christian faith, and others, in all respects, we have further thought fit, and at the humble petition of the persons aforesaid are graciously pleased to declare, That they shall have and enjoy the benefit of our late act of indemnity and free pardon, as the rest of our subjects in other our dominions and territories have; and to create and make them a body politic or corporate, with the powers and privileges hereinafter mentioned. And accordingly our will and pleasure is, and of our especial grace, certain knowledge, and mere motion, we have ordained, constituted and declared, and by these presents, for us, our heirs and successors, do ordain, constitute and declare, That they, the said William Brenton, William Coddington, Nicholas Easton, Benedict Arnold, William Boulston, John Porter, Samuel Gorton, John Smith, John Weeks, Roger Williams, Thomas Olney, Gregory Dexter, John Coggeshall, Joseph Clarke, Randall Holden, John Greene, John Roome, William Dyre, Samuel Wildbore, Richard Tew, William Field, Thomas Harris, James Barker, ——— Rainsborrow, ——— Williams, and John Nickson, and all such others as now are, or hereafter shall be, admitted and made free of the company and society of our colony of Providence Plantations, in the Narragansett Bay, in New-England, shall be, from time to time, and forever hereafter, a body corporate and politic, in fact and name, by the name of The Governor and Company of the English Colony of Rhode-Island and Providence Plantations, in New-England, in America; and that, by the same name, they and their successors shall and may have perpetual succession, and shall and may

in all and singular suits, causes, quarrels, matters, actions and things, of what kind or nature soever; and also to have, take, possess, acquire and be persons able and capable, in the law, to sue and be sued, to plead and be impleaded, to answer and be answered unto, to defend and to be defended, purchase, lands, tenements or hereditaments, or any goods or chattels, and the same to lease, grant, demise, aliene, bargain, sell and dispose of, at their own will and pleasure, as other our liege people of this our realm of England, or any corporation or body politic within the same, may lawfully do. And further, that they the said Governor and Company, and their successors, shall and may, forever hereafter, have a common seal, to serve and use for all matters, causes, things and affairs, whatsoever, of them and their successors; and the same seal to alter, change, break, and make new, from time to time, at their will and pleasure, as they shall think fit. And further, we will and ordain, and by these presents, for us, our heirs and successors, do declare and appoint that, for the better ordering and managing of the affairs and business of the said Company, and their successors, there shall be one Governor, one Deputy-Governor and ten Assistants, to be, from time to time, constituted, elected and chosen, out of the freemen of the said Company, for the time being, in such manner and form as is hereafter in these presents expressed; which said officers shall apply themselves to take care for the best disposing and ordering of the general business and affairs of and concerning the lands and hereditaments hereinafter mentioned to be granted, and the plantation thereof, and the government of the people there. And, for the better execution of our royal pleasure herein, we do, for us, our heirs and successors, assign, name, constitute and appoint the aforesaid Benedict Arnold to be the first and present Governor of the said Company, and the said William Brenton to be the Deputy-Governor, and the said William Boulston, John Porter, Roger Williams, Thomas Olney, John Smith, John Greene, John Coggeshall, James Barker, William Field, and Joseph Clarke, to be the ten present Assistants of the said Company, to continue in the said several offices, respectively, until the first Wednesday which shall be in the month of May now next coming. And further, we will, and by these presents, for us, our heirs and successors, do ordain and grant, that the Governor of the said Company, for the time being, or, in his absence, by occasion of sickness, or otherwise, by his leave and permission, the Deputy-Governor, for the time being, shall and may, from time to time, upon all occasions, give order for the assembling of the said Company, and calling them together, to consult and advise of the business and affairs of the said Company. And that forever hereafter, twice in every year, that is to say, on every first Wednesday in the month of May, and on every last Wednesday in October, or oftener, in case it shall be requisite, the Assistants, and such of the freemen of the said Company, not exceeding six persons for Newport, four persons for each of the respective towns of Providence, Portsmouth and Warwick, and two persons for each other place, town or city, who shall be, from time to time, thereunto elected or deputed by the major part of the freemen of the respective towns or places for which they shall be so elected or deputed, shall have a general meeting or assembly, then and there to consult, advise and determine, in and about the affairs and business of the said Company and Plantations. And further, we do, of our especial grace, certain knowledge, and mere motion, give and grant unto the said Governor and Company of the English colony of Rhode-Island and Providence Plantations, in New-England, in America, and their successors, that the Governor, or, in his absence, or, by his permission, the Deputy-Governor of the said Company, for the time being, the Assistants, and such of the freemen of the said Company as shall be so as aforesaid elected or deputed, or so many of them as shall be present at such meeting or assembly, as aforesaid,

shall be called the General Assembly ; and that they, or the greatest part of them present, whereof the Governor or Deputy-Governor, and six of the Assistants, at least to be seven, shall have, and have hereby given and granted unto them, full power and authority, from time to time, and at all times hereafter, to appoint, alter and change, such days, times and places of meeting and General Assembly, as they shall think fit ; and to choose, nominate, and appoint, such and so many other persons as they shall think fit, and shall be willing to accept the same, to be free of the said Company and body politic, and them into the same to admit ; and to elect and constitute such offices and officers, and to grant such needful commissions, as they shall think fit and requisite, for the ordering, managing and dispatching of the affairs of the said Governor and Company, and their successors ; and, from time to time, to make, ordain, constitute or repeal, such laws, statutes, orders and ordinances, forns and ceremonies of government and magistracy, as to them shall seem meet, for the good and welfare of the said Company, and for the government and ordering of the lands and hereditaments, hereinafter mentioned to be granted, and of the people that do, or at any time hereafter shall, inhabit or be within the same ; so as such laws, ordinances and constitutions, so made, be not contrary and repugnant unto, but, as near as may be, agreeable to the laws of this our realm of England, considering the nature and constitution of the place and people there ; and also to appoint, order and direct, erect and settle, such places and courts of jurisdiction, for the hearing and determining of all actions, cases, matters and things, happening within the said colony and plantation, and which shall be in dispute, and depending there, as they shall think fit ; and also to distinguish and set forth the several names and titles, duties, powers and limits, of each court, office and officer, superior and inferior ; and also to contrive and appoint such forms of oaths and attestations, not repugnant, but, as near as may be, agreeable, as aforesaid, to the laws and statutes of this our realm, as are convenient and requisite, with respect to the due administration of justice, and due execution and discharge of all offices and places of trust by the persons that shall be therein concerned ; and also to regulate and order the way and manner of all elections to offices and places of trust, and to prescribe, limit and distinguish the numbers and bounds of all places, towns or cities, within the limits and bounds herein after mentioned, and not herein particularly named, who have, or shall have, the power of electing and sending of freemen to the said General Assembly ; and also to order, direct and authorize the imposing of lawful and reasonable fines, mulcts, imprisonments, and executing other punishments, pecuniary and corporal, upon offenders and delinquents, according to the course of other corporations within this our kingdom of England ; and again to alter, revoke, annul or pardon, under their common seal, or otherwise, such fines, mulcts, imprisonments, sentences, judgments and condemnations, as shall be thought fit ; and to direct, rule, order and dispose of, all other matters and things, and particularly that which relates to the making of purchases of the native Indians, as to them shall seem meet ; whereby our said people and inhabitants, in the said Plantations, may be so religiously, peaceably and civilly governed, as that, by their good life and orderly conversation, they may win and invite the native Indians of the country to the knowledge and obedience of the only true God, and Saviour of mankind ; willing, commanding and requiring, and by these presents, for us, our heirs and successors, ordaining and appointing, that all such laws, statutes, orders and ordinances, instructions, impositions and directions, as shall be so made by the Governor, Deputy-Governor, Assistants and freemen, or such number of them as aforesaid, and published in writing, under their common seal, shall be carefully and duly observed, kept, performed and put in execution, according to the true intent and meaning of the same.

And these our letters patent, or the duplicate or exemplification thereof, shall be to all and every such officer, superior or inferior, from time to time, for the putting of the same orders, laws, statutes, ordinances, instructions and directions, in due execution, against us, our heirs and successors, a sufficient warrant and discharge. And further, our will and pleasure is, and we do hereby, for us, our heirs and successors, establish and ordain, that yearly, once in the year, forever hereafter, namely, the aforesaid Wednesday in May, and at the town of Newport, or elsewhere, if urgent occasion do require, the Governor, Deputy-Governor and Assistants of the said Company, and other officers of the said Company, or such of them as the General Assembly shall think fit, shall be, in the said General Court or Assembly to be held from that day or time, newly chosen for the year ensuing, by such greater part of the said Company, for the time being, as shall be then and there present; and if it shall happen that the present Governor, Deputy-Governor and Assistants, by these presents appointed, or any such as shall hereafter be newly chosen into their rooms, or any of them, or any other the officers of the said Company, shall die or be removed from his or their several offices or places, before the said general day of election, (whom we do hereby declare, for any misdemeanor or default, to be removable by the Governor, Assistants and Company, or such greater part of them, in any of the said public courts, to be assembled as aforesaid,) that then, and in every such case, it shall and may be lawful to and for the said Governor, Deputy-Governor, Assistants and Company aforesaid, or such greater part of them, so to be assembled as is aforesaid, in any their assemblies, to proceed to a new election of one or more of their Company, in the room or place, rooms or places, of such officer or officers, so dying or removed, according to their discretions; and immediately upon and after such election or elections made of such Governor, Deputy-Governor, Assistant or Assistants, or any other officer of the said Company, in manner and form aforesaid, the authority, office and power, before given to the former Governor, Deputy-Governor, and other officer and officers, so removed, in whose stead and place new shall be chosen, shall, as to him and them, and every of them, respectively, cease and determine: *Provided always*, and our will and pleasure is, that as well such as are by these presents appointed to be the present Governor, Deputy-Governor and Assistants, of the said Company, as those that shall succeed them, and all other officers to be appointed and chosen as aforesaid, shall, before the undertaking the execution of the said offices and places respectively, give their solemn engagement, by oath, or otherwise, for the due and faithful performance of their duties in their several offices and places, before such person or persons as are by these presents hereafter appointed to take and receive the same, that is to say: the said Benedict Arnold, who is hereinbefore nominated and appointed the present Governor of the said Company, shall give the aforesaid engagement before William Brenton, or any two of the said Assistants of the said Company; unto whom we do by these presents give full power and authority to require and receive the same; and the said William Brenton, who is hereby before nominated and appointed the present Deputy-Governor of the said Company, shall give the aforesaid engagement before the said Benedict Arnold, or any two of the Assistants of the said Company; unto whom we do by these presents give full power and authority to require and receive the same; and the said William Boulston, John Porter, Roger Williams, Thomas Olney, John Smith, John Greene, John Coggeshall, James Barker, William Field, and Joseph Clarke, who are hereinbefore nominated and appointed the present Assistants of the said Company, shall give the said engagement to their offices and places respectively belonging, before the said Benedict Arnold and William Brenton, or one of them; to whom respectively we do hereby give full power and

authority to require, administer or receive the same : and further, our will and pleasure is, that all and every other future Governor or Deputy-Governor, to be elected and chosen by virtue of these presents, shall give the said engagement before two or more of the said Assistants of the said Company for the time being ; unto whom we do by these presents give full power and authority to require, administer or receive the same ; and the said Assistants, and every of them, and all and every other officer or officers to be hereafter elected and chosen by virtue of these presents, from time to time, shall give the like engagements, to their offices and places respectively belonging, before the Governor or Deputy-Governor for the time being ; unto which said Governor, or Deputy-Governor, we do by these presents give full power and authority to require, administer or receive the same accordingly. And we do likewise, for us, our heirs and successors, give and grant unto the said Governor and Company, and their successors, by these presents, that, for the more peaceable and orderly government of the said Plantations, it shall and may be lawful for the Governor, Deputy-Governor, Assistants, and all other officers and ministers of the said Company, in the administration of justice, and exercise of government, in the said Plantations, to use, exercise, and put in execution, such methods, rules, orders and directions, not being contrary or repugnant to the laws and statutes of this our realm, as have been heretofore given, used and accustomed, in such cases respectively, to be put in practice, until at the next or some other General Assembly, special provision shall be made and ordained in the cases aforesaid. And we do further, for us, our heirs and successors, give and grant unto the said Governor and Company, and their successors, by these presents, that it shall and may be lawful to and for the said Governor, or, in his absence, the Deputy-Governor, and major part of the said Assistants, for the time being, at any time when the said General Assembly is not sitting, to nominate, appoint and constitute, such and so many commanders, governors, and military officers, as to them shall seem requisite, for the leading, conducting and training up the inhabitants of the said Plantations in martial affairs, and for the defence and safeguard of the said Plantations ; and that it shall and may be lawful to and for all and every such commander, governor and military officer, that shall be so as aforesaid, or by the Governor, or, in his absence, the Deputy-Governor, and six of the said Assistants, and major part of the freemen of the said Company present at any General Assemblies, nominated, appointed and constituted, according to the tenor of his and their respective commissions and directions, to assemble, exercise in arms, martial array, and put in warlike posture, the inhabitants of the said colony, for their special defence and safety ; and to lead and conduct the said inhabitants, and to encounter, expulse, expel and resist, by force of arms, as well by sea as by land, and also to kill, slay and destroy, by all fitting ways, enterprizes and means, whatsoever, all and every such person or persons as shall, at any time hereafter, attempt or enterprize the destruction, invasion, detriment or annoyance of the said inhabitants or Plantations ; and to use and exercise the law martial in such cases only as occasion shall necessarily require ; and to take or surprise, by all ways and means whatsoever, all and every such person and persons, with their ship or ships, armor, ammunition or other goods of such persons, as shall, in hostile manner, invade or attempt the defeating of the said Plantations, or the hurt of the said Company and inhabitants ; and, upon just causes, to invade and destroy the native Indians, or other enemies of the said Colony. Nevertheless, our will and pleasure is, and we do hereby declare to the rest of our Colonies in New-England, that it shall not be lawful for this our said Colony of Rhode-Island and Providence Plantations, in America, in New-England, to invade the natives inhabiting within the bounds and limits of

their said Colonies, without the knowledge and consent of the said other Colonies. And it is hereby declared, that it shall not be lawful to or for the rest of the Colonies to invade or molest the native Indians, or any other inhabitants, inhabiting within the bounds and limits hereafter mentioned, (they having subjected themselves unto us, and being by us taken into our special protection,) without the knowledge and consent of the Governor and company of our Colony of Rhode-Island and Providence Plantations. Also our will and pleasure is, and we do hereby declare unto all Christian Kings, Princes and States, that if any person, which shall hereafter be of the said Company or Plantations, or any other, by appointment of the said Governor and Company for the time being, shall at any time or times hereafter, rob or spoil, by sea or land, or do any hurt or unlawful hostility to any of the subjects of us, our heirs or successors, or any of the subjects of any Prince or State, being then in league with us, our heirs or successors, upon complaint of such injury done to any such Prince or State, or their subjects, we, our heirs and successors, will make open proclamation within any parts of our realm of England, fit for that purpose, that the person or persons committing any such robbery or spoil shall, within the time limited by such proclamation, make full restitution or satisfaction of all such injuries, done or committed, so as the said Prince, or others so complaining, may be fully satisfied and contented; and if the said person or persons who shall commit any such robbery or spoil shall not make satisfaction, accordingly, within such time, so to be limited, that then we, our heirs and successors, will put such person or persons out of our allegiance and protection; and that then it shall and may be lawful and free for all Princes or others to prosecute, with hostility, such offenders, and every of them, their and every of their procurers, aiders, abettors and counsellors, in that behalf; *Provided also*, and our express will and pleasure is, and we do, by these presents, for us, our heirs and successors, ordain and appoint, that these presents shall not, in any manner, hinder any of our loving subjects, whatsoever, from using and exercising the trade of fishing upon the coast of New-England, in America; but that they, and every or any of them, shall have full and free power and liberty to continue and use the trade of fishing upon the said coast, in any of the seas thereunto adjoining, or any arms of the seas, or salt water, rivers and creeks, where they have been accustomed to fish; and to build and set upon the waste land, belonging to the said Colony and Plantations, such wharves, stages and work-houses as shall be necessary for the salting, drying and keeping of their fish, to be taken or gotten upon that coast. And further, for the encouragement of the inhabitants of our said Colony of Providence Plantations to set upon the business of taking whales, it shall be lawful for them, or any of them, having struck whale, dubertus, or other great fish, it or them, to pursue unto any part of that coast, and into any bay, river, cove, creek or shore, belonging thereto, and it or them, upon the said coast, or in the said bay, river, cove, creek or shore, belonging thereto, to kill and order for the best advantage, without molestation, they making no wilful waste or spoil; any thing in these presents contained, or any other matter or thing, to the contrary notwithstanding. And further also, we are graciously pleased, and do hereby declare, that if any of the inhabitants of our said Colony do set upon the planting of vineyards (the soil and climate both seeming naturally to concur to the production of wines) or be industrious in the discovery of fishing banks, in or about the said Colony, we will, from time to time, give and allow all due and fitting encouragement therein, as to others in cases of like nature. And further, of our more ample grace, certain knowledge, and mere motion, we have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said Governor and Company of the English Colony of



Rhode-Island and Providence Plantations, in the Narragansett Bay, in New-England, in America, and to every inhabitant there, and to every person and persons trading thither, and to every such person or persons as are or shall be free of the said Colony, full power and authority, from time to time, and at all times hereafter, to take, ship, transport and carry away, out of any of our realms and dominions, for and towards the plantation and defence of the said Colony, such and so many of our loving subjects and strangers as shall or will willingly accompany them in and to their said Colony and Plantation; except such person or persons as are or shall be therein restrained by us, our heirs and successors, or any law or statute of this realm: and also to ship and transport all and all manner of goods, chattels, merchandizes, and other things whatsoever, that are or shall be useful or necessary for the said Plantations, and defence thereof, and usually transported, and not prohibited by any law or statute of this our realm; yielding and paying unto us, our heirs and successors, such the duties, customs and subsidies, as are or ought to be paid or payable for the same. And further, our will and pleasure is, and we do, for us, our heirs and successors, ordain, declare and grant, unto the said Governor and Company, and their successors, that all and every the subjects of us, our heirs and successors, which are already planted and settled within our said Colony of Providence Plantations, or which shall hereafter go to inhabit within the said Colony, and all and every of their children, which have been born there, or which shall happen hereafter to be born there, or on the sea, going thither, or returning from thence, shall have and enjoy all liberties and immunities of free and natural subjects within any the dominions of us, our heirs or successors, to all intents, constructions and purposes, whatsoever, as if they, and every of them, were born within the realm of England. And further, know ye, that we, of our more abundant grace, certain knowledge and mere motion, have given, granted and confirmed, and, by these presents, for us, our heirs and successors, do give, grant and confirm, unto the said Governor and Company, and their successors, all that part of our dominions in New-England, in America, containing the Nahantick and Nanhyganset, alias Narragansett Bay, and countries and parts adjacent, bounded on the west, or westerly, to the middle or channel of a river there, commonly called and known by the name of Pawcatuck, alias Pawcawtuck river, and so along the said river, as the greater or middle stream thereof reacheth or lies up into the north country, northward, unto the head thereof, and from thence, by a strait line drawn due north, until it meets with the south line of the Massachusetts Colony; and on the north, or northerly, by the aforesaid south or southerly line of the Massachusetts Colony or Plantation, and extending towards the east, or eastwardly, three English miles to the east and north-east of the most eastern and north-eastern parts of the aforesaid Narragansett Bay, as the said bay lyeth or extendeth itself from the ocean on the south, or southwardly, unto the mouth of the river which runneth towards the town of Providence, and from thence along the eastwardly side or bank of the said river (higher called by the name of Seacunck river) up to the falls called Patuckett falls, being the most westwardly line of Plymouth Colony, and so from the said falls, in a strait line, due north, until it meet with the aforesaid line of the Massachusetts Colony; and bounded on the south by the ocean: and, in particular, the lands belonging to the towns of Providence, Pawtuxet, Warwick, Misquammacock, alias Pawcatuck, and the rest upon the main land in the tract aforesaid, together with Rhode-Island, Block-Island, and all the rest of the islands and banks in the Narragansett Bay, and bordering upon the coast of the tract aforesaid, (Fisher's Island only excepted,) together with all firm lands, soils, grounds, havens, ports, rivers, waters, fishings, mines royal, and all other mines minerals, precious stones, quarries, woods, wood-

grounds, rocks, slates, and all and singular other commodities, jurisdictions, royalties, privileges, franchises, preeminances and hereditaments, whatsoever, within the said tract, bounds, lands and islands, aforesaid, or to them or any of them belonging, or in any wise appertaining: *to have and to hold* the same, unto the said Governor and Company, and their successors, forever, upon trust, for the use and benefit of themselves and their associates, freemen of the said Colony, their heirs and assigns, to be holden of us, our heirs and successors, as of the Manor of East-Greenwich, in our county of Kent, in free and common soccage, and not in capite, nor by knight service; yielding and paying therefor, to us, our heirs and successors, only the fifth part of all the ore of gold and silver which, from time to time, and at all times hereafter, shall be there gotten, had or obtained, in lieu and satisfaction of all services, duties, fines, forfeitures, made or to be made, claims and demands whatsoever, to be to us, our heirs or successors, therefor or thereout rendered, made or paid; any grant, or clause in a late grant, to the Governor and Company of Connecticut Colony, in America, to the contrary thereof in any wise notwithstanding; the aforesaid Pawcatuck river having been yielded, after much debate, for the fixed and certain bounds between these our said Colonies, by the agents thereof; who have also agreed, that the said Pawcatuck river shall be also called alias Norrogansett or Narragansett river; and, to prevent future disputes, that otherwise might arise thereby, forever hereafter shall be construed, deemed and taken to be the Narragansett river in our late grant to Connecticut Colony mentioned as the easterly bounds of that Colony. And further, our will and pleasure is, that in all matters of public controversy which may fall out between our Colony of Providence Plantations, and the rest of our Colonies in New-England, it shall and may be lawful to and for the Governor and Company of the said Colony of Providence Plantations to make their appeals therein to us, our heirs and successors, for redress in such cases, within this our realm of England: and that it shall be lawful to and for the inhabitants of the said Colony of Providence Plantations, without let or molestation, to pass and repass, with freedom, into and through the rest of the English Colonies, upon their lawful and civil occasions, and to converse, and hold commerce and trade, with such of the inhabitants of our other English Colonies as shall be willing to admit them thereunto, they behaving themselves peaceably among them; any act, clause or sentence, in any of the said Colonies provided, or that shall be provided, to the contrary in anywise notwithstanding. And lastly, we do, for us, our heirs and successors, ordain and grant unto the said Governor and Company, and their successors, by these presents, that these our letters patent shall be firm, good, effectual and available in all things in the law, to all intents, constructions and purposes whatsoever, according to our true intent and meaning hereinbefore declared; and shall be construed, reputed and adjudged in all cases most favorably on the behalf, and for the best benefit and behoof, of the said Governor and Company, and their successors; 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 Governor and Company of the English Colony of Rhode-Island and Providence Plantations, in the Narragansett Bay, New-England, in America, 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 anywise notwithstanding. In witness whereof, we have caused these our letters to be made patent. Witness ourself at Westminster, the eighth day of July, in the fifteenth year of our reign.

*By the King:*

HOWARD.

## DECLARATION OF INDEPENDENCE.

In Congress, July 4, 1776.—*The unanimous Declaration of the Thirteen United States of America.*

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 new government, laying its foundations 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 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 danger of invasion from without, and convulsions within.

He has endeavored 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 neighboring 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 endeavored 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 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 the 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 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.

MASSACHUSETTS BAY.  
SAMUEL ADAMS,  
JOHN ADAMS,  
ROBERT TREAT PAINE,  
ELBRIDGE GERRY.

RHODE-ISLAND, &c.  
STEPHEN HOPKINS,  
WILLIAM ELLERY.

CONNECTICUT.  
ROGER SHERMAN,  
SAMUEL HUNTINGTON,  
WILLIAM WILLIAMS,  
OLIVER WOLCOTT.

NEW-YORK.  
WILLIAM FLOYD,  
PHILIP LIVINGSTON,  
FRANCIS LEWIS,  
LEWIS MORRIS.

NEW-JERSEY.  
RICHARD STOCKTON,  
JOHN WITHERSPOON,  
FRANCIS HOPKINSON,  
JOHN HART,  
ABRAHAM CLARK.

PENNSYLVANIA.  
ROBERT MORRIS,  
BENJAMIN RUSH,  
BENJAMIN FRANKLIN,  
JOHN MORTON,  
GEORGE CLYMER,

JAMES SMITH,  
GEORGE TAYLOR,  
JAMES WILSON,  
GEORGE ROSS.

DELAWARE.  
CÆSAR RODNEY,  
GEORGE READ,  
THOMAS M'KEAN.

MARYLAND.  
SAMUEL CHASE,  
WILLIAM PACA,  
THOMAS STONE,  
CHAS. CARROLL, of Carrollton.

VIRGINIA.  
GEORGE WYTHE,  
RICHARD HENRY LEE,  
THOMAS JEFFERSON,  
BENJAMIN HARRISON,  
THOMAS NELSON, Jr.,  
FRANCIS LIGHTFOOT LEE,  
CARTER BRAXTON.

NORTH-CAROLINA.  
WILLIAM HOOPER,  
JOSEPH HEWES,  
JOHN PENN.

SOUTH-CAROLINA.  
EDWARD RUTLEDGE,  
THOMAS HEYWARD, Jr.,  
THOMAS LYNCH, Jr.,  
ARTHUR MIDDLETON.

GEORGIA.  
BUTTON GWINNETT,  
LYMAN HALL,  
GEORGE WALTON.

## STATE OF RHODE-ISLAND AND PROVIDENCE PLANTATIONS.

*In General Assembly, July Session, 1776.*

This General Assembly, taking into the most serious consideration the resolution of the most honorable the General Congress of the United States of America, of the 4th instant, declaring the said States free and independent States, do approve the said resolution; and do most solemnly engage that we will support the said General Congress, in the said resolution, with our lives and fortunes.

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## STATE OF RHODE-ISLAND AND PROVIDENCE PLANTATIONS.

*In General Assembly, July 12, 1776.*

*It is voted and resolved,* That the resolution of the General Congress, declaring the United Colonies free and independent States, and the act of this Assembly approving said resolution, be published by the Secretary tomorrow, in Newport, at 12 o'clock, in presence of both Houses of the General Assembly: That thirteen cannon be discharged at Fort Liberty, upon reading the said proclamation: And that the brigade be drawn up on the parade, in thirteen divisions, and immediately after the discharge of the cannon, make a discharge of musketry, each division firing one volley in succession.

*It is further voted and resolved,* That the said resolution and act be published in Providence, on Thursday next, at 12 o'clock, in such manner as his Honor the Governor shall think fit; and that thirteen cannon be discharged on the occasion.

*And it is further voted and resolved,* That the said resolution and act be read in the several town-meetings to be holden on the last Tuesday in August next; and that the Secretary seasonably furnish the necessary copies.

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## ARTICLES OF CONFEDERATION.

TO ALL TO WHOM THESE PRESENTS SHALL COME,

*We, the undersigned, Delegates of the States affixed to our names, send greeting:*

Whereas the Delegates of the United States of America in Congress assembled, did, on the fifteenth day of November, in the year of our Lord one thousand seven hundred and seventy-seven, and in the second year of the Independence of America, agree to certain articles of confederation and perpetual union between the States of New-Hampshire, Massachusetts Bay, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia, in the words following, viz:

Articles of confederation and perpetual union between the States of New-Hampshire, Massachusetts Bay, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia.

ARTICLE 1. The style of this confederacy shall be, "The United States of America."

ART. 2. Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in Congress assembled.

ART. 3. The said States hereby severally enter into a firm league of friendship with each other for their common defence, the security of their liberties, and their mutual and general welfare; binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

ART. 4. The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States (paupers, vagabonds, and fugitives from justice, excepted) shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State to any other State, of which the owner is an inhabitant; provided also, that no imposition, duties, or restrictions, shall be laid by any State on the property of the United States, or either of them.

If any person guilty of or charged with treason, felony, or other high misdemeanor, in any State, shall flee from justice, and be found in any of the United States, he shall, upon demand of the Governor or executive power of the State from which he fled, be delivered up, and removed to the State having jurisdiction of his offence.

Full faith and credit shall be given in each of these States to the records, acts, and judicial proceedings of the courts and magistrates of every other State.

ART. 5. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the Legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year.

No State shall be represented in Congress by less than two nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

Each State shall maintain its own delegates in a meeting of the States, and while they act as members of the committee of the States.

In determining questions in the United States in Congress assembled, each State shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress; and the members of Congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from and attendance on Congress, except for treason, felony, or breach of the peace.

**ART. 6.** No State, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation, or alliance whatever, between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States in Congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any State, except such number only as shall be deemed necessary by the United States in Congress assembled, for the defence of such State or its trade; nor shall any body of forces be kept up by any State in time of peace, except such number only as, in the judgment of the United States in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such State; but every State shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and have constantly ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No State shall engage in any war without the consent of the United States in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay till the United States in Congress assembled can be consulted; nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

**ART. 7.** When land forces are raised by any State for the common defence, all officers of or under the rank of colonel shall be appointed by the Legislature of each State respectively, by whom such forces shall be raised, or in such manner as such State shall direct; and all vacancies shall be filled up by the State which first made the appointment.

**ART. 8.** All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of all land within each State granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in Congress assembled shall from time to time direct and appoint.

The taxes for paying that proportion shall be laid and levied by the au-



authority and direction of the Legislatures of the several States, within the time agreed upon by the United States in Congress assembled.

ART. 9. The United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article—of sending and receiving ambassadors—entering into treaties and alliances; provided, that no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever—of establishing rules for deciding in all cases what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated—of granting letters of marque and reprisal in times of peace—appointing courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of captures: provided, that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more States concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: whenever the legislative or executive authority or lawful agent of any State in controversy with another shall present a petition to Congress, stating the matter in question, and praying for hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties, by their lawful agents, who shall then be directed to appoint by joint consent commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges, who shall hear the cause, shall agree in the determination; and if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or being present shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the Secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed in the manner before prescribed shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear, or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive; the judgment or sentence, and other proceedings, being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned: provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "*well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward:*" provided also, that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil, claimed under different grants of two or more States, whose jurisdiction as they may respect such lands and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States—fixing the standard of weights and measures throughout the United States—regulating the trade and managing all affairs with the Indians not members of any of the States ; provided, that the legislative right of any State within its own limits be not infringed or violated—establishing and regulating post-offices from one State to another throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office—appointing all officers of the land forces in the service of the United States, excepting regimental officers—appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States—making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee to sit in the recess of Congress, to be denominated “ a committee of the States,” and to consist of one delegate from each State ; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States, under their direction—to appoint one of their number to preside, provided that no person be allowed to serve in the office of President more than one year in any term of three years—to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses—to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted—to build and equip a navy—to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State ; which requisition shall be binding, and thereupon the Legislature of each State shall appoint the regimental officers, raise the men, and clothe, arm and equip them in a soldier-like manner, at the expense of the United States ; and the officers and men so clothed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled : but if the United States in Congress assembled shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed and equipped, in the same manner as the quota of such State, unless the Legislature of such State shall judge that such extra number cannot be safely spared out of the same ; in which case they shall raise, officer, clothe, arm, and equip, as many of such extra number as they judge can be safely spared ; and the officers and men so clothed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any

treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine States assent to the same; nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months; and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each State on any question shall be entered on the journal, when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the Legislatures of the several States.

ART. 10. The committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine States, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine States in the Congress of the United States assembled is requisite.

ART. 11. Canada, acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to, all the advantages of this union; but no other colony shall be admitted into the same unless such admission be agreed to by nine States.

ART. 12. All bills of credit emitted, monies borrowed, and debts contracted, by or under the authority of Congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ART. 13. Every State shall abide by the determination of the United States in Congress assembled, on all questions which, by this confederation, are submitted to them. And the articles of this confederation shall be inviolably observed by every State, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislature of every State.

And whereas it has pleased the Great Governor of the world to incline the hearts of the Legislatures we respectively represent in Congress, to approve of and to authorize us to ratify the said articles of confederation and perpetual union: KNOW YE, that we, the undersigned Delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained; and we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, on all questions which, by the said confederation, are submitted to them: and that the articles thereof shall be

inviolably observed by the States we respectively represent; and that the union shall be perpetual.

In witness whereof, we have hereunto set our hands, in Congress. Done at Philadelphia, in the State of Pennsylvania, the ninth day of July, in the year of our Lord one thousand seven hundred and seventy-eight, and in the third year of the Independence of America.

*On the part and behalf of the State of New-Hampshire.*

JOSIAH BARTLETT, JOHN WENTWORTH, Jr., Aug. 8, 1778.

*On the part and behalf of the State of Massachusetts Bay.*

JOHN HANCOCK, FRANCIS DANA,  
SAMUEL ADAMS, JAMES LOVELL,  
ELBRIDGE GERRY, SAMUEL HOLTEN.

*On the part and in behalf of the State of Rhode-Island and Providence Plantations.*

WILLIAM ELLERY, JOHN COLLINS,  
HENRY MARCHANT,

*On the part and behalf of the State of Connecticut.*

ROGER SHERMAN, TITUS HOSMER,  
SAMUEL HUNTINGTON, ANDREW ADAMS,  
OLIVER WOLCOTT,

*On the part and in behalf of the State of New-York.*

JAS. DUANE, WM. DUER,  
FRA. LEWIS, GOUV. MORRIS.

*On the part and in behalf of the State of New-Jersey.*

JNO. WITHERSPOON, NATH. SCUDDER, Nov. 26, 1778.

*On the part and behalf of the State of Pennsylvania.*

ROBT. MORRIS, WILLIAM CLINGAN,  
DANIEL ROBERDEAU, JOSEPH REED, 22d July, 1778.  
JONA. BAYARD SMITH,

*On the part and behalf of the State of Delaware.*

THO. M'KEAN, Feb. 13, 1779, NICHOLAS VAN DYKE.  
JOHN DICKINSON, May 5th, 1779,

*On the part and behalf of the State of Maryland.*

JOHN HANSON, March 1, 1781, DANIEL CARROLL, do.

*On the part and behalf of the State of Virginia.*

RICHARD HENRY LEE, JNO. HARVIE,  
JOHN BANISTER, FRANCIS LIGHTFOOT LEE.  
THOMAS ADAMS,

*On the part and behalf of the State of North-Carolina.*

JOHN PENN, July 21st, 1778, JNO. WILLIAMS.  
CORNS. HARNETT,

*On the part and behalf of the State of South-Carolina.*

HENRY LAURENS, RICHARD HUTSON,  
WILLIAM HENRY DRAYTON, THOS. HEYWARD, JUN.  
JNO. MATHEWS,

*On the part and behalf of the State of Georgia.*

JNO. WALTON, 24th July, 1778, EDWD. LANGWORTHY.  
EDWARD TELFAIR,

NOTE.—From the circumstance of delegates from the same State having signed the articles of confederation at different times, as appears by the dates, it is probable they affixed their names as they happened to be present in Congress, after they had been authorized by their constituents.

## CONSTITUTION OF THE UNITED STATES.

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

## ARTICLE I.

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

SEC. 2. 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.

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.

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

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

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

SEC. 3. 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.

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.

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.

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

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

The 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 in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any 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.

SEC. 4. 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 place of choosing senators.

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

SEC. 5. 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 authorized 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, and 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.

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.

SEC. 6. 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 arrests 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.

SEC. 7. 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 representatives and the senate shall, before it become a law, be presented to the president of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to re-consider it. If after such re-consideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be re-considered, and if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law.

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.

SEC. 8. The Congress shall have power—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 a 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 and water:—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 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 officer thereof.

**SEC. 9.** The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

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 *cenusus* 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.

**SEC. 10.** 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 control of the congress.

No state shall, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

## ARTICLE II.

**SECTION 1.** The executive power shall be vested in a **PRESIDENT** of the United States of America. He shall hold his office during the term of four years; and together with the vice-president, chosen for the same term, be elected as follows:



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.

[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.

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.

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

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.”

SEC. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments,

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

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.

SEC. 3. 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.

SEC. 4. 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.

SEC. 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, order 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.

SEC. 2. 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.

In all cases affecting ambassadors, other public ministers, and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make.

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.

SEC. 3. 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.

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

SEC. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several 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.

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

SEC. 3. 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.

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.

SEC. 4. The United States shall guarantee to every state in this union a republican form of government; and shall protect each of them against invasion; and, on application of the legislature, or of the executive, (when the legislature cannot be convened,) against domestic violence.

## ARTICLE V.

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 amendments which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the

first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

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.

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 senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound, by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

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

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 BREARLY,  
WILLIAM PATTERSON,  
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,  
CHAS. COTESWORTH PINCKNEY,  
CHARLES PINCKNEY,  
PIERCE BUTLER.

GEORGIA.  
WILLIAM FEW,  
ABRAHAM BALDWIN.

Attest,

WILLIAM JACKSON, Sec'ry.

## ARTICLES,

*In addition to, and amendment of, the Constitution of the United States, ratified by the Legislatures of the several States, pursuant to the fifth article of the original Constitution.*

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

II. 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.

III. 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.

IV. 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.

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

VI. 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 where 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.

VII. 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.

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

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

X. 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.

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

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

The person having the greatest number of votes as vice-president shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for that purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States.

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## RATIFICATION OF THE CONSTITUTION

*By the Convention of the State of Rhode-Island and Providence Plantations.*

WE, the delegates of the people of the state of Rhode Island and Providence Plantations, duly elected and met in convention, having maturely considered the constitution for the United States of America, agreed to on the seventeenth day of September, in the year one thousand seven hundred and eighty-seven, by the convention then assembled at Philadelphia, in the commonwealth of Pennsylvania, (a copy whereof precedes these presents,) and having also seriously and deliberately considered the present situation of this State, do declare and make known:

- I. That there are certain natural rights, of which men, when they form a social compact, cannot deprive or divest their posterity, among which are the enjoyment of life and liberty, with the means of acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.
- II. That all power is naturally vested in, and consequently derived from, the people; that magistrates, therefore, are their trustees and agents, and at all times amenable to them.
- III. That the powers of government may be re-assumed by the people, whensoever it shall become necessary to their happiness. That the rights of the states respectively to nominate and appoint all state officers, and every other power, jurisdiction and right, which is not by the said constitution clearly delegated to the congress of the United States, or to the departments of government thereof, remain to the people of the several states, or their respective state governments, to whom they may have granted the same; and that those clauses in the said constitution which declare that congress shall not have or exercise certain powers, do not imply that congress is entitled to any powers not given by the said constitution; but such clauses are to be construed either as exceptions to certain specified powers, or as inserted merely for greater caution.
- IV. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men have an equal, natural and unalienable right to the free exercise of religion, according to the dictates of conscience; and that no particular religion, sect or society, ought to be favored or established, by law, in preference to others.
- V. That the legislative, executive and judiciary powers of government should be separate and distinct; and that the members of the two first may be restrained from oppression, by feeling and participating the public burdens, they should at fixed periods be reduced to a private station, return into the mass of the people, and the vacancies be supplied by certain and regular elections, in which all or any part of the former members to be eligible, or ineligible, as the rules of the constitution of government and the laws shall direct.
- VI. That elections of representatives in the legislature ought to be free and frequent, and all men having sufficient evidence of permanent common interest with, and attachment to, the community, ought to have the right of suffrage; and no aid, charge, tax or fee, can be set, rated or levied upon the people without their own consent, or that of their representatives so elected, nor can they be bound by any law to which they have not in like manner assented for the public good.
- VII. That all power of suspending laws, or the execution of laws, by any authority, without the consent of the representatives of the people in the legislature, is injurious to their rights, and ought not to be exercised.
- VIII. That in all capital and criminal prosecutions, a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence and be allowed counsel in his favor, and to a fair and speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty, (except in the government of the land and naval forces,) nor can he be compelled to give evidence against himself.
- IX. That no freeman ought to be taken, imprisoned or disseized of his freehold, liberties, privileges or franchises, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the trial by jury, or by the law of the land.

- X. That every freeman restrained of his liberty is entitled to a remedy, to inquire into the lawfulness thereof, and to remove the same if unlawful, and that such remedy ought not to be denied or delayed.
- XI. That in controversies respecting property, and in suits between man and man, the ancient trial by jury, as hath been exercised by us and our ancestors, from the time whereof the memory of man is not to the contrary, is one of the greatest securities to the rights of the people, and ought to remain sacred and inviolable.
- XII. That every freeman ought to obtain right and justice, freely and without sale, completely and without denial, promptly and without delay; and that all establishments or regulations contravening these rights are oppressive and unjust.
- XIII. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.
- XIV. That every person has a right to be secure from all unreasonable searches and seizures of his person, his papers or his property; and therefore, that all warrants to search suspected places, or seize any person, his papers or his property, without information upon oath or affirmation of sufficient cause, are grievous and oppressive; and that all general warrants (or such in which the place or person suspected are not particularly designated) are dangerous, and ought not to be granted.
- XV. That the people have a right peaceably to assemble together to consult for their common good, or to instruct their representatives; and that every person has a right to petition or apply to the legislature for redress of grievances.
- XVI. That the people have a right to freedom of speech, and of writing and publishing their sentiments. That freedom of the press is one of the greatest bulwarks of liberty, and ought not to be violated.
- XVII. That the people have a right to keep and bear arms; that a well regulated militia, including the body of the people capable of bearing arms, is the proper, natural and safe defence of a free state; that the militia shall not be subject to martial law, except in the time of war, rebellion or insurrection; that standing armies in time of peace are dangerous to liberty, and ought not to be kept up, except in cases of necessity; and that at all times the military should be under strict subordination to the civil power; that in time of peace no soldier ought to be quartered in any house without the consent of the owner, and in time of war only by the civil magistrate, in such manner as the law directs.
- XVIII. That any person religiously scrupulous of bearing arms ought to be exempted, upon payment of an equivalent to employ another to bear arms in his stead.

Under these impressions, and declaring that the rights aforesaid cannot be abridged or violated, and that the explanations aforesaid are consistent with the said constitution, and in confidence that the amendments hereafter mentioned will receive an early and mature consideration, and, conformably to the fifth article of said constitution, speedily become a part thereof—(We, the said delegates, in the name and in the behalf of the people of the State of Rhode-Island and Providence Plantations, do by these presents assent to and ratify the said constitution.) In full confidence, nevertheless, that until the amendments hereafter proposed shall be agreed to and ratified, pursuant to the aforesaid fifth article, the militia of this state will not be continued in service out of this state for a longer term than six weeks, without the consent of the legislature thereof; that the congress will not make or alter any regulation in this state respecting the times, places and manner of holding elections for senators or representatives, unless the legislature of this state shall neglect or refuse to make laws or regulations for the pur-



pose, or from any circumstance be incapable of making the same, and that in those cases such power will only be exercised until the legislature of this state shall make provision in the premises; that the congress will not lay direct taxes within this state, but when the moneys arising from the impost, tonnage and excise, shall be insufficient for the public exigencies; nor until the congress shall have first made a requisition upon this state to assess, levy and pay the amount of such requisition made, agreeably to the census fixed in the said constitution, in such way and manner as the legislature of this state shall judge best; and that the congress will not lay any capitation or poll tax.

Done in convention at Newport, in the county of Newport, in the state of Rhode-Island and Providence Plantations, the twenty-ninth day of May, in the year of our Lord one thousand seven hundred and ninety, and in the fourteenth year of the Independence of the United States of America.

By order of the convention,

(Signed)

DANIEL OWEN, President.

Attest, DANIEL UPDIKE, Sec'ry.

And the convention do, in the name and behalf of the people of the state of Rhode-Island and Providence Plantations, enjoin it upon their senators and representative or representatives, which may be elected to represent this state in congress, to exert all their influence and use all reasonable means to obtain a ratification of the following amendments to the said constitution, in the manner prescribed therein; and in all laws to be passed by the congress in the mean time, to conform to the spirit of the said amendments, as far as the constitution will admit.

### AMENDMENTS.

I. The United States shall guarantee to each state its sovereignty, freedom, and independence, and every power, jurisdiction and right, which is not by this constitution expressly delegated to the United States.

II. That congress shall not alter, modify, or interfere in the times, places or manner of holding elections for senators and representatives, or either of them, except when the legislature of any state shall neglect, refuse, or be disabled by invasion or rebellion, to prescribe the same, or in case when the provision made by the state is so imperfect as that no consequent election is had, and then only until the legislature of such state shall make provision in the premises.

III. It is declared by the convention, that the judicial power of the United States, in cases in which a state may be a party, does not extend to criminal prosecutions, or to authorize any suit by any person against a state; but to remove all doubts or controversies respecting the same, that it be especially expressed as a part of the constitution of the United States, that congress shall not, directly or indirectly, either by themselves, or through the judiciary, interfere with any one of the states, in the redemption of paper money already emitted, and now in circulation, or in liquidating or discharging the public securities of any one state; that each and every state shall have the exclusive right of making such laws and regulations for the before mentioned purpose as they shall think proper.

IV. That no amendments to the constitution of the United States, hereafter to be made, pursuant to the fifth article, shall take effect, or become a part of the constitution of the United States, after the year one thousand

seven hundred and ninety-three, without the consent of eleven of the states heretofore united under the confederation.

V. That the judicial powers of the United States shall extend to no possible case where the cause of action shall have originated before the ratification of this constitution; except in disputes between states about their territory, disputes between persons claiming lands under grants of different states, and debts due to the United States.

VI. That no person shall be compelled to do military duty otherwise than by voluntary enlistment, except in cases of general invasion; any thing in the second paragraph of the sixth article of the constitution, or any law made under the constitution, to the contrary, notwithstanding.

VII. That no capitation or poll tax shall ever be laid by congress.

VIII. In cases of direct taxes, congress shall first make requisitions on the several states to assess, levy, and pay their respective proportions of such requisitions, in such way and manner as the legislatures of the several states shall judge best; and in case any state shall neglect or refuse to pay its proportion pursuant to such requisition, then congress may assess and levy such state's proportion, together with interest, at the rate of six per cent. per annum, from the time prescribed in such requisition.

IX. That congress shall lay no direct taxes without the consent of the legislatures of three-fourths of the states in the Union.

X. That the journals of the proceedings of the senate and house of representatives shall be published as soon as conveniently may be, at least once in every year; except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy.

XI. That regular statements of the receipts and expenditures of all public moneys shall be published at least once a year.

XII. As standing armies in time of peace are dangerous to liberty, and ought not to be kept up except in cases of necessity, and as at all times the military should be under strict subordination to the civil power, that therefore no standing army or regular troops shall be raised or kept up in time of peace.

XIII. That no moneys be borrowed on the credit of the United States, without the assent of two-thirds of the senators and representatives present in each house.

XIV. That the congress shall not declare war without the concurrence of two-thirds of the senators and representatives present in each house.

XV. That the words "without the consent of congress," in the seventh clause in the ninth section of the first article of the constitution, be expunged.

XVI. That no judge of the supreme court of the United States shall hold any other office under the United States, or any of them; nor shall any officer appointed by congress, or by the president and senate of the United States, be permitted to hold any office under the appointment of any of the states.

XVII. As a traffic tending to establish or continue the slavery of any part of the human species is disgraceful to the cause of liberty and humanity, that congress shall, as soon as may be, promote and establish such laws and regulations as may effectually prevent the importation of slaves of every description into the United States.

XVIII. That the state legislatures have power to recall, when they think it expedient, their federal senators, and to send others in their stead.

XIX. That congress have power to establish a uniform rule of inhabitaney or settlement of the poor of the different states, throughout the United States.

XX. That congress erect no company with exclusive advantages of commerce.

XXI. That when two members shall move or call for the ayes and nays on any question, they shall be entered on the journals of the houses respectively.

Done in convention, at Newport, in the county of Newport, in the state of Rhode-Island and Providence Plantations, the twenty-ninth day of May, in the year of our Lord one thousand seven hundred and ninety, and the fourteenth year of the independence of the United States of America.

By order of the convention,

(Signed)

DANIEL OWEN, President.

Attest, DANIEL UPDIKE, Sec'ry.

## PRESIDENT WASHINGTON'S ADDRESS,

*Of September, 1796.*

TO THE PEOPLE OF THE UNITED STATES.

*Friends and Fellow-Citizens :*

The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured, that this resolution has not been taken without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interests, no deficiency of grateful respect for your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in, the office to which your suffrages have twice called me, have been an uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped, that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country, you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust, I will only say, that I have with good intentions contributed, towards the organization and administration of the government, the best exertions of which a very fallible judgment was capable. Not unconscious, in the outset, of the inferiority of my qualifications, experience, in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and every day the increasing weight of years admonishes me more and more, that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe, that while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is intended to terminate the career of my public life, my feelings do not permit me to suspend the deep acknowledgments of that debt of gratitude which I owe to my beloved country, for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me, and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise, and as an instructive example in our annals, that under circumstances in which the passions, agitated in every direction, were liable to mislead; amidst appearances sometimes dubious—vicissitudes of fortune often discouraging—in situations in which not unfrequently want of success has countenanced the spirit of criticism—the constancy of your support was the essential prop of the efforts, and a guarantee of the plans by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave, as a strong incitement to unceasing vows, that Heaven may continue to you the choicest tokens of its beneficence—that your union and brotherly affection may be perpetual—that the free constitution, which is the work of your hands, may be sacredly maintained—that its administration in every department may be stamped with wisdom and virtue—that, in fine, the happiness of the people of these States, under the auspices of liberty, may be made complete, by so careful a preservation, and so prudent a use of this blessing, as will acquire to them the glory of recommending it to the applause, the affection and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger, natural to that solicitude, urge me, on an occasion like the present, to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments, which are the result of much reflection, of no inconsiderable observation, and which appear to me all-important to the permanency of your felicity as a people. These will be offered to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people, is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence, the support of your tranquillity at home, your peace abroad; of your safety; of your prosperity; of that very liberty which you so highly prize. But as it is easy to foresee, that from different causes, and from different quarters, much pains will be taken, many artifices employed, to weak-

en in your minds the conviction of this truth: as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national union, to your collective and individual happiness; that you should cherish a cordial, habitual and immovable attachment to it; accustoming yourselves to think and speak of it as the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest, even a suspicion, that it can in any event be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice of a common country, that country has a right to concentrate your affections. The name of *American*, which belongs to you in your national capacity, must always exalt the just pride of patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits and political principles. You have in a common cause fought and triumphed together; the independence and liberty you possess are the work of joint counsels and joint efforts, of common dangers, sufferings and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the union of the whole.

The *North*, in an unrestrained intercourse with the *South*, protected by the equal laws of a common government, finds in the productions of the latter, great additional resources of maritime and commercial enterprize, and precious materials of manufacturing industry. The *South*, in the same intercourse, benefitting by the agency of the *North*, sees its agriculture grow, and its commerce expand. Turning partly into its own channels the seamen of the *North*, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength, to which itself is unequally adapted. The *East*, in a like intercourse with the *West*, already finds, and in the progressive improvements of interior communications by land and water, will more and more find, a valuable vent for the commodities which it brings from abroad, or manufactures at home. The *West* derives from the *East* supplies requisite to its growth and comfort; and, what is perhaps of still greater consequence, it must of necessity owe the *secure* enjoyment of indispensable *outlets* for its own productions to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as *one nation*. Any other tenure by which the *West* can hold this essential advantage, whether derived from its own separate strength, or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts, greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value, they must derive from union an exemption from those broils and wars between themselves, which so frequently afflict neighboring countries not tied together by the same government; which their own rivalships alone would be sufficient

to produce, but which oppose foreign alliances, attachments and intrigues, would stimulate and embitter. Hence likewise they will avoid the necessity of those overgrown military establishments, which, under any form of government, are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope, that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. 'Tis well worth a fair and full experiment. With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who in any quarter may endeavor to weaken its bands.

In contemplating the causes which may disturb our union, it occurs as matter of serious concern, that any ground should have been furnished for characterising parties by *geographical discriminations*—*Northern and Southern*—*Atlantic and Western*; whence designing men may endeavour to excite a belief, that there is a real difference of local interests and views. One of the expedients of party to acquire influence, within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart-burnings which spring from these misrepresentations; they tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head; they have seen in the negotiation by the executive, and in the unanimous ratification by the senate, of the treaty with *Spain*, and in the universal satisfaction of that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them, of a policy in the general government and in the Atlantic states unfriendly to their interests in regard to the *Mississippi*: they have been witnesses to the formation of two treaties, that with *Great Britain*, and that with *Spain*, which secure to them every thing they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the union by which they were procured? Will they not henceforth be deaf to those advisers, if such there are, who would sever them from their brethren, and connect them with aliens?

To the efficacy and permanency of your union, a government for the whole is indispensable. No alliances, however strict between the parts, can be an adequate substitute; they must inevitably experience the infractions and interruptions which all alliances in all times have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a constitution of government better calculated than your former for an intimate union, and for the efficacious management of your common concerns. This government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems

is the right of the people to make and to alter their constitutions of government; but the constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish government, pre-supposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency. They serve to organize faction, to give it an artificial and extraordinary force—to put in the place of the delegated will of the nation, the will of a party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill-concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans, digested by common counsels, and modified by mutual interests.

However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious and unprincipled men will be enabled to subvert the power of the people, and to usurp for themselves the reins of government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your government, and the permanency of your present happy state, it is requisite not only that you steadily discountenance irregular oppositions to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretexes. One method of assault may be, to effect, in the forms of the constitution, alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments, as of other human institutions; that experience is the surest standard, by which to test the real tendency of the existing constitution of a country; that facility in changes, upon the credit of mere hypothesis and opinion, exposes to perpetual change, from the endless variety of hypothesis and opinion; and remember, especially, that for the efficient management of your common interests, in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable. Liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is indeed little else than a name, where the government is too feeble to withstand the enterprizes of faction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you, in the most solemn manner, against the baneful effects of the spirit of party, generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge, natural to party dissention, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful

despotism ; but this leads at length to a more formal and permanent despotism. The disorders and miseries which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual ; and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation, on the ruins of public liberty.

Without looking forward to an extremity of this kind, (which nevertheless ought not to be entirely out of sight,) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms ; kindles the animosity of one part against another, and foment occasionally riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the government itself, through the channels of party passions. Thus the policy and will of one country are subjected to the policy and will of another.

There is an opinion that parties, in free countries, are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This, within certain limits, is probably true ; and in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame ; lest, instead of warming, it should consume.

It is important, likewise, that the habits of thinking in a free country should inspire caution in those entrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding, in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power, and proneness to abuse it, which predominates in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions by the others, has been evinced by experiments ancient and modern ; some of them in our own country, and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the constitution designates. But let there be no change by usurpation ; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance, in permanent evil, any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connexions with private and public felicity. Let it simply be asked, where is the security for prop-



erty, for reputation, for life, if the sense of religious obligation *desert* the oaths which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education, on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail, in exclusion of religious principle.

'Tis substantially true, that virtue or morality is a necessary spring of popular government. The rule indeed extends with more or less force to every species of free government. Who, that is a sincere friend to it, can look with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is, to use it as sparingly as possible; avoiding occasions of expense, by cultivating peace, but remembering also, that timely disbursements to prepare for danger frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burthen which we ourselves ought to bear. The execution of these maxims belongs to your representatives, but it is necessary that public opinion should co-operate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind, that towards the payment of debts there must be a revenue; that to have revenue there must be taxes; that no taxes can be devised, which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment, inseparable from the selection of the proper objects, (which is always a choice of difficulties,) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measure for obtaining revenue which the public exigencies may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all. Religion and morality enjoin this conduct; and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt, that in the course of time and things, the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan, nothing is more essential, than that permanent, inveterate antipathies against particular nations, and passionate attachments for others, should be excluded; and that, in place of them, just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness, is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another, disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable, when accidental or trifling occasions of dispute occur.

Hence frequent collisions, obstinate, envenomed and bloody contests. The nation, prompted by ill will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity, and adopts through passion what reason would reject; at other times, it makes the animosity of the nation subservient to projects of hostility, instigated by pride, ambition, and other sinister and pernicious motives. The peace often, sometimes, perhaps, the liberty of nations, has been the victim.

So likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest, in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducement or justification. It leads also to concessions to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions; by unnecessarily parting with what ought to have been retained; and by exciting jealousy, ill will, and a disposition to retaliate, in the parties from whom equal privileges are withheld: and it gives to ambitious, corrupted or deluded citizens, (who devote themselves to the favorite nation,) facility to betray or sacrifice the interests of their own country, without odium, sometimes even with popularity; gilding with the appearances of a virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practise the arts of seduction, to mislead public opinion, to influence or awe the public councils! Such an attachment of a small or weak, towards a great and powerful nation, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence, (I conjure you to believe me, fellow-citizens,) the jealousy of a free people ought to be *constantly* awake; since history and experience prove, that foreign influence is one of the most baneful foes of a republican government. But that jealousy, to be useful, must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defence against it. Excessive partiality for one foreign nation, and excessive dislike of another, cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots who may resist the intrigues of the favorite, are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people, to surrender their interests.

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little *political* connexion as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests, which to us have none, or a very remote, relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves by artificial ties in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government,

the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude, as will cause the neutrality we may at any time resolve upon, to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest, guided by justice, shall counsel.

Why forego the advantages of so peculiar a situation? Why quit our own, to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalry, interest, humor or caprice?

'Tis our true policy to steer clear of permanent alliances with any portion of the foreign world; so far, I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy. I repeat it, therefore, let those engagements be observed in their genuine sense. But, in my opinion, it is unnecessary, and would be unwise, to extend them.

Taking care always to keep ourselves, by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, liberal intercourse with all nations, are recommended by policy, humanity and interest. But even our commercial policy should hold an equal and impartial hand; neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce, but forcing nothing; establishing, with powers so disposed, in order to give trade a stable course, to define the rights of our merchants, and to enable the government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied, as experience and circumstances shall dictate; constantly keeping in view, that 'tis folly in one nation to look for disinterested favors from another; that it must pay with a portion of its independence for whatever it may accept under that character; that by such acceptance, it may place itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real favors from nation to nation. 'Tis an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish; that they will control the usual current of the passions, or prevent our nation from running the course which has hitherto marked the destiny of nations; but if I may even flatter myself that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism; this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far, in the discharge of my official duties, I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is, that I have at least believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April, 1793, is the index to my plan. Sanctioned by your approving voice, and by that of your representatives in both houses of congress, the

spirit of that measure has continually governed me ; uninfluenced by any attempts to deter or divert me from it.

After deliberate examination, with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was bound in duty and interest to take, a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverance and firmness.

The considerations which respect the right to hold this conduct, it is not necessary on this occasion to detail. I will only observe, that according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding neutral conduct may be inferred, without any thing more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct will be best referred to your own reflections and experience. With me, a predominant motive has been, to endeavor to gain time to our country to settle and mature its yet recent institutions, and to progress without interruption to that degree of strength and consistency, which is necessary to give it, humanly speaking, the command of its own fortunes.

Though, in reviewing the incidents of my administration, I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors.

Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope, that my country will never cease to view them with indulgence; and that after forty-five years of my life dedicated to its service, with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it which is so natural to a man who views in it the native soil of himself and his progenitors for several generations, I anticipate with pleasing expectation that retreat in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow-citizens, the benign influence of good laws, under a free government, the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors and dangers.

UNITED STATES, Sept. 17, 1796.

G. WASHINGTON.

CONSTITUTION  
OF THE  
STATE OF RHODE-ISLAND  
AND  
PROVIDENCE PLANTATIONS.

WE, the people of the state of Rhode-Island and Providence Plantations, grateful to Almighty God for the civil and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and to transmit the same, unimpaired, to succeeding generations, do ordain and establish this constitution of government.

ARTICLE I.

*Declaration of certain Constitutional Rights and Principles.*

In order effectually to secure the religious and political freedom established by our venerated ancestors, and to preserve the same for our posterity, we do declare, that the essential and unquestionable rights and principles hereinafter mentioned, shall be established, maintained, and preserved, and shall be of paramount obligation in all legislative, judicial and executive proceedings.

SECTION 1. In the words of the Father of his Country, we declare, that "the basis of our political systems is the right of the people to make and alter their constitutions of government; but that the constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all."

SEC. 2. All free governments are instituted for the protection, safety and happiness of the people. All laws, therefore, should be made for the good of the whole; and the burdens of the state ought to be fairly distributed among its citizens.

SEC. 3. Whereas, Almighty God hath created the mind free; and all attempts to influence it by temporal punishments or burthens, or by civil incapacitations, tend to beget habits of hypocrisy and meanness; and whereas a principal object of our venerable ancestors, in their migration to this country and their settlement of this state, was, as they expressed it, to hold forth a lively experiment, that a flourishing civil state may stand and be best maintained with full liberty in religious concerns: we, therefore, declare, that no man shall be compelled to frequent or to support any religious worship, place or ministry whatever, except in fulfilment of his own voluntary contract; nor enforced, restrained, molested or burthened in his body or goods; nor disqualified from holding any office; nor otherwise suffer on account of his religious belief; and that every man shall be free to

worship God according to the dictates of his own conscience, and to profess and by argument to maintain his opinion in matters of religion ; and that the same shall in no wise diminish, enlarge or affect his civil capacity.

**SEC. 4.** Slavery shall not be permitted in this state.

**SEC. 5.** Every person within this state ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without purchase, completely and without denial ; promptly and without delay ; conformably to the laws.

**SEC. 6.** The right of the people to be secure in their persons, papers, and possessions, against unreasonable searches and seizures, shall not be violated ; and no warrant shall issue, but on complaint in writing, upon probable cause, supported by oath or affirmation, and describing as nearly as may be, the place to be searched, and the persons or things to be seized.

**SEC. 7.** No person shall be held to answer for a capital or other infamous crime, unless on presentment or indictment by a grand jury, except in cases of impeachment, or of such offences as are cognizable by a justice of the peace ; or in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger. No person shall, after an acquittal, be tried for the same offence.

**SEC. 8.** Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted ; and all punishments ought to be proportioned to the offence.

**SEC. 9.** All persons imprisoned ought to be bailed by sufficient surety, unless for offences punishable by death or by imprisonment for life, when the proof of guilt is evident or the presumption great. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety shall require it ; nor ever without the authority of the general assembly.

**SEC. 10.** In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury ; 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 them in his favor, to have the assistance of counsel in his defence, and shall be at liberty to speak for himself ; nor shall he be deprived of life, liberty, or property, unless by the judgment of his peers, or the law of the land.

**SEC. 11.** The person of a debtor, when there is not strong presumption of fraud, ought not to be continued in prison, after he shall have delivered up his property for the benefit of his creditors, in such manner as shall be prescribed by law.

**SEC. 12.** No *ex post facto* law, or law impairing the obligation of contracts, shall be passed.

**SEC. 13.** No man in a court of common law shall be compelled to give evidence criminating himself.

**SEC. 14.** Every man being presumed innocent, until he is pronounced guilty by the law, no act of severity which is not necessary to secure an accused person, shall be permitted.

SEC. 15. The right of trial by jury shall remain inviolate.

SEC. 16. Private property shall not be taken for public uses, without just compensation.

SEC. 17. The people shall continue to enjoy and freely exercise all the rights of fishery, and the privileges of the shore, to which they have been heretofore entitled under the charter and usages of this state. But no new right is intended to be granted, nor any existing right impaired, by this declaration.

SEC. 18. The military shall be held in strict subordination to the civil authority. And the law martial shall be used and exercised in such cases only as occasion shall necessarily require.

SEC. 19. No soldier shall be quartered in any house, in time of peace, without the consent of the owner ; nor, in time of war, but in manner to be prescribed by law.

SEC. 20. The liberty of the press being essential to the security of freedom in a state, any person may publish his sentiments on any subject, being responsible for the abuse of that liberty ; and in all trials for libel, both civil and criminal, the truth, unless published from malicious motives, shall be sufficient defence to the person charged.

SEC. 21. The citizens have a right in a peaceable manner to assemble for their common good, and to apply to those invested with the powers of government, for redress of grievances, or for other purposes, by petition, address or remonstrance.

SEC. 22. The right of the people to keep and bear arms shall not be infringed.

SEC. 23. The enumeration of the foregoing rights shall not be construed to impair or deny others retained by the people.

## ARTICLE II.

### *Of the Qualification of Electors.*

SEC. I. Every male citizen of the United States, of the age of twenty-one years, who has had his residence and home in this state for one year, and in the town or city in which he may claim a right to vote, six months next preceding the time of voting, and who is really and truly possessed in his own right of real estate in such town or city of the value of one hundred and thirty-four dollars over and above all incumbrances, or which shall rent for seven dollars per annum over and above any rent reserved or the interest of any incumbrances thereon, being an estate in fee simple, fee tail, for the life of any person, or an estate in reversion or remainder, which qualifies no other person to vote, the conveyance of which estate, if by deed, shall have been recorded at least ninety days, shall thereafter have a right to vote in the election of all civil officers and on all questions in all legal town or ward meetings so long as he continues so qualified. And if any person hereinbefore described shall own any such estate within this state out of

the town or city in which he resides, he shall have a right to vote in the election of all general officers and members of the general assembly in the town or city in which he shall have had his residence and home for the term of six months next preceding the election, upon producing a certificate from the clerk of the town or city in which his estate lies, bearing date within ten days of the time of his voting, setting forth that such person has a sufficient estate therein to qualify him as a voter; and that the deed, if any, has been recorded ninety days.

SEC. 2. Every male native citizen of the United States, of the age of twenty-one years, who has had his residence and home in this state two years, and in the town or city in which he may offer to vote, six months next preceding the time of voting, whose name is registered pursuant to the act calling the convention to frame this constitution, or shall be registered in the office of the clerk of such town or city at least seven days before the time he shall offer to vote, and before the last day of December in the present year; and who has paid or shall pay a tax or taxes assessed upon his estate within this state and within a year of the time of voting to the amount of one dollar, or who shall voluntarily pay, at least seven days before the time he shall offer to vote, and before said last day of December, to the clerk or treasurer of the town or city where he resides, the sum of one dollar, or such sum as with his other taxes shall amount to one dollar, for the support of public schools therein, and shall make proof of the same, by the certificate of the clerk, treasurer or collector of any town or city where such payment is made: or who, being so registered, has been enrolled in any military company in this state, and done military service or duty therein, within the present year, pursuant to law, and shall, (until other proof is required by law) prove by the certificate of the officer legally commanding the regiment, or chartered, or legally authorized volunteer company in which he may have served or done duty, that he has been equipped and done duty according to law, or by the certificate of the commissioners upon military claims, that he has performed military service, shall have a right to vote in the election of all civil officers, and on all questions in all legally organized town or ward meetings, until the end of the first year after the adoption of this constitution, or until the end of the year eighteen hundred and forty-three.

From and after that time, every such citizen who has had the residence herein required, and whose name shall be registered in the town where he resides, on or before the last day of December, in the year next preceding the time of his voting, and who shall show by legal proof, that he has for and within the year next preceding the time he shall offer to vote, paid a tax or taxes assessed against him in any town or city in this state, to the amount of one dollar, or that he has been enrolled in a military company in this state, been equipped and done duty therein, according to law, and at least for one day during such year, shall have a right to vote in the election of all civil officers, and on all questions, in all legally organized town or ward meetings: Provided, that no person shall at any time be allowed to vote in the election of the city council of the city of Providence, or upon any proposition to impose a tax or for the expenditure of money in any town or city, unless he shall within the year next preceding, have paid a tax assessed upon his property therein, valued at least at one hundred and thirty-four dollars.

SEC. 3. The assessors of each town or city shall annually assess upon every person whose name shall be registered, a tax of one dollar, or such sum as with his other taxes shall amount to one dollar, which registry tax shall be paid into the treasury of such town or city, and be applied to the



support of public schools therein: but no compulsory process shall issue for the collection of any registry tax: Provided, that the registry tax of every person who has performed military duty according to the provisions of the preceding section, shall be remitted for the year he shall perform such duty; and the registry tax assessed upon any mariner, for any year while he is at sea, shall, upon his application, be remitted; and no person shall be allowed to vote whose registry tax for either of the two years next preceding the time of voting is not paid or remitted as herein provided.

SEC. 4. No person in the military, naval, marine or any other service of the United States, shall be considered as having the required residence by reason of being employed in any garrison, barrack, or military or naval station in this state: and no pauper, lunatic, person non compos mentis, person under guardianship, or member of the Narragansett tribe of Indians, shall be permitted to be registered or to vote. Nor shall any person convicted of bribery, or of any crime deemed infamous at common law, be permitted to exercise that privilege, until he be expressly restored thereto by act of the general assembly.

SEC. 5. Persons residing on lands ceded by this state to the United States shall not be entitled to exercise the privilege of electors.

SEC. 6. The general assembly shall have full power to provide for a registry of voters, to prescribe the manner of conducting the elections, the form of certificates, the nature of the evidence to be required in case of a dispute as to the right of any person to vote, and generally to enact all laws necessary to carry this article into effect, and to prevent abuse, corruption, and fraud in voting.

## ARTICLE III.

### *Of the Distribution of Powers.*

The powers of the government shall be distributed into three departments: the legislative, executive and judicial.

## ARTICLE IV.

### *Of the Legislative Power.*

SEC. 1. This constitution shall be the supreme law of the state, and any law inconsistent therewith shall be void. The general assembly shall pass all laws necessary to carry this constitution into effect.

SEC. 2. The legislative power, under this constitution, shall be vested in two houses, the one to be called the senate, the other the house of representatives; and both together the general assembly. The concurrence of the two houses shall be necessary to the enactment of laws. The style of their laws shall be, *It is enacted by the General Assembly as follows.*

SEC. 3. There shall be two sessions of the general assembly holden annually: one at Newport, on the first Tuesday of May, for the purposes of election and other business; the other on the last Monday of October, which last session shall be holden at South Kingstown once in two years,

and the intermediate years alternately at Bristol and East-Greenwich; and an adjournment from the October session shall be holden annually at Providence.

SEC. 4. No member of the general assembly shall take any fee, or be of counsel, in any case pending before either house of the general assembly, under penalty of forfeiting his seat, upon proof thereof to the satisfaction of the house of which he is a member.

SEC. 5. The person of every member of the general assembly shall be exempt from arrest and his estate from attachment in any civil action, during the session of the general assembly, and two days before the commencement and two days after the termination thereof, and all process served contrary hereto shall be void. For any speech in debate in either house, no member shall be questioned in any other place.

SEC. 6. Each house shall be the judge of the elections and qualifications of its members; and a majority shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties as may be prescribed by such house or by law. The organization of the two houses may be regulated by law, subject to the limitations contained in this constitution.

SEC. 7. Each house may determine its rules of proceeding, punish contempts, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member; but not a second time for the same cause.

SEC. 8. Each house shall keep a journal of its proceedings. The yeas and nays of the members of either house shall, at the desire of one-fifth of those present, be entered on the journal.

SEC. 9. Neither house shall, during a session, without the consent of the other, adjourn for more than two days, nor to any other place than that in which they may be sitting.

SEC. 10. The general assembly shall continue to exercise the powers they have heretofore exercised, unless prohibited in this constitution.

SEC. 11. The senators and representatives shall receive the sum of one dollar for every day of attendance, and eight cents per mile for travelling expenses in going to and returning from the general assembly. The general assembly shall regulate the compensation of the governor and all other officers, subject to the limitations contained in this constitution.

SEC. 12. All lotteries shall hereafter be prohibited in this state, except those already authorized by the general assembly.

SEC. 13. The general assembly shall have no power, hereafter, without the express consent of the people, to incur state debts to an amount exceeding fifty thousand dollars, except in time of war, or in case of insurrection or invasion; nor shall they in any case, without such consent, pledge the faith of the state for the payment of the obligations of others. This section shall not be construed to refer to any money that may be deposited with this state by the government of the United States.

SEC. 14. The assent of two-thirds of the members elected to each house of the general assembly shall be required to every bill appropriating the public money or property for local or private purposes.

SEC. 15. The general assembly shall, from time to time, provide for making new valuations of property, for the assessment of taxes, in such manner as they may deem best. A new estimate of such property shall be taken before the first direct state tax after the adoption of this constitution, shall be assessed.

SEC. 16. The general assembly may provide by law for the continuance in office of any officers of annual election or appointment, until other persons are qualified to take their places.

SEC. 17. Hereafter, when any bill shall be presented to either house of the general assembly, to create a corporation for any other than for religious, literary or charitable purposes, or for a military or fire company, it shall be continued until another election of members of the general assembly shall have taken place, and such public notice of the pendency thereof shall be given as may be required by law.

SEC. 18. It shall be the duty of the two houses, upon the request of either, to join in grand committee for the purpose of electing senators in congress, at such times and in such manner as may be prescribed by law for said elections.

## ARTICLE V.

### *Of the House of Representatives.*

SEC. 1. The house of representatives shall never exceed seventy-two members, and shall be constituted on the basis of population, always allowing one representative for a fraction exceeding half the ratio; but each town or city shall always be entitled to at least one member; and no town or city shall have more than one sixth of the whole number of members to which the house is hereby limited. The present ratio shall be one representative to every fifteen hundred and thirty inhabitants, and the general assembly may, after any new census taken by the authority of the United States or of this state, re-apportion the representation by altering the ratio; but no town or city shall be divided into districts for the choice of representatives.

SEC. 2. The house of representatives shall have authority to elect its speaker, clerks, and other officers. The senior member from the town of Newport, if any be present, shall preside in the organization of the house.

## ARTICLE VI.

### *Of the Senate.*

SEC. 1. The senate shall consist of the lieutenant governor and of one senator from each town or city in the state.

SEC. 2. The governor, and, in his absence, the lieutenant governor, shall preside in the senate and in grand committee. The presiding officer

of the senate and grand committee shall have a right to vote in case of equal division, but not otherwise.

SEC. 3. If, by reason of death, resignation, absence, or other cause, there be no governor or lieutenant governor present, to preside in the senate, the senate shall elect one of their own members to preside during such absence or vacancy; and until such election is made by the senate, the secretary of state shall preside.

SEC. 4. The secretary of state shall, by virtue of his office, be secretary of the senate, unless otherwise provided by law; and the senate may elect such other officers as they may deem necessary.

## ARTICLE VII.

### *Of the Executive Power.*

SEC. 1. The chief executive power of this state shall be vested in a governor, who, together with a lieutenant governor, shall be annually elected by the people.

SEC. 2. The governor shall take care that the laws be faithfully executed.

SEC. 3. He shall be captain-general and commander-in-chief of the military and naval forces of this state, except when they shall be called into the service of the United States.

SEC. 4. He shall have power to grant reprieves after conviction, in all cases except those of impeachment, until the end of the next session of the general assembly.

SEC. 5. He may fill vacancies in office not otherwise provided for by this constitution or by law, until the same shall be filled by the general assembly, or by the people.

SEC. 6. In case of disagreement between the two houses of the general assembly, respecting the time or place of adjournment, certified to him by either, he may adjourn them to such time and place as he shall think proper; provided that the time of adjournment shall not be extended beyond the day of the next stated session.

SEC. 7. He may, on extraordinary occasions, convene the general assembly at any town or city in this state, at any time not provided for by law; and in case of danger from the prevalence of epidemic or contagious disease, in the place in which the general assembly are by law to meet, or to which they may have been adjourned, or for other urgent reasons, he may, by proclamation, convene said assembly at any other place within this state.

SEC. 8. All commissions shall be in the name and by authority of the state of Rhode-Island and Providence Plantations; shall be sealed with the state seal, signed by the governor and attested by the secretary.

**SEC. 9.** In case of vacancy in the office of governor, or of his inability to serve, impeachment, or absence from the state, the lieutenant governor shall fill the office of governor and exercise the powers and authority appertaining thereto, until a governor is qualified to act, or until the office is filled at the next annual election.

**SEC. 10.** If the offices of governor and lieutenant governor be both vacant, by reason of death, resignation, impeachment, absence, or otherwise, the person entitled to preside over the senate for the time being, shall in like manner fill the office of governor during such absence or vacancy.

**SEC. 11.** The compensation of the governor and lieutenant governor shall be established by law, and shall not be diminished during the term for which they are elected.

**SEC. 12.** The duties and powers of the secretary, attorney general, and general treasurer, shall be the same under this constitution as are now established, or as from time to time may be prescribed by law.

## ARTICLE VIII.

### *Of Elections.*

**SEC. 1.** The governor, lieutenant governor, senators, representatives, secretary of state, attorney general, and general treasurer, shall be elected at the town, city or ward meetings, to be holden on the first Wednesday of April, annually; and shall severally hold their offices for one year, from the first Tuesday of May next succeeding, and until others are legally chosen, and duly qualified to fill their places. If elected or qualified after the said first Tuesday of May, they shall hold their offices for the remainder of the political year, and until their successors are qualified to act.

**SEC. 2.** The voting for governor, lieutenant governor, secretary of state, attorney general, general treasurer, and representatives to congress, shall be by ballot; senators and representatives to the general assembly, and town or city officers, shall be chosen by ballot, on demand of any seven persons entitled to vote for the same; and in all cases where an election is made by ballot or paper vote, the manner of balloting shall be the same as is now required in voting for general officers, until otherwise prescribed by law.

**SEC. 3.** The names of the persons voted for as governor, lieutenant governor, secretary of state, attorney general, and general treasurer, shall be placed upon one ticket; and all votes for these officers shall, in open town or ward meetings, be sealed up by the moderators and town clerks and by the wardens and ward clerks, who shall certify the same and deliver or send them to the secretary of state; whose duty it shall be securely to keep and deliver the same to the grand committee, after the organization of the two houses at the annual May session; and it shall be the duty of the two houses at said session, after their organization, upon the request of either house, to join in grand committee, for the purpose of counting and declaring said votes, and of electing other officers.

**SEC. 4.** The town and ward clerks shall also keep a correct list or register of all persons voting for general officers, and shall transmit a copy thereof to the general assembly, on or before the first day of said May session.

**SEC. 5.** The ballots for senators and representatives in the several towns shall, in each case after the polls are declared to be closed, be counted by the moderator, who shall announce the result, and the clerk shall give certificates to the persons elected. If, in any case, there be no election, the polls may be re-opened, and the like proceedings shall be had until an election shall take place: Provided, however, that an adjournment or adjournments of the election may be made to a time not exceeding seven days from the first meeting.

**SEC. 6.** In the city of Providence, the polls for senator and representatives shall be kept open during the whole time of voting for the day, and the votes in the several wards shall be sealed up at the close of the meeting by the wardens and ward clerks in open ward meeting, and afterwards delivered to the city clerk. The mayor and aldermen shall proceed to count said votes within two days from the day of election; and if no election of senator and representatives, or if an election of only a portion of the representatives shall have taken place, the mayor and aldermen shall order a new election, to be held not more than ten days from the day of the first election, and so on until the election shall be completed. Certificates of election shall be furnished by the city clerk to the persons chosen.

**SEC. 7.** If no person shall have a majority of votes for governor, it shall be the duty of the grand committee to elect one by ballot from the two persons having the highest number of votes for the office, except when such a result is produced by rejecting the entire vote of any town, city or ward for informality or illegality, in which case a new election by the electors throughout the state shall be ordered; and in case no person shall have a majority of votes for lieutenant governor, it shall be the duty of the grand committee to elect one by ballot from the two persons having the highest number of votes for the office.

**SEC. 8.** In case an election of the secretary of state, attorney general, or general treasurer, should fail to be made by the electors at the annual election, the vacancy or vacancies shall be filled by the general assembly in grand committee, from the two candidates for such office having the greatest number of the votes of the electors. Or, in case of a vacancy in either of said offices from other causes, between the sessions of the general assembly, the governor shall appoint some person to fill the same until a successor elected by the general assembly is qualified to act; and in such case, and also in all other cases of vacancies, not otherwise provided for, the general assembly may fill the same in any manner they may deem proper.

**SEC. 9.** Vacancies from any cause in the senate or house of representatives may be filled by a new election.

**SEC. 10.** In all elections held by the people, under this constitution, a majority of all the electors voting shall be necessary to the election of the persons voted for.

## ARTICLE IX.

### *Of Qualifications for Office.*

**SEC. 1.** No person shall be eligible to any civil office, (except the office of school committee,) unless he be a qualified elector for such office.

SEC. 2. Every person shall be disqualified from holding any office to which he may have been elected, if he be convicted of having offered, or procured any other person to offer, any bribe to secure his election, or the election of any other person.

SEC. 3. All general officers shall take the following engagement before they act in their respective offices, to wit: You \_\_\_\_\_ being, by the free vote of the electors of this state of Rhode-Island and Providence Plantations, elected unto the place of \_\_\_\_\_ do solemnly swear (or affirm) to be true and faithful unto this state, and to support the constitution of this state and of the United States; that you will faithfully and impartially discharge all the duties of your aforesaid office to the best of your abilities, according to law: So help you God. Or, this affirmation you make and give upon the peril of the penalty of perjury.

SEC. 4. The members of the general assembly, the judges of all the courts, and all other officers, both civil and military, shall be bound by oath or affirmation to support this constitution, and the constitution of the United States.

SEC. 5. The oath or affirmation shall be administered to the governor, lieutenant governor, senators and representatives, by the secretary of state, or, in his absence, by the attorney general. The secretary of state, attorney general, and general treasurer, shall be engaged by the governor, or by a justice of the supreme court.

SEC. 6. No person holding any office under the government of the United States, or of any other state or country, shall act as a general officer, or as a member of the general assembly, unless at the time of taking his engagement he shall have resigned his office under such government; and if any general officer, senator, representative, or judge, shall, after his election and engagement, accept any appointment under any other government, his office under this shall be immediately vacated; but this restriction shall not apply to any person appointed to take depositions or acknowledgement of deeds, or other legal instruments, by the authority of any other state or country.

## ARTICLE X.

### *Of the Judicial Power.*

SEC. 1. The judicial power of this state shall be vested in one supreme court, and in such inferior courts as the general assembly may, from time to time, ordain and establish.

SEC. 2. The several courts shall have such jurisdiction as may from time to time be prescribed by law. Chancery powers may be conferred on the supreme court, but on no other court to any greater extent than is now provided by law.

SEC. 3. The judges of the supreme court shall, in all trials, instruct the jury in the law. They shall also give their written opinion upon any question of law whenever requested by the governor, or by either house of the general assembly.

SEC. 4. The judges of the supreme court shall be elected by the two houses in grand committee. Each judge shall hold his office until his place be declared vacant by a resolution of the general assembly to that effect; which resolution shall be voted for by a majority of all the members elected to the house in which it may originate, and be concurred in by the same majority of the other house. Such resolution shall not be entertained at any other than the annual session for the election of public officers; and in default of the passage thereof at said session, the judge shall hold his place as is herein provided. But a judge of any court shall be removed from office if, upon impeachment, he shall be found guilty of any official misdemeanor.

SEC. 5. In case of vacancy by death, resignation, removal from the state or from office, refusal or inability to serve, of any judge of the supreme court, the office may be filled by the grand committee, until the next annual election, and the judge then elected shall hold his office as before provided. In cases of impeachment, or temporary absence, or inability, the governor may appoint a person to discharge the duties of the office during the vacancy caused thereby.

SEC. 6. The judges of the supreme court shall receive a compensation for their services, which shall not be diminished during their continuance in office.

SEC. 7. The towns of New Shoreham and Jamestown may continue to elect their wardens as heretofore. The other towns and the city of Providence may elect such number of justices of the peace, resident therein, as they may deem proper. The jurisdiction of said justices and wardens shall be regulated by law. The justices shall be commissioned by the governor.

## ARTICLE XI.

### *Of Impeachments.*

SEC. 1. The house of representatives shall have the sole power of impeachment. A vote of two thirds of all the members elected shall be required for an impeachment of the governor. Any officer impeached shall thereby be suspended from office until judgment in the case shall have been pronounced.

SEC. 2. All impeachments shall be tried by the senate; and, when sitting for that purpose, they shall be under oath or affirmation. No person shall be convicted except by vote of two-thirds of the members elected. When the governor is impeached, the chief or presiding justice of the supreme court, for the time being, shall preside, with a casting vote in all preliminary questions.

SEC. 3. The governor and all other executive and judicial officers shall be liable to impeachment; but judgment in such cases shall not extend further than to removal from office. The person convicted shall, nevertheless, be liable to indictment, trial, and punishment, according to law.



## ARTICLE XII.

*Of Education.*

SEC. 1. The diffusion of knowledge, as well as of virtue, among the people, being essential to the preservation of their rights and liberties, it shall be the duty of the general assembly to promote public schools, and to adopt all means which they may deem necessary and proper to secure to the people the advantages and opportunities of education.

SEC. 2. The money which now is, or which may hereafter be appropriated by law for the establishment of a permanent fund for the support of public schools, shall be securely invested and remain a perpetual fund for that purpose.

SEC. 3. All donations for the support of public schools or for other purposes of education, which may be received by the general assembly, shall be applied according to the terms prescribed by the donors.

SEC. 4. The general assembly shall make all necessary provisions by law for carrying this article into effect. They shall not divert said money or fund from the aforesaid uses, nor borrow, appropriate, or use the same, or any part thereof, for any other purpose, under any pretence whatsoever.

## ARTICLE XIII.

*On Amendments.*

The general assembly may propose amendments to this constitution by the votes of a majority of all the members elected to each house. Such propositions for amendment shall be published in the newspapers, and printed copies of them shall be sent by the secretary of state, with the names of all the members who shall have voted thereon, with the yeas and nays, to all the town and city clerks in the state. The said propositions shall be, by said clerks, inserted in the warrants or notices by them issued, for warning the next annual town and ward meetings in April; and the clerks shall read said propositions to the electors when thus assembled, with the names of all the representatives and senators who shall have voted thereon, with the yeas and nays, before the election of senators and representatives shall be had. If a majority of all the members elected to each house, at said annual meeting, shall approve any proposition thus made, the same shall be published and submitted to the electors in the mode provided in the act of approval; and if then approved by three-fifths of the electors of the state present, and voting thereon in town and ward meetings, it shall become a part of the constitution of the state.

## ARTICLE XIV.

*Of the Adoption of this Constitution.*

SEC. 1. This constitution, if adopted, shall go into operation on the first Tuesday of May, in the year one thousand eight hundred and forty-three. The first election of governor, lieutenant governor, secretary of

state, attorney general, and general treasurer, and of senators and representatives under said constitution, shall be had on the first Wednesday of April next preceding, by the electors qualified under said constitution. And the town and ward meetings therefor shall be warned and conducted as is now provided by law. All civil and military officers now elected, or who shall hereafter be elected, by the general assembly, or other competent authority, before the said first Wednesday of April, shall hold their offices and may exercise their powers until the said first Tuesday of May, or until their successors shall be qualified to act. All statutes, public and private, not repugnant to this constitution, shall continue in force until they expire by their own limitation, or are repealed by the general assembly. All charters, contracts, judgments, actions, and rights of actions shall be as valid as if this constitution had not been made. The present government shall exercise all the powers with which it is now clothed, until the said first Tuesday of May, one thousand eight hundred and forty-three, and until the government under this constitution is duly organized.

**SEC. 2.** All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the state as if this constitution had not been adopted.

**SEC. 3.** The supreme court, established by this constitution, shall have the same jurisdiction as the supreme judicial court at present established, and shall have jurisdiction of all causes which may be appealed to, or pending in the same; and shall be held at the same times and places, and in each county, as the present supreme judicial court, until otherwise prescribed by the general assembly.

**SEC. 4.** The towns of New Shoreham and Jamestown shall continue to enjoy the exemptions from military duty which they now enjoy, until otherwise prescribed by law.

Done in convention, at East Greenwich, this fifth day of November, A. D. one thousand eight hundred and forty-two.

JAMES FENNER, President.  
HENRY Y. CRANSTON, Vice Pres't.

THOMAS A. JENCKES, } Secretaries.  
WALTER W. UPDIKE, }



THE  
PUBLIC LAWS

OF THE STATE OF

RHODE-ISLAND AND PROVIDENCE PLANTATIONS.

*An Act establishing the Digest of Laws, as reported by the committee, appointed to revise the laws of this State, and amended by the General Assembly. Passed January Session, 1844.*

SECTION

1. Committee to superintend the printing of the digest.
2. Committee to arrange the laws with proper notes and index—reserve three hundred copies for the state.
3. Secretary to distribute digest, and to whom.
4. Certain copies to be kept as appendages to office.
5. Governor to issue proclamation announcing when the laws shall be in force—proclamation to be published in all the papers—digest contains the

SECTION

- statute laws—all others repealed—proviso: rights, forfeitures, penalties heretofore vested or accrued, saved—civil or criminal process not abated.
6. Particular statutes which were introduced, to be in force until specially provided for.
7. Laws relating to bills of credit to remain in force.
8. Also, charters and private acts.
9. Charter of Charles II., &c., to be published in the digest.

Whereas, the committee, appointed to revise the laws of this state, have completed the business of their appointment, and the several bills reported by them, as proper to constitute the public statute laws of the state, have been carefully examined and considered by this assembly, and such amendments have been made thereto, and such additional acts passed, as have been deemed proper, and the digest reported by said committee, after being so amended as aforesaid has been approved, and the several acts therein contained, have been separately passed and enacted; in relation thereto,

*It is enacted by the General Assembly, as follows:*

SECTION 1. The Secretary of State, William R. Staples and Charles F. Tillinghast, are appointed a committee to procure and superintend the printing and publication of the laws aforesaid.

SEC. 2. The said committee shall cause all said laws, and such other public laws which are not temporary, as may be passed at this present session of the assembly, or at any other session or sessions previous to the publication of said digest, to be arranged in proper order, with a copious index and proper notes at the commencement of each act, or on the side of the page, and prepared for the press as soon as conveniently may be; and to reserve three hundred copies for the use of the state, to be disposed of as is provided in the following section.

SEC. 3. As soon as said digest shall be published, the secretary shall cause the copies reserved for the state, to be distributed in the following manner: one copy to his excellency the governor, one to his honor the lieutenant governor, one to each of the present members of the general assembly, four to the secretary of state of the United States, one to the executive of each of the United States, one to the secretary of this state, one to the attorney general, one to the general treasurer, one to each of the clerks of the house of representatives, one to the clerk of the senate, one to each clerk of the supreme court and court of common pleas, one to each sheriff, two to each town clerk, one to each jailer, one to the warden of the state prison, one to the library of Brown University, one to each cabinet of the Rhode-Island Historical Society, one to the judge of the circuit court of the United States for the first circuit, one to the district judge for the Rhode-Island district, one to the district attorney for the same district, two to the library of congress, one to the secretary of the senate, one to each of the clerks of the house of representatives of the Congress of the United States.

SEC. 4. The copies to be presented to the secretary, the attorney general, the general treasurer, clerks of the house of representatives, clerk of the senate, clerks of the courts, sheriffs, town clerks, jailers and warden, shall be preserved by said officers as appendages to their several offices, and be delivered with the other books and papers appertaining to their said offices, to their successors.

SEC. 5. Within one month after said laws shall have been printed and distributed as aforesaid, the governor shall issue his proclamation, announcing that the laws contained in said digest shall be in full force and effect immediately after the expiration of thirty days from the date of said proclamation. The secretary shall cause said proclamation to be published in all the newspapers printed within this state, in which the laws of the state are published; and the said laws contained

in said digest shall be in force and take effect from the expiration of thirty days after the date of said proclamation, and not before ; and shall thereafter be the public statute laws of this state ; and all other public statute laws heretofore made and published, which are not contained in said digest, shall be and are hereby declared to be repealed, from the expiration of said thirty days from the date of said proclamation, to be issued as aforesaid. *Provided always*, that such of the statutes contained in this digest, as remain in substance the same as before the said revisal, shall be considered as having continued in force from the time of their being first enacted, or as if this revision had not been made. *Provided also*, that nothing in this act, or in any of the acts contained in said digest, shall defeat, discharge or in any way affect any right, title, interest, duty, obligation, penalty, forfeiture, claim or demand, which shall have vested, enured, accrued, or become forfeited by virtue of the laws now in force, or which shall be in force until the expiration of said thirty days from the date of the said proclamation, to be issued as aforesaid ; nor shall any thing in this act, or in any of the laws in said digest contained, be construed to bar, discharge or abate any civil or criminal process whatsoever now pending, or which shall hereafter be commenced or pending before the expiration of said thirty days ; nor to mitigate, remit or discharge any criminal offence, or the punishment thereof, that shall have been committed before that time.

SEC. 6. In all cases in which provision is not made either at common law, or by the statutes aforesaid, such statutes as were introduced before the Declaration of Independence, and as have since been continued in practice in this state, shall be considered as part of the common law, and remain in force until the general assembly shall specially provide therefor.

SEC. 7. All laws which relate to the emission of bills of public credit, or the calling in and redeeming the same, not contained in said digest, shall be considered as remaining in full force and effect, in the same manner as if the said acts and laws had been contained in the said digest.

SEC. 8. All charters and grants of incorporation to any body politic or corporate, and all other private acts or statutes heretofore granted, passed or enacted, not contained in said digest, shall remain in full force and effect, any thing in this act to the contrary notwithstanding.

SEC. 9. The Charter granted to the late colony of Rhode-Island and Providence Plantations, by Charles II., King of Great Britain, the Declaration of Independence, the articles

of Confederation, President Washington's Address of September, 1796, to the people of the United States, the Constitution of the United States, the act of the Convention of this State adopting the Constitution of the United States, the Constitution of this State, together with the following acts of the general assembly, to wit :

The act entitled "an act confirmatory of the tenure of lands belonging to the Narragansett tribe of Indians, and for other purposes therein mentioned," contained in the digest published in 1822 :

The act entitled "an act confirming the grants heretofore made by the inhabitants of the towns of Newport, Providence, Portsmouth, Warwick and Westerly," passed on the third day of May, A. D. 1682 :

The act entitled "an act quieting possessions and establishing titles of land within the towns of Bristol, Tiverton, Little Compton, Warren and Cumberland," passed January 27, A. D. 1746 :

The act entitled "an act to secure and appropriate the Touro Jewish Synagogue Fund," passed June 14, A. D. 1823 :

The act entitled "an act in addition to the act to secure and appropriate the Touro Jewish Synagogue Fund," passed October 30, A. D. 1827 :

The resolution in relation to said Touro Jewish Synagogue Fund, passed June 28, A. D. 1834 :

The act entitled "an act to regulate the fishery in Pawcatuck river," passed in October, A. D. 1798 :

The act entitled "an act to enforce an act to regulate the fishery in Pawcatuck River," passed in January, A. D. 1822 :

Shall be published with the laws contained in the digest aforesaid.

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*An Act defining the extent of the several Counties in this State.*

Counties established, viz: Newport, Providence, Washington, Bristol, Kent.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The extent and boundaries of the several counties in the state, shall remain as now established that is to say :

The towns of Newport, Portsmouth, Jamestown, New Shoreham, Middletown, Tiverton and Little Compton, shall continue to constitute the county of Newport ; and Newport shall be the county town.

The city of Providence, and the towns of Smithfield, Scituate, Gloucester, Cumberland, Cranston, Johnston, North-Providence, Foster and Burrillville, shall continue to constitute the county of Providence; and the city of Providence shall be the county town.

The towns of South-Kingstown, North-Kingstown, Westerly, Charlestown, Exeter, Richmond and Hopkinton, shall continue to constitute the county of Washington; and South-Kingstown shall be the county town.

The towns of Bristol, Warren and Barrington, shall continue to constitute the county of Bristol; and Bristol shall be the county town.

The towns of East-Greenwich, Warwick, West-Greenwich and Coventry, shall continue to constitute the county of Kent; and East-Greenwich shall be the county town.

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*An Act in relation to certain lands in this State, owned by the United States.*

<p><b>SECTION</b> 1. Concurrent jurisdiction over certain lands heretofore ceded to the United States, recognized and continued.</p>	<p><b>SECTION</b> 2. Custom House lot in Newport and Providence exempted from taxes.</p>
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*It is enacted by the General Assembly, as follows :*

**SECTION 1.** The several places hereinafter enumerated, which have heretofore been ceded to the United States, or purchased by them, over which concurrent jurisdiction has been granted to the United States, shall continue to be subject to such concurrent jurisdiction, according to the several acts of this state, heretofore passed in relation to them; that is to say :

The light house in Jamestown, and the lands and tenements thereto adjoining, ceded to the United States by this state, in 1793.

A tract of land at Watch Hill point, in the town of Westerly.

A tract of land at Point Judith, in the town of South-Kingstown.

A tract of land near the south end of the island of Conanicut.

A tract of land on Goat Island, in the harbor of Newport.

An island called Castle Island, at the entrance of Bristol harbor.



A tract of land on Poplar Point, in the town of North-Kingstown.

A tract of land at the north-west point of Block Island.

A tract of land at Nayat Point, in the town of Barrington.

A tract of land on Dutch Island.

A tract of land on Warwick Neck, in the town of Warwick.

A tract of land on Brenton's Neck, in the town of Newport.

SEC. 2. The lot of land in the town of Newport and the lot of land in the city of Providence, purchased by the United States, and on which the custom houses in those places stand, together with all the appurtenances of the same, shall, so long as they remain the property of the United States, be exempted from the payment of all state and town taxes.

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*An Act in relation to the Seal of the State.*

SECTION

1. Seal of the State—recognized and established.

SECTION

2. Secretary to be the keeper, affix it to commissions, &c.

*It is enacted by the General Assembly, as follows :*

SECTION 1. There shall continue to be one seal for the public use of the State; the form of an anchor shall be engraven thereon, and the motto thereof shall be the word Hope.

SEC. 2. The secretary of state for the time being shall be keeper of the said seal, and shall affix the same to acts, laws, orders, commissions and certificates, in all cases which are or shall be required by law; and may affix the same, when requested by any person having occasion therefor.

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*An Act in relation to the Construction of Statutes.*

SECTION

1. Rules for construing statutes.—Singular and plural numbers.—Masculine gender, &c.—Land.—Lands.—Real estate.—Insane person.—Oath. Sworn.—Engaged.—Person.—United

SECTION

States.—Town.—Town councils.—Town clerks.—Town sergeants.  
2. When statutes shall take effect.  
3. Acts of incorporation not to be specially pleaded—may be repealed, &c.

*It is enacted by the General Assembly, as follows :*

SECTION 1. In the construction of all statutes, the following rules shall be observed, unless the observance of them would lead to a construction inconsistent with the manifest

intent of the general assembly, or repugnant to some other part of the same statute :

*First.* Every word importing the singular number only, may be construed to extend to and include the plural number also ; and every word importing the plural number only, may be construed to extend to and embrace the singular number also ; and every word importing the masculine gender only, may be construed to extend to and embrace females as well as males.

*Second.* The word "land" or "lands," and the words "real estate," may be construed to include lands, tenements and hereditaments, and all rights thereto and interests therein.

*Third.* The words "insane person" shall be construed to include every idiot, non compos, lunatic and distracted person.

*Fourth.* The word "oath" shall be construed to include affirmation ; the word "sworn" to include affirmed ; and the word "engaged" both sworn and affirmed.

*Fifth.* The word "person" may be construed to extend to and include bodies corporate and politic.

*Sixth.* The words "United States" shall be construed to include the several states of this union, the district of Columbia, and the territories to the United States belonging.

*Seventh.* The word "town" may be construed to include all cities ; the words "town councils" all boards of aldermen ; the words "town clerks" all city clerks ; and the words "town sergeants" all city sergeants.

SEC. 2. Every statute which does not expressly prescribe the time when it shall go into operation, shall take effect on the tenth day next after the rising of the general assembly, at the session thereof in which the same shall be passed.

SEC. 3. Every act of incorporation shall be so far deemed a public act, as that the same may be declared on and given in evidence, without specially pleading the same ; and all acts of incorporation, hereafter granted, may be amended or repealed at the will of the general assembly ; unless express provision be made therein to the contrary.

*An Act to regulate the organization of the General Assembly.***SECTION**

1. Senate, how organized—join in grand committee to receive and count votes for general officers.
2. House of representatives, how organized.
3. Members not present at first meeting, how sworn.
4. Attendance, may be compelled by warrant.

**SECTION**

5. If no member from Newport present, who to preside at organization of the house, &c.
6. Vacancies in either house during the session, how filled.
7. Form of oath to be administered.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** The senators elect shall, on the first Tuesday in May in every year, assemble in the senate chamber, present their certificates of election, and take the oath of office hereinafter prescribed, before the secretary of state, or in his absence, before the attorney general; after which, if a quorum be present, they shall elect their officers, and shall unite with the house of representatives in grand committee, for the purpose of receiving and counting the votes for general officers and of inducting the persons elected into their respective offices.

**SEC. 2.** The members elect of the house of representatives shall annually assemble in the representatives chamber, on the first Tuesday in May, produce their certificates of election, and take the oath of office hereinafter prescribed, before the secretary of state or the attorney general; after which, if a quorum be present, they shall organize the house of representatives by the election of a speaker and other officers.

**SEC. 3.** Senators and representatives not present at the first meeting of the respective houses, shall and may, after presenting their certificates of election, take the oath before referred to, in the presence of the secretary of state, before they shall act in their respective offices.

**SEC. 4.** The attendance of senators elect and representatives elect and of senators and representatives may be compelled by warrant under the hand of the presiding officer for the time being of the senate or house of representatives, as the case may be, directed to any sheriff or deputy sheriff, which may be executed by such officer in any county.

**SEC. 5.** If there be no member present in the house of representatives from the town of Newport to preside at the organization of that house, the senior member of the house in continued membership shall preside in such organization.

**SEC. 6.** If any vacancy shall happen in either house, during any session of the general assembly, the house in which

it occurs may order a new election, and appoint such time therefor and give such notice thereof, as they may deem proper.

SEC. 7. The following shall be the form of oath to be taken by the senators and representatives: You, being chosen to the place of \_\_\_\_\_ in the general assembly, do solemnly swear (or affirm) that you will be true and faithful to this state of Rhode-Island and Providence Plantations; that you will support the constitution of the United States, and the constitution and laws of this state, and that you will faithfully and impartially discharge the duties of your aforesaid office, to the best of your abilities, according to law. So help you God: (or, this affirmation you make and give, upon peril of the penalty of perjury.)

*An Act directing the method of passing the Acts of the General Assembly, and for recording and distributing the same, and for distributing the Laws of the United States.*

**SECTION**

1. Laws, how to be passed—to be recorded with all other proceedings of the general assembly; schedules, how distributed—public laws to be printed

**SECTION**

and distributed once in two years.  
2. Laws of the United States, how distributed.

*It is enacted by the General Assembly, as follows:*

SECTION 1. Every act that shall be passed by the house of representatives shall, before the same is sent to the senate for concurrence, be transcribed by the clerks of said house, and such copy shall be read to the house of representatives, and be by them approved; and if the senate shall propose any alteration of such act, and the house shall concur therewith, the same shall again be transcribed, with such alteration, and read and approved as aforesaid. And in case any act shall originate in the senate, the same shall be transcribed, and similar proceedings shall be had thereon, mutatis mutandis, as if such act had originated in the house of representatives; to the intent that a correct copy of every act passed by the general assembly may be deposited in the office of the secretary. It shall be the duty of the secretary for the time being to keep the copies of all acts passed as aforesaid, in his office, and also to record the same, together with all other proceedings of the general assembly, in a book to be kept for that purpose. The secretary shall immediately after the close of each session of the general assembly, cause as many copies

of all the proceedings thereof to be printed, with a suitable index, as he in his discretion may think necessary; and shall send one copy thereof to the governor, one to the lieutenant governor, one to the attorney general, one to the general treasurer, one to each member of the senate and house of representatives, one to the clerks of the house of representatives, one to the clerk of each court, one to each sheriff and town clerk and town treasurer, one to the adjutant general, one to the librarian of Brown University, one to each of the cabinet keepers of the Rhode-Island Historical Society, one to the Providence Athenæum, one to the Redwood Library, and one each to all other chartered libraries in the state, which may apply therefor, and reserve one for himself; which copies, except those of the governor and lieutenant governor, of the members of the senate and house of representatives, shall be kept by the persons aforesaid, and be transmitted by them to their successors in office. The secretary shall, once in two years, or oftener if he see fit, cause to be published in pamphlets, with a proper index, all the public laws that may be hereafter passed, continuing the pages from the last page of this digest, and shall distribute the same in manner aforesaid, with the addition of four copies to the secretary of state of the United States, three copies to the supreme executive of each of the United States, three copies to the library of congress, one copy to the judge of the circuit court of the United States for the first circuit, and one copy to the judge of the district court for the Rhode-Island district, and the residue shall retain in his office, to be at the disposal of the general assembly; and the printer who shall print the acts of the general assembly, shall have a right to print and dispose of as many more copies thereof, for his own benefit, as he shall think fit.

SEC. 2. The copies of the laws of the United States, which may be hereafter transmitted for the use of this State, shall be distributed as follows: one copy to the secretary, one to the attorney general, one to the general treasurer, one to each clerk of the supreme court and court of common pleas, and one to each town clerk; to be kept as appendages to their offices, and to be delivered over to their successors.

*An Act directing the method of preferring Petitions to the General Assembly, and of acting thereon.*

**SECTION**

1. Petitions to set aside judgments, &c., shall be lodged in secretary's office—bond given—citation issued and returned.
2. Other petitions received by the general assembly, to be continued—bond given—citation issued.
3. Time to be assigned for hearing petitions—docket to be made.

**SECTION**

4. Fees to be paid—costs allowed parties—execution to issue for costs—when returnable.
5. Party obtaining new trial, to pay costs, &c., in case.
6. Suit may be brought on bond—damages how ascertained.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** Whenever any person shall prefer a petition to the general assembly, praying that any judgment, rule of court or determination, may be set aside, or that execution may be stayed, or for any matter or thing whereby any action or proceeding in any court may be stayed or delayed, or the place of trial of any action may be changed, he shall, three weeks before the session of the general assembly to which such petition shall be preferred, deliver and lodge his petition in the secretary's office, together with his bond to the adverse party, with one sufficient surety, in such sum as the secretary, considering the nature of such petition, shall think meet; the condition of such bond shall be for the payment of all lawful costs and damages, which the adverse party shall sustain by means of preferring such petition: and thereupon the secretary shall issue a citation for the adverse party to appear, if he shall think fit, at the session of the general assembly to which such petition shall be preferred, to show cause why such petition should not be granted; and the adverse party shall be served with such citation, and a copy of such petition, by the sheriff of the county or his deputy, where he may dwell, ten days at least before such session of the general assembly; and if such person cannot be found by the sheriff or his deputy, then the leaving a copy of the petition and citation at the usual place of his abode shall be deemed a good service; and the sheriff or deputy shall make a return of all his doings to the said secretary, at the first opening of the general assembly.

**SEC. 2.** When any petition shall be received by the general assembly, the granting whereof may, by any means, relate to or concern the interest, property or character of any other person whomsoever, every such petition shall be referred to some future session of the assembly, and the person so

petitioning shall, at least thirty days before the sitting of the said assembly, give bond in manner as before directed, and all persons so concerned shall be duly served with a copy of such petition, and the vote of assembly thereon, and be cited in manner as aforesaid.

SEC. 3. At the beginning of every session of the general assembly, a time shall be assigned for the hearing and determining of all petitions pending before them; and the secretary of state shall make a docket of all such petitions, which docket shall be set up in view in the house where the assembly shall sit, with a note at the bottom thereof of the time appointed for their being heard.

SEC. 4. No petition shall be received by the general assembly, unless the petitioner shall pay the fees established by law; and the same costs shall be allowed the parties and taxed upon petitions preferred to the general assembly, as are allowed by law in causes before the supreme court; and the bills of cost shall be taxed by the secretary, who shall issue execution for the same, returnable to the next succeeding session of the assembly.

SEC. 5. Whenever any new trial shall be awarded by the assembly to any person, the party obtaining any such new trial shall pay all lawful costs and damages, that he has put the adverse party to, in defending against such petition, unless he shall, upon such new trial, obtain some alteration of the former judgment, in his favor.

SEC. 6. When any person shall sustain any damage, by reason of any petition preferred to the general assembly, concerning which bond shall have been entered into as aforesaid, the secretary shall deliver such bond to the person so aggrieved, who may bring a suit thereon; and the court before whom such suit shall be brought, are hereby empowered by themselves or by a jury, at the election of either party, to hear the parties concerning all matters of damages as herein before expressed; and on a hearing, justly and equitably, to determine what damages the party complaining may have sustained, by staying the execution, or other proceedings in such cause, or by granting a new trial therein; and may reduce the sum mentioned in such bond to just damages; and the court shall award execution accordingly.

*An Act in relation to the Secretary of State.*

## SECTION

- 1 Secretary may appoint a deputy—deputy to be sworn—duties—of secretary, answerable for his neglect.
2. Public letters to be registered.

## SECTION

3. Number of commissions issued, to be returned to general treasurer.
4. Secretary's salary.

*It is enacted by the General Assembly as follows :*

SECTION 1. It shall and may be lawful for the secretary of state, by writing, to appoint a deputy under him, who being duly sworn before the governor, lieutenant governor or one of the senators or some judge of a court of record, for the faithful discharge of the duties of his office, is hereby authorized and empowered to act and do, in the absence of the secretary of state, all things by law required of him, as fully and amply, and to all intents and purposes, as the secretary himself might or could do ; and the secretary shall be responsible and liable in law for all and every misconduct, neglect or default of such deputy.

SEC. 2 It shall be the duty of the secretary, to register all letters sent from this state, in a book for that purpose, and also all such public letters as shall be sent to this state from the secretary of state of the United States or other person or officers, in another book to be kept for that purpose.

SEC. 3. It shall be the duty of the secretary to make return to the general treasurer, on or before the first Monday of October annually, of the number of commissions issued, and to whom by him delivered, on which a tax of one dollar each is payable into the general treasury.

SEC. 4. The secretary of state shall receive as a salary the sum of seven hundred and fifty dollars per year, to be paid him quarterly out of the general treasury.

*An Act in relation to the Attorney General.*

Attorney general to attend the general assembly and courts ; duties of.

*It is enacted by the General Assembly as follows :*

SECTION 1. The attorney general shall give his attendance at the general assembly, and at the supreme court, and courts of common pleas, for the service thereof : and shall give unto such courts, due advice and information, concerning any criminal matters, breaches of the peace, or wrong done to the state, or any of the citizens thereof, that shall come to his knowledge ;



and draw and present to such courts, all informations and indictments, or other legal process, against any such offenders, as by law is required, and diligently, by a due course of law, prosecute the same to final judgment and execution.

*An Act in relation to the General Treasurer.*

## SECTION

1. General treasurer to give bond.
2. General treasurer to present semi-annual report of receipts and expenditures.
3. General treasurer to classify receipts, &c., in a tabular statement.
4. Same subject.
5. General treasurer to report all sums due from any persons, &c., under the revenue laws.
6. General treasurer to present statement

## SECTION

- in May, of receipts, &c., for the whole year preceding; school fund.
7. No money paid out of the treasury unless by order of the general assembly, except, &c.
8. Treasurer to deposite funds in bank.
9. Claims against the state, to be presented to treasurer for examination, &c.
10. Treasurer shall establish rules, &c. for the presentation of claims.
11. Treasurer's salary.

*It is enacted by the General Assembly as follows :*

SECTION 1. The general treasurer shall, previous to entering on the duties of his office, give bond to this state, with sufficient sureties, to the satisfaction of the governor, in the sum of forty thousand dollars, for the true and faithful discharge of the duties of his said office; which bond shall be deposited with, and kept by the secretary of state.

SEC. 2. The general treasurer shall present to the general assembly at their May and October sessions in every year, a particular account of receipts and expenditures of public money, from what sources the state revenue shall have been derived, and what amount thereof from each source; and what amount from each town and the citizens and corporations thereof, and on what account; putting the towns and citizens and corporations thereof in each county by themselves. And also how, and for what purposes the money in the state treasury shall have been applied or expended: and what amount in each county, and for what purposes. And he shall at the close of his report, furnish a general summary of receipts, expenditures and balances transferred and on hand during the preceding six months.

SEC. 3. In the tabular statement accompanying the semi-annual reports of the general treasurer, exhibiting the receipts and expenditures by towns and counties, he shall classify the expenditures of the state under the following heads, as nearly as can be done.

- A. Salaries.
- B. Pay of senators.

C. Pay of representatives.

D. Courts.—Specifying the amount paid in each of the courts for the following purposes: 1. Attorney general. 2. Jurors. 3. Witnesses. 4. Clerks. 5. Officers. 6. Other costs, waiters and incidental expenses.

E. Orders of the governor.

F. Printing laws and schedules.

G. Support of state prison.

H. Accounts allowed by the assembly under the following heads: 1. Repairs, furniture, &c. of state prison. 2. Do. of court houses. 3. Do. of jails. 4. Do. of bridges. 5. Do. of other public works. 6. Expenses incurred by or on account of any bank commissioners. 7. Boundary law suit. 8. Printing. 9. Clerks, officers and incidental expenses of assembly. 10. Accounts allowed to jailers. 11. To justices. 12. To witnesses. 13. To officers for services in criminal cases. 14. Militia and military affairs. 15. Indian tribe. 16. Miscellaneous.

SEC. 4. In the account of moneys received from the different courts he shall state separately, the amounts received from the following sources: 1. Entries. 2. Jury fees. 3. Other costs. 4. Taxes on clerks' fees. 5. Fines. 6. Miscellaneous.

SEC. 5. It shall be the duty of the general treasurer, to connect with each of his semi-annual reports, a report of all such sums of money as within his knowledge shall be due to the state, from any persons, corporations or towns, by virtue of any of the revenue laws; and what amount from each. And also to report all such breaches or want of enforcement of the license, or any other of the revenue laws of the state, by any persons or towns, as shall come to his knowledge, or as may in his opinion exist, whereby the state may be defrauded of any of its revenue.

SEC. 6. The general treasurer shall present with his semi-annual report, at every May session, in addition to the statements now or herein before required, a statement of the receipts and expenditures for the whole of the preceding year, classified according to law. He shall also report at every May session, the receipts and expenditures on account of schools and school fund, under appropriate heads, together with the state and amount of said fund, and how the same is invested. He shall also, in his semi-annual reports, state any other expenses particularly, under such heads as he may deem necessary, for the better information of the general assembly.

SEC. 7. No money shall be paid out of the general treasury to any person, unless he produces an order therefor, from

the general assembly, certified by the secretary: *Provided, nevertheless*, that the governor for the time being shall have power to draw upon the general treasury, for payment for any particular services or expenses of a public nature, to the amount of twenty dollars at any one time; *and provided also*, that all accounts passed by the supreme court, or either of the courts of common pleas, in favor of those who have in said courts obtained allowances for services rendered in bringing criminals to justice, and for other incidental expenses, and also all certificates for any witnesses', officers' or jurors' attendance on said court according to law, shall be paid by the general treasurer, on the certificate of the clerk of said court.

SEC. 8. It shall be the duty of the general treasurer to deposit, subject to his order for the use of the state, all the funds of the state in his hands, or which may hereafter be received by him, in such safe and responsible bank, either in Newport or Providence, as will give the greatest rate of interest for the money so deposited.

SEC. 9. Any person having any claim or demand against the state, shall present the same in writing to the general treasurer, four weeks before the session of the general assembly, at which the same is to be acted on; and the general treasurer shall examine the same, and endorse thereon his recommendation or disapproval thereof, and transmit the same to the speaker of the house of representatives, at the next ensuing session of the assembly. After being acted upon by the assembly, the same shall be returned by the secretary of state to the general treasurer, to be by him kept on file in his office.

SEC. 10. The general treasurer may and shall make and publish, from time to time, such rules and regulations respecting the manner in which said claims and demands are to be made out and certified, as he shall deem necessary; which rules and regulations shall remain in force until altered by the general treasurer, or the general assembly.

SEC. 11. The salary of the general treasurer shall be five hundred dollars per year, payable quarterly out of the general treasury,

*An Act relative to Senators and Representatives to represent this State in Congress, and of Electors for the election of President and Vice President of the United States.*

**SECTION**

1. Senators in congress to be elected by general assembly in grand committee.
2. Election to be at stated session, next preceding the expiration of term of service of the senators for the time being.
3. State divided into two congressional districts.
4. What towns compose each of said districts.
5. Elections of representatives to congress, when to be holden.

**SECTION**

6. Votes given at such elections, when to be returned.
7. In case of a vacancy, election to be conducted in same manner.
8. Electors of president, when and how to be chosen.
9. Electors to meet at Bristol, to give their votes for president and vice-president.
10. Electors empowered to fill vacancies when met.

*It is enacted by the General Assembly, as follows :*

SECTION 1. Senators of this state in the congress of the United States, shall be elected agreeably to the usage and constitution thereof, in the choice of state officers, by the general assembly in grand committee, and not in separate houses.

SEC. 2. Except in cases provided for by the second paragraph of the third section of the first article of the constitution of the United States, senators of this state shall not be elected before the stated session of the general assembly next preceding the expiration of the term of service of the senators for the time being.

SEC. 3. This state shall be divided into two districts for the election of representatives to the congress of the United States, to be called the eastern and western districts ; and the qualified electors residing in each of said districts shall be entitled, at the times and places, and in the manner herein after provided, to elect a representative to the congress of the United States, for the district in which they reside.

SEC. 4. The eastern district shall consist and be composed of the territory in the following towns, to wit : Newport, Middletown, Portsmouth, Little Compton, Tiverton, Bristol, Warren, Barrington, North Providence, Smithfield and Cumberland, and the city of Providence.

The western district shall consist and be composed of the territory embraced within the following towns, to wit : New Shoreham, Westerly, South-Kingstown, North-Kingstown, Charlestown, Exeter, Richmond, Hopkinton, Jamestown, East-Greenwich, West-Greenwich, Warwick, Coventry, Cranston, Johnston, Scituate, Foster, Gloucester and Burrillville.

SEC. 5. The first election of representatives after the passage of this act shall be on the first Wednesday in April, A. D.

1845; and all subsequent elections shall be holden every second year thereafter, on the first Wednesday in April. The said elections shall be conducted in the same manner and under the like restrictions and regulations, as are or shall be provided by law in respect to the election of general officers in this state.

SEC. 6. The votes given on such elections shall be returned to the general assembly at their next May session; and those given in each district shall be by them separately counted, and the candidate having the highest number of legal votes therein, shall be declared elected, and shall be furnished by the governor with a proper certificate thereof; *provided*, such candidate have a majority of the legal votes given at such election. But, if no person have such majority in each district, the general assembly shall order a new election at such time as they shall deem most expedient; and the votes given in such election shall be returned to, examined and counted by the general assembly or by the governor, at such time as the general assembly shall direct; and the candidate in each district, having a plurality of the whole number of legal votes given at such second election, shall be declared duly elected, and shall receive a certificate accordingly.

SEC. 7. Whenever a writ of election shall issue to supply any vacancy which shall happen in the representation of this state in congress, as contemplated in the second section of the first article of the constitution of the United States, the votes shall be returned and counted as is herein after provided, in case of electors of president and vice-president of the United States.

SEC. 8. The people of this state qualified by law to vote in the election of general officers, shall choose so many electors for the election of a president and vice-president of the United States as the state is or shall be entitled to; the said election of electors shall be holden in the several towns on the first Monday in November, in every fourth year next after the election of president and vice-president of the United States which was had in the year 1840, and the several candidates having a plurality of the legal votes given in at such election shall be electors; the votes so given in shall be returned to the governor within five days after such election, who shall, in the presence of the secretary, count and examine the same and give notice to the electors of their election; and if, by reason of the votes being equally divided among any of the candidates or otherwise, there shall not be an election of the number of electors to which the state may

be entitled, the governor shall forthwith convene the general assembly, in East-Greenwich, in the county of Kent, for choosing electors to fill such vacancies; in such cases the election by the general assembly shall be in grand committee and not in separate houses.

SEC. 9. Electors which may be appointed pursuant to this act, shall meet at Bristol, in the county of Bristol, there to vote for a president and vice-president of the United States, agreeably to the act of congress.

SEC. 10. If any electors, chosen as aforesaid, shall after their said election decline the said office, or be prevented by any cause from serving therein, the other electors, when met at Bristol, in pursuance of this act, shall fill such vacancies, and shall file a certificate in the secretary's office, of the person or persons by them appointed.

### *An Act in relation to Sheriffs, Deputy Sheriffs and Jailers.*

#### SECTION

1. Sheriff to be annually elected for each county—be sworn—give bond.
2. Member of assembly not eligible as sheriff, &c.
3. Sheriff may appoint deputies—deputation to be recorded—deputy to be sworn and give bond—sheriff (except Providence) may appoint jailer—jailer to be sworn—give bond.
4. Form of oath—may revoke deputation.
5. May appoint special deputy on back of writ—deputy to be sworn.
6. Sheriff liable for default of deputy, &c.—party injured may sue sheriff or deputy.
7. To attend general assembly and courts.
8. Penalty for refusing or neglecting to serve process.
9. May command aid—penalty on person refusing to obey.
10. Deputy and jailer may act after the death of sheriff—their neglects to be a breach of sheriff's bond—sheriff may officiate until successor is qualified.
11. Sheriffs to distribute the schedules, &c.
12. To attend, with deputies annual commencement of Brown University.
13. Courts may remove deputies or jailers.
14. Execution against sheriff—how served.
15. Prisoner dying, body may be delivered to his friends, if requested—otherwise buried by jailer.
16. Dead body not liable to be seized by process.

#### SECTION

17. Former keepers of jails (except Providence) to deliver to sheriff all books, &c., pertaining to said office.
18. Sheriffs to deliver all books, &c., pertaining to their office, to their successors.
19. Jailers to enter in a book, the names, commitments and discharge of criminals.
20. Jailers to report to general treasurer annually, the names, &c., of criminals—also list of notes, &c.
21. Certain buildings declared to be the jail for the county of Providence.
22. Warden of state prison to be keeper of the jail in said county—to give bond as keeper—sheriff to be keeper in case, &c.
23. Judgment, how rendered in case of suit on bond required in section 22.
24. Keeper of jail in county of Providence to receive and safely keep all persons committed—forms of process may be varied, &c.
25. May compel convicts to supply water for jail and state prison.
26. May appoint deputy keeper—powers of deputy—to give bond—keeper liable for his acts.
27. Keeper to deliver to his successor all books, &c., pertaining to said office.
28. Keeper may employ, any person committed, in any labor in the jail yard, &c.—not to be deemed an escape.

## SECTION

29. To receive and keep prisoners while being transferred from one county to another.

## SECTION

30. Unoccupied cells in state prison, in certain cases, to be used and deemed part of jail.

*It is enacted by the General Assembly, as follows :*

SECTION 1. There shall be annually appointed by the general assembly one sheriff for each county; every person who shall be elected to the office of sheriff shall, at the time of his election, be an inhabitant of the county for which he shall be elected, and shall, previous to his entering on the duties of his office, take the oath herein after prescribed, and give bond with two sufficient sureties to the general treasurer, in the sum of fifteen thousand dollars, for the due and faithful execution of his office, according to law.

SEC. 2. No member of the general assembly shall be eligible to the office of sheriff or deputy sheriff; nor shall any sheriff, deputy sheriff or jailer be eligible as a member of the general assembly.

SEC. 3. Each sheriff is hereby authorized to appoint as many deputies, being inhabitants of the county, as he shall deem necessary for his assistance in the due performance of the duties of his office. The appointment of every deputy shall be in writing, under the hand and seal of the sheriff, and shall be recorded in a book to be kept for that purpose in the office of the clerk of the court of common pleas in the county for which he is appointed or lodged, to be so recorded, previous to his entering on the duties of his office. Every deputy shall take the oath herein after prescribed, and give bond with sufficient sureties to the sheriff appointing him, in a sum not less than three thousand dollars, nor more than twelve thousand dollars, for the faithful execution of his office, according to law. Each sheriff, excepting the sheriff of the county of Providence, shall be authorized to appoint a jailer or keeper of the prison in his county, who shall take the oath herein after prescribed, and shall also give bond in the same manner and for the same sum that deputy sheriffs are by this act required to; and the appointing of said jailer shall be in like manner under the hand and seal of the sheriff, and recorded as aforesaid.

SEC. 4. The oath of office for all sheriffs, for the deputy sheriffs and jailers, shall be in form following, to wit: I

do solemnly swear (or affirm) that I will faithfully execute all lawful processes issued under the authority of the state of Rhode-Island and Providence Plantations, and to me directed and delivered, and true returns make; and in all

things well and truly, and without malice or partiality, perform the duties of the office of sheriff of the county of

(or, deputy sheriff or jailer, as the case may be) during my continuance in said office, and take my lawful fees only; and I do further solemnly swear (or affirm) that I will support the constitution and laws of said state, and the constitution of the United States; so help me God—(or, this affirmation I make and give upon peril of the penalty of perjury;) and sheriffs shall have the power of revoking any deputation by them given, provided such revocation be entered in the book for recording deputations as aforesaid.

SEC. 5. Every sheriff shall be authorized to appoint a special deputy for the service of any writ or process to him directed; provided the same be done upon the back of such writ or process, and such deputy be sworn before any judge, justice of the peace or notary public, duly and faithfully to execute said writ or process, and the same be certified by said judge, justice or notary under such deputation.

SEC. 6. Every sheriff shall be responsible and accountable for any neglect or misfeasance in office of his deputies or jailer: and in all cases where any person shall be entitled to an action for any neglect or misfeasance in office of any deputy sheriff or jailer, he shall have his election to bring the same either against the sheriff appointing him or against such deputy or jailer.

SEC. 7. It shall be the duty of the sheriffs to attend the general assembly, and also the supreme court and the courts of common pleas, when holden in their several counties.

SEC. 8. If any sheriff, deputy sheriff, town sergeant or constable, shall neglect or refuse to serve any process issuing from lawful authority, directed to him to serve and execute, having, in all civil causes, paid or tendered unto him his legal fees (if he demand the same) for serving and executing such process, every such sheriff, deputy sheriff, town sergeant or constable, shall forfeit and pay to the party aggrieved such damages as he may have sustained by such neglect or refusal.

SEC. 9. Every sheriff, deputy sheriff, town sergeant, constable or jailer, in the due execution of his office, is hereby empowered to command all necessary aid and assistance in the execution of his said office; and if any person when so required shall refuse or neglect to give such aid and assistance, he shall forfeit and pay as a fine to, and for the use of the state, a sum not exceeding twenty dollars, to be recovered by indictment before any court of competent jurisdiction.

SEC. 10. In case of the death of any sheriff, his deputy



or deputies and jailer shall continue in office, unless removed as herein provided, and shall execute the same in the name of the deceased, until another sheriff shall be appointed and sworn, and have given bond as before prescribed; and the neglect or misfeasance of such deputies and jailer in the mean time, as well as before, shall be a breach of the condition of the bond given as before directed by the sheriff who appointed them; and the executors or administrators of such deceased sheriff shall have the like remedy for the defaults and misfeasances in office of such deputy or deputies and jailer, during such interval as the deceased sheriff would have been entitled to if he had continued in life and in the exercise of his office until his successor was appointed and duly qualified; and every sheriff whose office shall become vacant by resignation or removal into any other county, shall have power notwithstanding to officiate as such, until his successor shall be duly qualified to act; and his deputies and jailer shall also have power to exercise their respective offices during such period.

SEC. 11. It shall be the duty of the sheriffs to furnish the general assembly, when sitting in their respective counties, with copies of the laws and other proceedings of the general assembly, which shall from time to time be transmitted to them as by law provided; and also to deliver commissions, proclamations, schedules and all other public acts, to the persons to whom directed in their respective counties: and they shall be allowed for delivering said commissions, proclamations, schedules and other public acts, the sums herein specified, annually, to wit: the sheriff of Newport, twelve dollars; the sheriff of Providence, twenty-five dollars; the sheriff of Washington, fifteen dollars; the sheriff of Bristol, six dollars; the sheriff of Kent, ten dollars.

SEC. 12. It shall be the duty of the sheriff of the county of Providence, with so many of his deputies as may be necessary, (at least four,) to attend the celebration of the annual commencement of Brown University, and to preserve peace and good order and decorum during the same.

SEC. 13. The supreme court and the court of common pleas in their respective counties on complaint, to them made, shall be authorized to remove any deputy sheriff or jailer for misdemeanor in office.

SEC. 14. When judgment shall be rendered against any person holding the office of sheriff, the execution issued thereon shall be directed to the sheriff (or his deputies) of some other county, who is hereby authorized, within the county of

the sheriff defendant, to levy on the goods and chattels of the defendant as other officers in other cases, and to proceed and sell the same according to law : and for want thereof, such deputy or sheriff shall take the body of the defendant and him commit to the jail in the county where such committing officer belongs.

SEC. 15. When any person imprisoned for debt or any other cause shall die in any jail, it shall be the duty of the jailer, after an inquest has been held on the body of such deceased person, to deliver said body to his relations or friends, if they request it ; and if no application be made for such body, it shall be the duty of the jailer to bury the same in the common burying ground ; and the expenses thereof shall be paid out of his estate, if any there be, and if none, then by the town in which such person had a legal settlement, if within this state ; otherwise the expenses aforesaid shall be paid out of the general treasury.

SEC. 16. The body of any deceased person shall not be liable to be taken upon any process whatever ; and if any officer shall, by virtue of any process, seize or take the body of any deceased person, he shall, upon conviction, be fined not exceeding five hundred dollars, or be imprisoned not exceeding six months, at the discretion of the court.

SEC. 17. Every person who now is, or hereafter may be, the keeper of any jail, except the jail in the county of Providence, is hereby authorized and required, on his ceasing to hold said office, to deliver to the sheriff of the county in which he is or shall be the keeper of the jail, all books, bonds, notes, obligations and other papers in his possession, pertaining to said office of jailer ; and on refusal to deliver the same on demand, shall be fined the sum of fifty dollars.

SEC. 18. All books, notes, bonds, obligations and other papers, which sheriffs shall receive pursuant to this act, shall by them be delivered over to their respective successors in office, as papers and documents pertaining thereto ; and on refusal to deliver the same on demand, shall be fined the sum of fifty dollars.

SEC. 19. It shall be the duty of the several keepers of jails, to keep a book, in which shall be entered the names of all criminals committed under the laws or authority of this state, the times of their commitment, the times when they are discharged, and the manner in which they are discharged, as well as the circumstances attending their discharge.

SEC. 20. The several keepers of the jails shall report in writing once in every year, on the first Monday of October,

to the general treasurer, the names of all such criminals committed as aforesaid, the times of their commitment, the times when they are discharged, the manner in which as well as the circumstances attending their discharge ; and shall also furnish the general treasurer with a list of all notes and obligations taken in behalf of the state, and shall deliver the said notes and obligations over to him once in every year, on the first Monday of October.

SEC. 21. The building adjoining the state prison built for the keeper's house, and the building adjoining said house to the eastward thereof, is hereby ordained and declared to be the jail for the county of Providence.

SEC. 22. The warden of the state prison shall be the keeper of the jail for the county of Providence, and shall be liable for the safe keeping of all prisoners committed to his custody ; and shall give bond to the state separate and distinct from his bond as warden of the state prison, with two or more sureties satisfactory to the general treasurer, in the penal sum of fifteen thousand dollars ; conditioned for the faithful execution of his said office according to law ; and in default of the warden of said state prison giving bond, his appointment as such warden shall be void ; and the sheriff of the county of Providence shall in such case be ex officio keeper of said jail and warden of the state prison, until another warden shall be appointed and qualified according to the provisions of this act and other acts which relate to said office : *Provided however*, that said sheriff shall not be required to give bond as warden of said state prison.

SEC. 23. Upon suits brought for breach of said bond given as provided in the preceding section of this act, judgment shall be rendered for the whole penalty thereof, and execution shall issue for the amount of the special damage sustained ; which judgment in case of other breach or breaches shall be, from time to time, revived by writs of scire facias, and execution shall issue for damages as aforesaid : *Provided however*, if the original action be brought, or scire facias sued out, for the benefit of an individual or corporation, such individual or corporation shall first have the damages ascertained by an action against the keeper of the jail aforesaid ; and execution shall issue as aforesaid in the name of the state, for the use of the party in interest ; and the name of the party for whose use the original writ or scire facias is brought shall be written thereon.

SEC. 24. The keeper of said jail shall receive into his custody and safely keep in said jail every person who shall be

committed thereto, until he shall be legally discharged therefrom ; and the liability of the committing officer shall cease, and the liability of said keeper commence, immediately upon the entering and signing of the commitment by the committing officer on the book of said jail, kept for that purpose. And the form of all process, writs, and executions, to be served within the county of Providence, shall be so varied by the court or magistrate issuing the same, as to carry into effect all the provisions in relation to said jail.

SEC. 25. It shall be lawful for said keeper to compel any convicts committed to said jail, to operate the force pump for the supply of the said jail and the state prison with water ; or to raise the same into the cistern or reservoir erected for that purpose ; under the advice and direction of the inspectors of the state prison or any two of them.

SEC. 26. The keeper of said jail is hereby empowered, by and with the consent and approbation of two inspectors of the state prison, to appoint a deputy keeper of said jail ; and every such deputy keeper for the time being shall have all the powers and discharge all the duties of keeper ; and the keeper shall be liable for all his acts, and may require bond with sureties for his indemnity ; but such deputy shall, in no case, be entitled to receive any compensation from the state for his services as deputy.

SEC. 27. Whenever any person shall cease to hold the office of keeper of the said jail in the county of Providence, he shall deliver to his successor in said office, all books, bonds, notes, obligations and other papers in his possession, pertaining to said office ; and on refusal to deliver the same on demand, shall be fined the sum of fifty dollars.

SEC. 28. The keeper of said jail may employ, with his consent, any person committed to the said jail, in any labor in said jail, in the basement story of the building connecting said jail with the state prison, and in the yard around said prison ; under such regulations as the inspectors of the state prison for the time being may, from time to time, prescribe ; and no person while so employed, or while going to or from the place of employ, shall, by such act, be deemed to have committed an escape ; but shall be deemed to be in the custody of said keeper in said jail.

SEC. 29. The keeper of the jail in the county of Providence shall receive and safely keep all such prisoners as may temporarily be committed to his keeping while being transferred from one county to another, under direction of the supreme court. The officer having charge of such prisoners

shall certify their commitment and discharge upon the books of said jail; and the warrant of such officer left with the jailer during such prisoners' detention, shall be a sufficient protection for him therefor.

SEC. 30. The unoccupied upper cells in the state prison may, at the discretion of the warden and keeper of the jail in the county of Providence, and upon and with the advice of the inspectors of the prison, be used for the confinement and safe keeping of persons sentenced to confinement for a less term than one year in said jail; and the same, when so used, shall be deemed and taken to be a part of the said jail.

### *An Act in relation to Coroners.*

#### SECTION

1. Justices of the peace declared coroners in their respective towns.
2. Coroner to issue his warrant for summoning a jury of six persons, as soon as informed that the body of any person supposed to have come to his death by violence or casualty has been found, or that any prisoner hath died in jail, in his town.
3. Officer failing to execute such warrant to be fined ten dollars; persons summoned as jurors failing to attend, fined five dollars, to be recovered by town treasurer.
4. If all persons summoned as jurors do not appear, or are excused, coroner to issue another warrant to fill vacancies.
5. Jurors to be sworn; form of oath.
6. Coroner to charge the jury empanelled, and swear witnesses.
7. The testimony of each witness to be

#### SECTION

- reduced to writing and subscribed by him. Coroner to recognize witnesses for appearance before the supreme court, where they implicate any person as the cause of the death of the deceased.
8. Jury to sign verdict and deliver same to coroner; coroner to sign and seal the same, and return it with the evidence to the next sup. court.
9. When an inquisition charges any person with causing the death, coroner to make complaint thereof to some justice of the peace.
10. Form of inquisition.
11. Fees of coroner, jurors, and officer for summoning them.
12. Charges of inquisition to be paid out of deceased's estate, if any, or out of town treasury, but if deceased be a prisoner, then out of general treasury.

*It is enacted by the General Assembly, as follows:*

SECTION 1. Justices of the peace are hereby constituted coroners, throughout the towns in which they dwell.

SEC. 2. It shall be the duty of a coroner as soon as he shall be informed that the body of any person, supposed to have come to his death by violence or casualty, has been found within his town, or that any prisoner in the state prison or in any one of the state jails has deceased while so imprisoned, to issue his warrant to the sheriff or to either of his deputies, or to either of the town sergeants or constables within the county, requiring him to summon a jury of six good and lawful men of the same town, to inquire into the cause of the death of such person.

SEC. 3. Every officer failing to execute such warrant,



and to administer an oath to them in form following: You solemnly swear (or affirm) that the evidence which you shall give to this inquest concerning the death of here lying dead, shall be the truth, the whole truth, and nothing but the truth; so help you God; (or, this affirmation you make and give on peril of the penalty of perjury.)

SEC. 7. The testimony of each witness shall be drawn up in writing, and subscribed by him, and if any witness charge any person with killing, or of being, in any way, instrumental to the death of the person so found dead, the coroner shall bind such witness by recognizance and in a reasonable sum, for his personal appearance at the next supreme court to be holden within and for the same county, then to give evidence accordingly; and if any such witness shall refuse to recognize as aforesaid, the coroner shall and may commit such witness to the jail of the county, there to remain until he shall recognize or be otherwise discharged according to law.

SEC. 8. The jury, having viewed the body, heard the evidence and made all the inquiry within their power, shall draw up and deliver unto the coroner their verdict upon the death under consideration, in writing, under their hands, and the coroner shall set his hand and seal thereto; and shall return to the next supreme court holden in the county, the inquisition, written evidence and recognizances, if any, by him taken.

SEC. 9. Upon an inquisition found before any coroner of the death of any person by the felony or misfortune of another, he shall immediately make a complaint thereof, in writing and on oath, to some justice of the peace in the same county, to the intent that the person killing, or being in any way instrumental to the death, may be apprehended, examined and secured for trial.

SEC. 10. The following shall be the form of the inquisition to be taken as aforesaid:

State of Rhode-Island and Providence Plantations.

sc. An inquisition taken at in the county of  
on day of in the year of our Lord be-  
fore one of the coroners of the town of in said  
county of upon view of the body of there lying dead,  
by the oaths of six good and lawful men; who, being sworn  
and charged to inquire, for the said state, when, how, and by  
what means, the said came to his death, upon their  
oaths do say: (then insert how, where, when, and by what  
means, he was killed, and if it appears that he was murder-

ed by a person known, then the inquisition shall be concluded thus :) “and so the jurors aforesaid, upon their oaths aforesaid, do say, that the said            in manner and form aforesaid, of his malice aforethought, the said            did kill and murder, against the peace and dignity of this state.” If it appear to be self-murder, then the inquisition shall conclude thus : “and so the jurors aforesaid, upon their oaths aforesaid, do say, that the said            in form and manner aforesaid, then and there, voluntarily, and feloniously, as a felon of himself, did kill and murder himself, against the peace and dignity of the state.”

If it appears that the death was by misfortune, the inquisition shall conclude thus : “and so the jurors aforesaid, upon their oaths aforesaid, do say, that the said            in manner aforesaid came to his death by misfortune.” If the death was occasioned innocently, by the hands of any other person, the inquisition shall conclude thus : “and so the jurors aforesaid, upon their oaths aforesaid, do say, that the said            by misfortune, and contrary to the will of the said            in manner and form aforesaid, the said            did kill and slay.” In witness whereof, the said jurors have hereunto set their hands, the day and year abovesaid.

In witness of all the before written, the said coroner hath hereunto set his hand and seal, the day and year aforesaid.

SEC. 11. The fee of the officer for summoning a jury shall be one dollar, and no more ; the fee of each juror, one dollar per day, and no more ; and the fee of the coroner for taking an inquisition, one dollar, and one dollar per day for every day employed therein.

SEC. 12. When any inquisition shall be had on the body of any deceased person, the charges thereof shall be paid out of the estate of the person so deceased, and said charges shall be deemed a part of the funeral charges and have a priority as such over other claims ; and it shall be the duty of the coroner to exhibit said charges as a claim against said estate, and to enforce it by law, if need be. But in case there be no estate, or not sufficient estate left by said deceased person for said purpose, the said charges shall be paid out of the town treasury ; but if the deceased be a prisoner in the state prison or in any state jail, said charges shall be paid out of the general treasury.



*An Act relative to Public Notaries.***SECTION**

1. Public notaries to be appointed; to be commissioned and engaged.

**SECTION**

2. Duties of; protest bills; take depositions, &c.

*It is enacted by the General Assembly, as follows:*

**SECTION 1.** There shall be so many public notaries annually appointed by the general assembly, for the several counties, as they shall judge expedient; and they shall be severally commissioned and engaged thereon, according to law.

**SEC. 2.** Public notaries are hereby authorized within their respective counties to act, transact, do and finish all matters and things relating to protests and protesting bills of exchange and promissory notes, and all other matters within their office required by law; to take depositions as prescribed bylaw, and acknowledgments of deeds and other instruments, and to administer oaths.

*An Act in relation to the Supreme Court.***SECTION**

1. Jurisdiction of sup. court in civil cases.
2. Criminal jurisdiction of.
3. Jurisdiction as supreme court of probate.
4. Power to grant new trials in certain cases, civil, criminal and probate; application when to be made; proceedings in such cases, and effect of the same.
5. Court in term and any justice in vacation to require an assignee for benefit of creditors to make an inventory and to give bond.
6. In case an assignee refuse to render an inventory or give bond when required, court or justice may remove him and appoint a receiver.
7. Court in term or any justice in vacation may grant writs of injunction against rail roads and turnpikes in certain cases, after notice.
8. Jurisdiction over petitions for divorce, &c.
9. May administer oaths, punish for contempt, and make rules of practice.
10. Petitions and bills in equity in what county to be preferred.
11. Any justice on a rule day may pass any decree except a final decree, in

**SECTION**

- any cause in equity; writs of injunction to be issued according to the course of equity.
12. Single justice to hear matters at clerk's office in county where cause is pending; costs may be awarded in such cases.
13. Sup. court to consist of one chief and three associate justices; any two to be a quorum.
14. Oath of justices.
15. Sup. court to charge grand and petit juries.
16. One of the justices to examine clerk's records and report to the general assembly.
17. Salaries of justices.
18. Clerk to be appointed in each county; to give bond and be under oath.
19. A reporter to be appointed by general assembly.
20. Reporter to be sworn.
21. Duty of reporter.
22. Court to communicate to reporter their decision in any case, on request.
23. Salary of reporter.
24. Title of reports; state to purchase 125 copies annually.

*It is enacted by the General Assembly, as follows:*

**SECTION 1.** The supreme court shall be holden at the times and places by law appointed, and shall have cognizance

and jurisdiction of all actions and pleas of a civil nature, whether in law or in equity, between party and party, and between this state and any of the citizens thereof, which shall be brought legally before them; with full power and authority to pass all judgments, orders and decrees therein, and to issue such process as may be necessary to enforce them, including the issuing of injunctions and the hearing and determining bills of discovery; question of fraud or no fraud arising in any bill in equity may, at the discretion of the court, be tried by a jury, as other issues of fact are, at said court, at the request of either party.

SEC. 2. Said court shall have cognizance of all crimes, offences and misdemeanors, which shall legally be brought before them; and upon all persons convicted before them of any crime, offence or misdemeanor, shall inflict such punishment as is, or shall be, by law provided.

SEC. 3. Said court shall be the supreme court of probate in this state, and shall have cognizance and jurisdiction of all matters brought legally before them, by appeal or otherwise, from any court of probate which is or shall be established by law.

SEC. 4. Whenever it shall be made to appear to the satisfaction of said court, by any party in a suit which shall have been tried or decided therein, or which shall have been tried or decided in either of the courts of common pleas, within one year previous to such application, that by reason of any accident, mistake or any unforeseen cause, judgment has been rendered in such suit, on discontinuance, non-suit, default or report of referees, or that such party had not a full, fair and impartial trial in such suit, and the court thereupon shall think it reasonable to grant a trial, or in case a trial hath been had in such case, to grant a new trial therein, they shall have power to grant the same, upon such terms and conditions as they shall prescribe. And the said court shall also have power to grant a new trial in any case where there has been a trial by jury, for reasons for which new trials have been usually granted at common law; and if the application for such trial or new trial of a suit decided in the said supreme court shall be made at the same term in which such suit shall have been tried or decided, the adverse party shall be holden to answer the same, without further notice thereof; but if such application shall be made at any other term of said court in a suit decided therein or in either of the courts of common pleas, notice thereof shall be given to the adverse party, in such manner as the court shall, by general rule or otherwise,

direct, to appear at such time as the court shall appoint to answer the same; and whenever a trial or a new trial shall be granted, the same shall be had before any court in any county, at such term thereof, and under such restrictions and conditions, as the said supreme court may prescribe: *provided*, that if the application for a new trial shall be made by the plaintiff, no goods or chattels or real estate attached, or bail given upon the original writ, shall be holden to respond the judgment in such case, unless the application for a new trial be made at the term in which such cause shall have been decided, if in the supreme court; but if the same shall have been decided by any court of common pleas, the plaintiff shall file his petition for a trial, or a new trial, with the clerk of the supreme court for the same county, and notify the adverse party thereof within ten days after the rising of the court at which the same shall have been decided, or the bail or property aforesaid shall be discharged. And the said court shall and may exercise the same powers in granting a trial in all cases decided at a special court of common pleas, or before any justice of the peace, if no trial shall have been had therein, and may exercise the like powers in granting a trial in all cases decided by any probate court, wherein the party shall have neglected to prosecute his appeal according to law; and shall also have power, in their discretion, on the petition of the accused, to grant trials or new trials upon indictments or other criminal prosecutions in which verdict or judgment shall have been rendered against such petitioner: *provided*, application therefor shall be made within one year after such cause shall have been tried or decided: *provided further*, that all petitions for trials or new trials shall be filed, heard and tried only in the county in which the original suit or prosecution was commenced or tried.

SEC. 5. Said court in term time, and either of the justices thereof in vacation, is authorized and empowered, upon the application of any creditor interested in a deed of assignment made by a debtor for the benefit of creditors, and upon cause shown, to require the assignee or assignees nominated in such deed of assignment, to render on oath to said court or justice, an inventory of all the effects, estate and credits conveyed by such deed of assignment, so far as the same can be ascertained; and to give bond with sufficient surety or sureties to the satisfaction of said court or justice, for the faithful performance of the trusts in such deed of assignment contained; which bond shall be given to the clerk of said court for the time being, in the county where the process is commenced,

and shall enure to the benefit of all the creditors interested in said assignment, according to the provisions thereof.

SEC. 6. The said court or justice shall remove any assignee nominated in any such deed of assignment, as is referred to in the next preceding section, if the said assignee neglect or refuse to render said inventory, or to give bond when thereunto required, by said court or justice, in manner aforesaid; and shall appoint one or more suitable persons to receive, take and recover all the effects, estate and credits conveyed in such deed of assignment; and the same to hold and dispose of, for the uses, intents and purposes set forth in said deed of assignment; which person so appointed shall have and enjoy all the rights and estates, and be subject to all the duties, liabilities and responsibilities, that appertain by virtue of said deed of assignment to the assignee so removed.

SEC. 7. The said court, upon the application of any person interested therein, and upon cause shewn, in their discretion, may grant writs of injunction, according to the course of courts of chancery, against any rail road or turnpike corporation in this state, that shall be using any of its corporate rights and franchises in violation of or repugnant to law, or to the conditions, limitations and provisions contained in its charter of incorporation: *provided, however*, that the corporation against which said writ of injunction shall be prayed, shall first have notice of the pendency of such application, and shall be heard in the matter if they shall see fit. Upon a similar application and under like limitations and provisions, any justice of said court in vacation may grant a writ of injunction, to continue in force until the next term of the court in the same county and for any definite time thereafter, unless removed by said court.

SEC. 8. Said court shall have jurisdiction and cognizance of all petitions for divorce, separate maintenance, alimony, and custody of children, and of all petitions for the benefit of the insolvent act of this state, with all the powers necessary for a proper discharge of the duties required.

SEC. 9. They are also empowered to administer all necessary oaths and affirmations, and to punish by fine or imprisonment all contempts of authority, in any cause or hearing before them; to make rules and orders for said court, directing the returning of writs and processes, the filing of pleadings, the taking of rules, the entering and making up of judgments, and other matters, in vacation or otherwise, in manner not repugnant to law; to regulate the practice before said court as shall be fit and necessary for the advancement of justice, and

especially to prevent delay in proceedings ; and to make and establish rules for the admission of attorneys to practice in the courts of this state ; said court is also empowered to issue writs of certiorari, scire facias, habeas corpus, mandamus, quo warranto, writs of protection, and all other writs not specially provided for by statute ; and to do all such other acts as may be necessary or proper, to carry into full effect all the powers which are or may be given them by law.

SEC. 10. All bills and petitions in equity, and all civil process originally commenced before said court, shall be commenced in the county in which some one of the parties named therein shall dwell or reside ; but by consent of all parties or their counsel, endorsed on the papers, in any matter in equity pending before said court, the same may be transferred to and heard and determined in any other county, at the discretion of said court, upon such terms and conditions as they may deem expedient.

SEC. 11. At any day appointed or to be appointed by said court for taking rules in any county, in matters of equity, any justice of said court may proceed to pass any rules, orders or decrees, except final decrees, in any cause in equity then pending before said court in said county, with the same effect as said court could and might if in session ; and may, at any other time, according to the course of equity, issue writs of injunction.

SEC. 12. In all cases in which power is conferred on a single justice of said court in vacation, to hear and determine on any matter, such hearing shall be, unless good cause be shown to the contrary, in the office of the clerk of the court, in the county in which the same shall be heard, which shall be that in which some one of the persons named therein shall reside or belong ; and the said justice shall certify his proceedings to the said clerk, and return to him the original papers in said matters, to be by him kept on file in his said office ; said justice in such cases may, in his discretion, award costs to either party therein, which shall be taxed by the clerk, allowed by said justice, and collected by execution issued by the clerk, returnable to the next term of said court in said county.

SEC. 13. Said court shall consist of one chief justice and three associate justices, and they or any two of them shall be a court ; but no justice of said court shall be a member of the general assembly.

SEC. 14. The justices of said court, before they execute any of the duties of their office, shall take the following oath :

I do solemnly swear, (or affirm,) that I will support the constitution of the United States, and the constitution and laws of this state ; that I will administer justice without respect to persons, and do equal right to the poor and to the rich : and that I will faithfully and impartially discharge and perform all the duties incumbent on me as chief justice (or, as one of the associate justices, as the case may be,) of the supreme court, according to the best of my abilities, agreeably to law : so help me God ; or, this affirmation I make and give upon peril of the penalty of perjury.

SEC. 15. Said court shall instruct the grand juries in the law relating to crimes and offences cognizable by said court, by giving them publicly in charge the opinion of the court thereon ; and shall also instruct the petit jury in the law that may be applicable to each cause by them tried, by giving them publicly in charge, before they retire to consider of their verdict, the opinion of the court upon the law ; and may sum up the evidence in each cause for the instruction of the jury, whenever they shall deem it advisable so to do.

SEC. 16. It shall be the duty of some one of the justices of said court to examine the state of the clerk's offices thereof, and to ascertain that the judgments have been regularly and seasonably recorded ; and the justice making such examination shall annually report to the general assembly at May session, whether the said judgments have been regularly and seasonably recorded as aforesaid.

SEC. 17. The salary of the chief justice of said court shall be six hundred and fifty dollars per annum, and of each of the associate justices, five hundred and fifty dollars per annum ; to be paid quarterly by the general treasurer ; and all entries paid in said court shall be divided equally between them.

SEC. 18. There shall be annually appointed by the general assembly, one clerk for said court in each county, who shall constantly attend the sitting of such court, in the county for which he shall be chosen, and furnish stationery for the same, to be allowed by said court ; shall keep the seal of said court, make fair entries and records of the decrees, judgments and proceedings therein, and do and perform all other things which by law or by the rules of the said court shall appertain to his said office. Each of the said clerks shall also give bond to the general treasurer, with sufficient sureties to be approved of by him, in the sum of three thousand dollars, faithfully to discharge the duties of his office according to law, and seasonably to record the decrees, judgments and determinations of the said court, within the county for which he is clerk.

In case of the death, absence or inability of any clerk of said court to discharge the duties of his office, or in case the clerk appointed declines serving, it shall be lawful for the chief justice of said court, or in case of his absence from the state, or inability to discharge the duties of his office, it shall be lawful for either of the associate justices of said court, to appoint a clerk thereof, who shall hold his office until the clerk shall have returned, the inability be removed, or until another shall be appointed by the general assembly. And any clerk of said court, before he enters upon the execution of his office, shall take the following oath, viz: I                    being appointed clerk of the supreme court within and for the county of                    do solemnly swear, (or affirm,) that I will support the constitution of the United States, and the constitution and laws of this state; that I will truly and faithfully enter and record all the orders, decrees, judgments and proceedings of said court; and that I will faithfully and impartially discharge all the duties of my said office, according to the best of my abilities and understanding: so help me God; or, this affirmation I make and give upon peril of the penalty of perjury.

SEC. 19. A reporter of the decisions of the supreme court shall be appointed by the general assembly, and shall be removable at pleasure.

SEC. 20. He shall be sworn before said court or a justice thereof, to the faithful discharge of the duties of his office.

SEC. 21. He shall make true reports of the decisions of the supreme court, on all legal questions that shall be argued by counsel, and publish the same annually.

SEC. 22. The court shall, when requested by the reporter, communicate to him in writing a statement of their decision or opinion in any case.

SEC. 23. The reporter shall receive an annual salary of one hundred dollars and in that proportion; to be paid to him by the general treasurer, on his order, at the expiration of each year of service, or at the time of his removal, together with all profits arising from the publication of the reports.

SEC. 24. The reports shall be entitled "Rhode-Island Reports," and the state shall annually purchase of the reporter, one hundred and twenty-five copies for distribution, at the market price.

*An Act establishing Courts of Common Pleas.***SECTION**

1. Court of common pleas, to be established in each county.
2. Jurisdiction of court of common pleas extends over all civil actions of twenty dollars value, and others commenced by attachment of real estate.
3. Jurisdiction of court of common pleas to grant new trials in cases decided therein, on appeal from justices' court.
4. Criminal jurisdiction of court of common pleas embraces all crimes not capital or punished by imprisonment for life or for a term of seven years.
5. Two justices of the court of common pleas to be elected annually by general assembly, for each county. No justice of court of common pleas to be a member of the general assembly.
6. Oath of justices of court of common pleas.
7. Courts of common pleas to be holden by one justice of the supreme court as chief justice, and the associate justices of the court of common pleas in each county.
8. The chief justice of the court of common pleas to charge juries.
9. A clerk of each court of common pleas to be appointed annually by the general assembly. Each clerk to give bond and be sworn. Justices of court to fill any vacancy in the clerk's office.
10. Compensation of justices of supreme court for holding courts of common pleas.
11. Compensation of the associate justices of court of common pleas.
12. Court of common pleas authorized to administer oaths, punish for contempts, make rules regulating practice, and issue all necessary writs and processes.
13. Duty of one of the associate justices to examine the clerk's office, and report the state thereof to the general assembly, at May session.

**SECTION**

14. Writs to be served twenty days before court, declarations to be filed twelve days and pleas and answers six days before court. Defendant may answer on first or second day, on cause shown.
15. Appeal granted to supreme court in same county. Appellant to give bond to prosecute.
16. Special courts of common pleas to be holden by any justice of the supreme court and one or both of the associate justices of the court of common pleas of the county; judgments rendered therein to be final.
17. Jurisdiction of special courts of common pleas.
18. Writs to special courts to be served six days, declaration to be filed five days and answers four days before court. Execution to issue immediately and to be returnable in fourteen days.
19. If no answer be filed, any justice of the supreme court or any justice of the court of common pleas of the county may enter up judgment, and may adjourn cases where answers are filed.
20. Issue in fact being joined in any special court case, clerk to notify justices, and to issue venire to sheriff or officer to summon a jury.
21. Clerks to call special courts at request of any person affected by any turnpike or rail road, and notify adverse party. Such courts to have the same power as courts of common pleas, at their regular terms.
22. In case of appeal from report of commissioners appointed to assess damages done by laying out turnpikes and rail roads, the amount so reported shall be brought into court.
23. No gate to be set up on any turnpike, nor car to be run on any rail road, until after all damages are paid.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** There shall be a court of common pleas in each county, to be holden as by law appointed.

**SEC. 2.** Said court shall have cognizance of all civil actions between party and party, which shall be commenced by attachment of real estate, or which shall be of twenty dollars value or upwards, arising or happening within the county, of what kind or nature soever, which shall be legally brought before them; with power to give judgment therein, and award execution thereon.

**SEC. 3.** Whenever it shall be made to appear to the sat-



isfaction of any court of common pleas, by any party in any suit brought into said court by appeal from a justices' court, and which shall have been tried and decided in said court of common pleas within one year previous to such application, that by reason of any accident, mistake or any unforeseen cause, judgment has been rendered in such suit on discontinuance, non-suit, default, or report of referees, or that such party had not a full, fair and impartial trial in such suit, and the court shall thereupon think it reasonable to grant a trial, or in case a trial hath been had in such case, to grant a new trial therein, they shall have power to grant the same, upon such terms and conditions as the said court shall prescribe; and if the application for such trial or new trial shall be made at the same term in which such suit shall have been tried or decided, the adverse party shall be holden to answer the same, without further notice; but if such application shall be made at any other term of said court, notice thereof shall be given to the adverse party in such manner as the court shall, by general rule, or otherwise, direct: *provided however*, that if the application for a new trial shall be made by the plaintiff, no goods or chattels attached or bail given upon the original writ, shall be holden to respond the judgment in such case, unless the application for a new trial be made at the term of said court in which such cause shall have been decided.

SEC. 4. Said courts shall have cognizance of all crimes, offences and misdemeanors, done or committed within their respective counties, the punishment whereof may not be capital, or imprisonment for life, or for a term of seven years or upwards; excepting such only as shall be declared to be within the exclusive jurisdiction of some other court or tribunal; and upon all persons convicted before them of any such crime, offence or misdemeanor, to inflict such punishment as is or shall be prescribed.

SEC. 5. The general assembly annually, in grand committee, shall elect two justices of the court of common pleas in each county, who shall be resident in such county; to hold their offices until the first Tuesday in May next succeeding their elections. No justice of any court of common pleas shall be a member of the general assembly.

SEC. 6. Before said justices shall execute any of the duties of their office, they shall severally take the following oath: I do solemnly swear, (or affirm,) that I will support the constitution of the United States and the constitution and laws of this state; that I will administer justice, without respect to persons; do equal right to the poor and to the rich; and that I

will, faithfully and impartially, discharge and perform all the duties incumbent on me, as one of the associate justices of the court of common pleas for the county of \_\_\_\_\_, according to the best of my abilities, agreeably to law ; so help me God ; (or, this affirmation I make and give upon peril of the penalty of perjury.)

SEC. 7. Some one of the justices of the supreme court, to be designated by such justices or a major part of them, as chief justice, assisted by one or both of said associate justices of the court of common pleas, shall hold courts of common pleas in each county, at such times and places as are or shall be by law appointed.

SEC. 8. The chief justice shall instruct the grand and petit juries attending in said courts in the law ; and may sum up the evidence to the petit juries whenever the court may deem it advisable so to do.

SEC. 9. There shall be, annually, appointed by the general assembly, in grand committee, one clerk for each court of common pleas, to hold his office until the first Tuesday in May next succeeding his election ; who shall constantly attend the sitting of the court of which he is clerk, and furnish stationery for the same, to be allowed by said court ; shall keep the seal of said court, make fair entries and records of all the judgments and proceedings therein, and do and perform whatever else shall come within his office and duty ; and every clerk of said court shall also give bond with sufficient sureties to the general treasurer, to be approved of by him, in the sum of three thousand dollars, faithfully to discharge the duties of his office according to law, and seasonably to record the decrees, judgments and determinations of the said court for which he is clerk ; and in case of the death, absence or inability of the clerk of either of said courts to discharge the duties of his office, or in case the clerk appointed refuses to serve, it shall be the duty of the justices of said court to appoint a clerk therefor, who shall hold his office until the clerk shall return, or the inability be removed, or until another shall be appointed by the general assembly ; and every clerk, before he enters upon the execution of his office, shall take the following oath, viz : I \_\_\_\_\_ being appointed clerk of the court of common pleas for the county of \_\_\_\_\_ do solemnly swear, (or affirm,) that I will support the constitution of the United States, and the constitution and laws of this state ; that I will truly and faithfully enter and record all the orders, decrees, judgments and proceedings of the said court ; and that I will faithfully and impartially discharge all the duties of my

said office, according to the best of my abilities and understanding ; so help me God ; or, this affirmation I make and give upon peril of the penalty of perjury.

SEC. 10. The chief and associate justices of the supreme court, in full for their services in holding courts of common pleas, shall receive all the fees and entries heretofore received by the several courts of common pleas, after deducting therefrom the compensation of the associate justices of the court of common pleas, as is herein after provided.

SEC. 11. The associate justices of the court of common pleas shall each receive four dollars per day for each day's actual attendance therein ; to be paid them at the end of each term, by the clerk of the court, out of the entries received by him at each term, if sufficient therefor.

SEC. 12. Said courts are severally empowered to administer all necessary oaths and affirmations ; to punish, by fine and imprisonment, all contempts of authority in any cause in hearing before them, to make rules and orders for said court, directing the returning of writs and processes, the filing of pleadings, the entering and making up of judgments, and other matters, in vacation or otherwise, in a manner not repugnant to law ; to regulate the practice before said courts, as shall be fit and necessary, for the advancement of justice, and especially to prevent delay in proceedings ; to do all such other acts, and to issue such writs and processes, as may be necessary or proper to carry into full effect all the powers which are or may be given them by the laws of this state.

SEC. 13. It shall be the duty of one of the associate justices of said court in each county, to examine the state of the clerk's office thereof, and to ascertain that the judgments rendered by said court have been regularly and seasonably recorded ; and the justice making such examination shall annually report to the general assembly at May session, whether the said judgments have been recorded as aforesaid.

SEC. 14. All writs and processes for bringing any civil cause or suit to a trial in any court of common pleas, other than a special court of common pleas, as is herein after provided, shall be returnable to the term of said court which will commence next after twenty days or more from the date thereof ; and shall be served twenty days before the return day thereof, except in those cases in which special provision shall be made to the contrary. The plaintiff shall declare thereon and file his declaration in the clerk's office of said court, twelve days before the sitting thereof ; and the defendant shall file his plea or answer six days before the sitting thereof with the clerk,

or else judgment shall pass against the defendant, as upon a default: *provided always*, that the court, on cause shown, may, on the first or second day of the term, permit the defendant to file his plea or answer in court, on such terms and conditions as the court may prescribe.

SEC. 15. Any party aggrieved by the judgment of the court of common pleas in any county, at any term thereof, may appeal to the supreme court at the term thereof next to be holden in the same county, after the expiration of five days from the rising of said court of common pleas at said term; where both parties shall have the benefit of any new and further evidence; provided the appellant shall give bond in the clerk's office of the court appealed from, in the sum of one hundred dollars, within five days after the rising of said court, to prosecute such appeal with effect, and in default thereof to pay costs.

SEC. 16. Any justice of the supreme court, as chief justice, assisted by one or both of the associate justices of the court of common pleas in their respective counties, are authorized and empowered to hold special courts of common pleas for the hearing and trying of all such causes as by law are or shall be cognizable before such special courts, to give final judgment in such causes and award execution.

SEC. 17. Such special courts shall have cognizance, concurrent with the ordinary courts of common pleas, of all actions brought before them by auctioneers or others lawfully authorized to sell at auction, for moneys due on sales of real or personal estate sold at auction, if of twenty dollars value or upwards; of all actions commenced by the owners of real or personal estate sold at auction, against the auctioneer or other person authorized to sell as aforesaid, for moneys due from them on such sales; of all actions commenced against the directors of lotteries, granted by the general assembly of this state, for the amount of any prize tickets; of all actions brought against tenants, for possession of the tenements or estates let, who hold over the term for which such tenements or estates are let, whether the same be let by writing or parol; of all actions commenced by the general treasurer, or by any town treasurer against any collector of taxes and his sureties, for such collector's neglect of his official duty; and also of all actions brought against any sheriff, deputy sheriff, town sergeant or constable, for neglect of making due return of any execution, for neglecting to pay over to the creditor or his attorney, the contents of any execution by him received, when demanded, or which shall be returned satisfied or unsatisfied, without

orders from the creditor or his attorney so to do, unless the body was committed, or bail taken, or property attached on the original writ; of all actions commenced by any sheriff, against either of his deputies or their sureties for any neglect of duty in relation to any execution, for which the sheriff is answerable or liable to be sued at a special court; but the same rules shall be observed in suits brought to special courts, in respect to the county in which the same shall be commenced, as by law are prescribed in relation to the commencement of transitory actions to the courts of common pleas.

SEC. 18. A writ to bring any cause to trial before any such special court shall be served six days before the sitting of such court; the declaration shall be filed five days, and the answer or plea four days previous to said time. Executions on judgments of such court shall be issuable immediately after the rendition of the judgments, and shall be returnable to the office of the clerk of the court within fourteen days from their being issued.

SEC. 19. If no plea or answer be filed in any such action, any justice of the supreme court, or either of the associate justices of the court of common pleas within the county where such action is commenced, may enter up judgment and award execution in the same; and in case of plea or answer filed, he may adjourn the court to any future time.

SEC. 20. If issue in fact shall be joined in any action commenced to a special court of common pleas, the clerk of such court shall immediately thereupon issue a writ of venire facias, directed to the sheriff or his deputy, or in case of the sheriff being a party, to some town sergeant in the county, requiring him to summon twelve jurors, being good and lawful men of the county, to try such issue; and if there shall not be a sufficient number of jurors attending, in pursuance of such writ of venire facias, the court shall thereupon direct the issuing of other writs of venire facias to complete a jury. In such case, and in case issue in law shall be joined, in any special court action, and in case of any application for a special court pursuant to the twenty-first section of this act, the clerk shall issue a notification to some one justice of the supreme court and to the associate justices of the court of common pleas in the same county, of the fact, and of the day upon which the said special court is appointed; which shall be served by some sworn officer or indifferent person, and returned to said special court.

SEC. 21. Upon the application of any turnpike or rail road company, or of any person whose interest may be affec-

ed by such road, or by the doings of such company, to the clerk of the court of common pleas in the county in which the estate affected by such road lies, a special court of common pleas may be called and had for the purpose of hearing and determining any matter or thing whereof courts of common pleas at their regular terms have jurisdiction and cognizance, relative to turnpikes or rail roads, by virtue of any act of incorporation; due notice being given to the adverse party by citation, under the seal of the court and hand of the clerk, at least ten days before the time of holding the same, by the sheriff or his deputy; such special courts, so called and held, shall have all the powers over such matters and things as said court at any regular term thereof.

SEC. 22. In any case of appeal by either party from the report or award of the commissioners appointed to appraise damages sustained by land holders, in consequence of the building of any turnpike or rail road over or upon their lands, the sum awarded shall be lodged by the company liable for the same, with the clerk of the court having cognizance of the appeal, subject to the order of such court, to await the final trial and determination of such appeal; and so much thereof as shall be finally recovered against such company shall be paid to the party so recovering, and shall be endorsed on the execution when issued; or if sufficient in amount, shall, when so paid, go to satisfy and discharge the judgment; and the surplus, if any, shall be repaid to such company.

SEC. 23. No turnpike company shall set up any gate on their road, or receive toll for travelling or transporting thereon, nor shall any rail road company or any person start any locomotive engine, or car, or other vehicle, upon any rail road, excepting for the construction or completion of the same, until all the damages assessed or awarded against such company shall have been released, or the sums assessed against them as aforesaid paid, or lodged as required by the preceding section of this act; nor until such company shall, moreover, have performed and complied with all the conditions and requirements incumbent on them to have previously performed and complied with, by virtue of their several acts of incorporation.

*An Act directing the times and places of holding the terms of the Supreme Court, and the Courts of Common Pleas.*

**SECTION**

1. Supreme court when and where holden.  
2. Common pleas when and where holden.

**SECTION**

3. Writs, executions, &c. to be returned to said courts respectively.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** The terms of the supreme court shall be holden yearly, and every year, at the times and places following, viz : At Newport, within and for the county of Newport, on the first Monday of March, and on the fourth Monday in August. At Bristol, within and for the county of Bristol, on the second Monday in March, and on the second Monday in September. At Providence, within and for the county of Providence, on the third Monday in March, and on the third Monday in September. At East-Greenwich, within and for the county of Kent, on the fourth Monday in April, and on the Monday next preceding the last Monday in October. At South-Kingstown, within and for the county of Washington, on the second Monday in August, and the first Monday in February.

**SEC. 2.** The terms of the courts of common pleas shall be holden yearly, and every year, at the times and places following, viz : At Newport, within and for the county of Newport, on the third Monday in May, and on the fourth Monday in November. At Providence, within and for the county of Providence, on the fourth Monday in May, and on the first Monday in December. At South-Kingstown, within and for the county of Washington, on the third Monday in April, and on the first Monday in November. At Bristol, within and for the county of Bristol, on the third Monday in November, and on the first Monday in June. At East-Greenwich, within and for the county of Kent, on the third Monday in February, and on the third Monday in August.

**SEC. 3.** All writs, executions, summons, appeals, recognizances, and all other processes of every name, nature and description, returnable to or pending in either of said courts, shall be returnable to and pending in said courts respectively, at the terms thereof herein before provided, in the same manner and to the same effect as they would have been at the terms of said courts respectively, as the same were established previous to the passage of this act.

*An Act in relation to Justices of the Peace.*

## SECTION

1. Justices of the peace may be appointed by general assembly in addition to those elected by the towns.
2. All justices to be commissioned and to be sworn.
3. Criminal jurisdiction of justices of the peace.
4. Same subject.
5. Justices to take acknowledgment of deeds, and to administer oaths, take depositions, &c.
6. Jurisdiction of justices, relative to lunatics.
7. Civil jurisdiction of justices of the peace.
8. Justices' writs, how to be issued, signed, served, and when returned.
9. Writs, &c. before justices to be served, levied and returned as other writs, &c., by law.
10. Proceedings in trespass before justices, where title to real estate is pleaded
11. Evidence to be given under the general issue.
12. In actions on book account, &c., account to be annexed to writ.—Balance

## SECTION

- may be sued for.—Defendant may recover balance in such actions.—Balance due on notes may be sued for.
13. Defendant may go with officer to justice and confess judgment.
  14. Justices may receive and record confessions of judgments without process, when made by a debtor in person.
  15. Justice who signs writ to tax cost and sign execution, but any other in same town may enter up judgment.
  16. Appeal granted to court common pleas.—Terms of.
  17. Executions when to issue.
  18. Judgments and proceedings to be recorded.—Records to be lodged in town clerk's office.—Penalty for neglect.
  19. Justice to deliver papers to successor in certain cases.
  20. No attorney's fee to be allowed in justices' courts.
  21. No justice to sell blank writs.
  22. Town sergeants and constables to serve process throughout county.
  23. Wardens to have same powers as justices of the peace.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The general assembly may elect so many justices of the peace for any town as they shall think proper, in addition to those that shall be elected by such town. Said election shall be made in grand committee, and not in separate houses.

SEC. 2. Every justice of the peace, whether elected by any town or by the general assembly, shall be commissioned by the governor, and shall be under oath, faithfully and impartially to discharge the duties of his office, and to support the constitution of the United States, and the constitution and laws of this state.

SEC. 3. Every justice of the peace within the county in which he resides shall have jurisdiction and cognizance of all crimes, offences and misdemeanors, done or committed within the said county, punishable by fine, not exceeding twenty dollars, or by imprisonment in a county jail, not exceeding three months; and of all other criminal matters, which are or shall be declared specially to be within his jurisdiction, by the laws of this state, which shall be legally brought before him; with power to proceed to trial, render judgment, pass sentence and award a warrant for execution thereof.

SEC. 4. Every justice of the peace within the county in which he resides shall have cognizance over all other crimes,



offences and misdemeanors against the laws of this state, other than those in the section next preceding mentioned, which shall be done or committed within said county, and which shall legally be brought before him; to cause all persons guilty or suspected to be guilty thereof, to be apprehended, examined, bailed or committed to jail, according to law, to answer therefor before the supreme court or court of common pleas.

SEC. 5. Every justice of the peace within the town in which he resides shall have power, according to the provisions of law, to take the acknowledgment of deeds and other instruments, to administer oaths, to take depositions, and to do all such other acts as are or shall be committed to justices of the peace, by the general assembly.

SEC. 6. Whenever complaint in writing, and under oath, shall be made to any justice of the peace, that any person within his county is a lunatic, or so furiously mad as to render it dangerous to the peace or safety of the good people of the state for him to be at large, and that such person is at large, such justice of the peace shall issue his warrant under his hand and seal, returnable forthwith, directed to the sheriff, deputy sheriffs, town sergeants and constables in said county, requiring the officer charged therewith to apprehend the accused, and have him, with such warrant, before said justice, or some other magistrate, for examination relative to such complaint. And if said justice, on such examination, shall adjudge such complaint to be true, he shall, unless a recognizance satisfactory to said justice, be then given before him that said person shall not be permitted to go at large until restored, by warrant under his hand and seal, commit such person to the county jail, there to be detained until he, in the judgment of some magistrate in the county on inspection, shall be restored to soundness of mind, or until recognizance satisfactory to some such magistrate shall be given with like condition. And the costs of his apprehension, commitment and detention shall be paid by such person, if he have any estate, otherwise by the person or town upon whom his maintenance was chargeable, if he had not been committed.

SEC. 7. Every justice of the peace shall have original and exclusive jurisdiction of all civil actions, legally brought before them, wherein the debt or damages demanded do not exceed twenty dollars, excepting only actions relating to real estate or some easement therein, in which the title to the same may be in dispute, or those over which jurisdiction hath

been or may be conferred on some other tribunal, with power to enter up judgment and award execution therein.

SEC. 8. The original writ, in any such case, shall be in the name of the state of Rhode-Island and Providence Plantations ; shall be signed by a justice of the peace of the town where the action shall be commenced ; and shall be directed to the sheriff, his deputy, or to either of the town sergeants or constables in the county in which such suit shall be brought ; and in case both parties live in the same county, then the action shall be brought either in the town where the plaintiff lives, or in the town where the defendant lives, or is to be found, except in cases in which a different provision is made by law. But in case the parties live in different counties, then the plaintiff may commence his action before any justice of the peace in any town in the county where the defendant lives, or may be found. Every such writ shall contain the plaintiff's declaration at length, and shall be served six days, at least, before the day of trial named therein.

SEC. 9. All writs, summons, and executions issued in pursuance of this act shall be served and levied and returned in the manner pointed out in the act entitled " an act prescribing the forms of writs and manner of serving them ;" and any person who shall become bail for any defendant, and all goods and chattels attached on any such writ, shall be holden thereon, notwithstanding the justice who signed such writ shall, after judgment rendered thereon, cease to sustain said office.

SEC. 10. When an action of trespass shall be brought before any justice of the peace, and the defendant shall plead the general issue, he shall not be allowed to offer any evidence that may bring the title of real estate in question ; and when the defendant in any such action shall plead the title of himself or any other person in justification, the justice, upon having such plea filed, shall require the defendant to give bond to the adverse party in a reasonable sum, with sufficient surety or sureties, to enter the said action at the next court of common pleas to be holden within the same county, and to prosecute the same in the same manner as upon an appeal from a justice's judgment ; and if such defendant shall refuse so to give bond, the justice shall render judgment against him in the same manner as if he had refused to make answer to the suit ; and either party in such case shall be allowed to appeal from the judgment of the court of common pleas, in the same manner as if the suit had been originally commenced there.

SEC. 11. In all actions triable before a justice of the peace, except such actions of trespass wherein the defendant

means to avail himself by pleading, of the title of himself, or any other person under whom he claims, as is provided in the next preceding section, the defendant shall be entitled to all evidence under the general issue which by law he might avail himself of under any special plea in bar whatever.

SEC. 12. In all actions on book account for goods, wares or merchandise sold, or for work or labor done, the plaintiff shall annex a particular account thereof to his writ; and when the whole amount is more than twenty dollars, and the balance stated by the plaintiff doth not exceed that sum, he may bring his action for such balance, annexing his account of debt and credit to the writ, to the end that it may appear how the said balance arose, and shall declare specially thereon; and the defendant in such action may exhibit in court his account against the plaintiff, and the court shall settle the true balance or difference of their account, give judgment therein, and award execution for such balance, (if by the adjustment and judgment of the court it doth not exceed twenty dollars,) with costs: *provided*, that where the account exhibited by the defendant shall exceed the sum of twenty dollars, and in the opinion of the court there shall be due the defendant thereon a greater amount than twenty dollars, then and in such case, the court shall render judgment against the plaintiff, as in case of nonsuit, and for the defendant for his costs only; and shall not any further adjudicate upon the account of the defendant, whose right to sue for the same shall remain in the same manner as before the commencement of said action of the plaintiff: *provided always*, and it is the true intent hereof, that all actions for the recovery of money due on any note or other instrument in writing, which was given originally for twenty dollars, or a larger sum, and which by endorsement is reduced to twenty dollars or under, including principal and interest, may be brought before a justice of the peace as aforesaid, and judgment may be entered thereon, and execution awarded in the same manner as though said note had been originally given for a less sum.

SEC. 13. When any person shall be sued in any action before any justice of the peace, he may go with the officer who served the writ before the said justice, and there confess judgment for the plaintiff's demand, first giving bail in the action, if bail be required by the terms of the writ; which confession the justice shall record, tax cost as far as it hath accrued, and award execution.

SEC. 14. Justices of the peace are hereby authorized to accept and record the confession of any judgment within their

jurisdiction, made by a debtor personally, with the assent of the creditor, with or without antecedent process ; and on such terms in regard to staying execution, as the parties may agree on ; and to render judgment and award execution accordingly.

SEC. 15. The justice of the peace who signed the writ in any action shall tax the cost and sign the execution on the judgment thereon ; but the trial of the same may be had before him, or, in his absence, before any justice of the same town. After the justice of the peace who has signed any writ shall cease to sustain the office, any other justice of the peace of the same town, on the written application of the plaintiff, may enter up judgment, or issue a writ of execution or scire facias upon the judgment, with the same effect as the justice who signed the writ. A summons for witnesses may be issued by any justice in the county.

SEC. 16. Any party who shall be aggrieved at any judgment of any justice of the peace rendered in any civil action, may appeal therefrom to the next term of the court of common pleas to be holden in the same county, where the party so aggrieved shall have a hearing of said case, which shall be final ; *provided* he shall, within five days, after rendition of such judgment, pay costs and give bond in said justice's court to the other party, in a sum not exceeding fifty dollars, with sufficient surety or sureties, to prosecute such appeal with effect, or in default to pay costs.

SEC. 17. No execution shall issue on any judgment rendered by any justice of the peace, in less than five days after the day of such judgment : all such executions shall be returnable in three months after the date thereof, and shall be returned to the justice who issued them, if he then retains his office ; if not, then to the town clerk.

SEC. 18. All the judgments and proceedings of a justice of the peace shall be by him fairly recorded in a book, to be kept for that purpose only ; and every justice of the peace shall, within six months after he shall cease to sustain the office of justice, lodge with the town clerk of the town in which he lives, all his records and official papers, except those which he may have delivered to some other justice of the peace, in pursuance of the next succeeding section, to be preserved by such town clerk, as appendages to his office ; and in case of the decease of any justice of the peace, his executors or administrators shall lodge his records and papers as aforesaid, in the office of such town clerk, within six months after the death of such justice ; and if any justice of the peace, or the

executors or administrators of any justice, shall neglect or refuse to lodge such papers or records as aforesaid, any such person so offending shall forfeit and pay the sum of two dollars a month, for each month he shall so neglect or refuse; to be recovered by an action of debt before any court of competent jurisdiction, one moiety thereof to and for the use of the state, and the other moiety to and for the use of him who shall sue for the same.

SEC. 19. It shall be the duty of any person who may have sustained the office of justice of the peace, at any time before he shall have lodged his records and official papers with the town clerk, to deliver to any justice of the peace of the same town to whom application in writing may have been made to issue any writ of execution or scire facias in any action originally commenced before him, the original papers in any such action; and it shall be the duty of any town clerk, at any time after the records and official papers of any justice of the peace shall have been lodged in his office, in like manner to deliver such original papers.

SEC. 20. No attorney's fee shall be allowed and taxed in the bill of costs, before any justice's court.

SEC. 21. If any justice of the peace shall sell any blank writ, by him officially signed, or shall deliver to any person any such writ, with permission in the absence of such justice to fill up such writ or to cause the same to be filled and served, he shall forfeit ten dollars; to be recovered in an action of debt before any justice of the peace in the same town, one moiety thereof to and for the use of the state, and the other moiety to and for the use of him who shall sue for the same; and shall also be ineligible to that office for the term of two years next after such conviction.

SEC. 22. Town sergeants and constables may and shall serve and execute, in any town of the county in which they belong, all writs, summons and other processes to them directed and which by law may or ought to be served and executed, by town sergeants and constables; except in cases where by law it is otherwise specially provided.

SEC. 23. The powers and duties hereby, or by any special act, conferred and imposed on justices of the peace, may and shall be enjoyed and performed by wardens in those towns that are authorized by their original charters to elect wardens.

*An Act prescribing the forms of Writs and manner of serving them.*

## SECTION

1. Forms of writs.
2. Writs, how to be issued, signed and tested, and to run throughout the state.
3. Goods and chattels may be attached, if defendant's body cannot be found in the precinct of the officer.
4. Officer to hold goods and chattels attached to answer the judgment.
5. Certain property may be sold before judgment by order of court or judge.
6. Execution issued in a suit commenced by attachment, to be levied on goods and chattels attached.
7. Proceedings in case of levy on goods and chattels; to be sold at auction after notice.
8. Household furniture and tools not liable to attachment.
9. Goods &c., taken on warrants of distress, to be sold as goods levied on by execution.
10. When writ issues against two or more defendants one may be arrested and the other summoned.
11. Real estate liable to attachment in certain cases; proceedings in case of such attachments.
12. Return of an officer not conclusive in certain cases, of certain facts.
13. Time of attachment to be noted by officer in his return.
14. Form of sheriff's deed of real estate.
15. Personal estate under mortgage may be attached as property of mortgagor.
16. When so attached, may be sold before judgment.
17. On such sale, mortgagee to be first paid and surplus held by the officer to answer the judgment.
18. If attached on execution to be sold like other personal property; proceeds how applied.
19. Plaintiff in such suit may redeem mortgage.
20. If not redeemed or sold before right of redemption expires, attachment void.
21. Property of an absent or concealed debtor or foreign corporation, in hands of trustee, liable to attachment; writ

## SECTION

- how served; person served with a copy to make oath.
22. Corporation served with a copy; who to make oath.
23. Plaintiff in such suit may recover amount in hands of garnishee, by suit against him.
24. If persons served with a copy render no account, liable for whole debt.
25. Person served with a copy may answer case.
26. Person served with a copy to be paid his expenses.
27. If property be a specific article, it may be delivered to officer having execution.
28. Mariners' wages not liable to attachment.
29. Shares in a bank, &c., liable to attachment; form of attachment.
30. When such attachment made, who to render an account of shares.
31. Such shares may be attached on execution.
32. Such attachment not to affect previous lien.
33. Same proceedings in foreign attachments in justice's courts as in court of common pleas.
34. Goods, chattels and real estate of foreign corporations liable to attachment.
35. Where copies are to be left when such attachments are made.
36. If no known agent, notice to be published in newspaper.
37. Executions against corporations to issue against goods, chattels and real estate; when returned unsatisfied, scire facias may be taken out against corporation.
38. Original summons how served.
39. Writs scire facias how served.
40. Summons for witness how served; penalty for disobeying.
41. No civil process to be served on Sunday.
42. Narragansett bay in what county.
43. Writs against females, how issued and served.

*It is enacted by the General Assembly, as follows:*

SECTION 1. The forms of writs of arrest, original summons, executions and other writs herein after mentioned, to be used in the several courts of this state, shall be substantially as follows, to wit:

*Writ of Arrest.*

The State of Rhode-Island and Providence Plantations.  
 [SEAL.] sc.—*To the Sheriffs of our several counties or to their deputies* greeting :

We command you to arrest the body of (if may be found in your precinct) and for want of body to attach goods and chattels to the value of dollars, and or those in safe custody keep, to answer the complaint of at the next court of common pleas to be holden at within and for our said county of on the Monday of next ensuing the date hereof, in an action of as by declaration to be filed in court will be fully set forth : to the damage of the plaintiff dollars. Hereof fail not, and make true return of this writ with your doings thereon. Witness, Esq. at this day of in the year Clerk.

*Writ of Summons.*

The State of Rhode-Island and Providence Plantations.  
 [SEAL.] sc.—*To the Sheriffs of our several counties or to their deputies* greeting :

We command you to summon (if may be found in your precinct) to answer the complaint of at the next court of common pleas to be holden at within and for our said county of on the Monday of next ensuing the date hereof, in an action of as by declaration to be filed in court will be fully set forth : to the damage of the plaintiff dollars. Hereof fail not, and make true return of this writ with your doings thereon. Witness, Esq. at this day of in the year Clerk.

*Execution.*

The State of Rhode-Island and Providence Plantations.  
 [SEAL.] sc.—*To the Sheriffs of our several counties or to their deputies* greeting :

Whereas of by the consideration of our court of holden at within and for our county of on the Monday of recovered judgment against of for the sum of debt or damages and costs of suit, as to us appears of record, whereof execution remains to be done : we command you, therefore, that of the goods and chattels of the said within your precinct, you cause to be levied and paid unto the said the aforesaid sums, being in the whole, with twenty-five cents more for this writ ; and thereof also to satisfy yourself

for your own fees : and for want of the goods and chattels of the said            to be found in your precinct, to satisfy and pay the same as aforesaid, we command you to take the body of the said            and            commit unto our jail in            in our county of            therein to be kept until            pay the full sums above mentioned, with your fees, or that            be discharged by the said            or otherwise by order of law. Hereof fail not, and make true return of this writ and of your doings thereon, to our next            to be holden at            within and for our county of            on the            Monday of            next. Witness,            Esq. at            this            day of            in the year

Clerk.

*Execution on judgment for possession of real estate.*

The State of Rhode-Island and Providence Plantations.

[SEAL.]            sc.—*To the Sheriffs of our several counties or to their deputies*            greeting :

Whereas            by the consideration of our court holden at            within and for our said county of            on the            Monday of            recovered judgment for the possession of            with the privileges and appurtenances thereto belonging, against            who had unjustly withheld him from the possession thereof; and also, by the consideration of the same court recovered judgment against the said            for the sum of            costs of suit, as to us appears of record, whereof execution remains to be done: we command you, therefore, that without delay, you cause the said            to have possession of and in the said            with the privileges and appurtenances thereunto belonging. We also command you, that of the goods and chattels of the said            within your precinct, you cause to be levied and paid to the said            the aforesaid sum of            with twenty-five cents more for this writ; and thereof also to satisfy yourself for your own fees: and for want of the goods and chattels of the said            to be found in your precinct, to satisfy and pay the same as aforesaid, we command you to take the body of the said            and            commit to our jail in our county of            therein to be kept until            pay the full sums above mentioned, with your fees, or that            be discharged by the said            or otherwise by order of law. Hereof fail not, and make true return of this writ and of your doings thereon, to our next            to be holden at            within and for our county of            on the            Monday of            next. Witness,            Esq. at            this            day of            in the year

Clerk.



*Writ of Arrest to be issued by a Justice of the Peace.*

[SEAL.] sc.—*To the sheriff, his deputy, or to either of the town sergeants or constables in the county of* greeting :

You are hereby, in the name of the state of Rhode-Island and Providence Plantations, required to arrest the body of (if may be found in your precinct,) and for want of body to attach goods and chattels, to answer the complaint of at a justices' court to be holden at in on the day of at o'clock in the noon, in an action of to the damage of the plaintiff (as says) dollars. Hereof fail not, and make true return of this writ with your doings thereon.

Given under my hand and seal, at aforesaid, the day of in the year

Justice of the Peace.

*Execution to be issued by a Justice of the Peace.*

The State of Rhode-Island and Providence Plantations.

[SEAL.] sc.—*To the sheriff, his deputy, or to either of the town sergeants or constables in the county of* greeting :

Whereas at a justice's court holden at on the day of recovered judgment of said court against for the sum of debt (or damages,) and costs of suit, taxed at as of record of said court doth appear ; which sums, in the whole, amount to for which execution remains to be done : We command, you therefore, that of the goods and chattels of the said (within your precinct) you levy the said sum of together with for this execution, as also your lawful fees for serving the same, and therewith satisfy and pay the said ; and for want of sufficient goods and chattels of the said to be by you found, to satisfy and pay the same sums as aforesaid, we command you to take the body of the said into your custody, and safely secure in our jail in until satisfy and pay the said the sums aforesaid and your fees, or until be by the said therefrom discharged, or otherwise by order of law. Hereof fail not, and make true return of this writ, in three months from the date hereof, and of your doings thereon. Given under my hand and seal, at aforesaid, this day of in the year

Justice of the Peace.

*Summons for a Witness.*

sc. To of greeting.  
 You are hereby required, in the name of the state of Rhode-Island and Providence Plantations, to make your appearance before the court of next to be holden at within and for our county of on the Monday of to give evidence of what you know relating to an action or plea of then and there to be heard and tried, betwixt plaintiff, and defendant. Hereof fail not, as you will answer your default under the penalty of the law, in that behalf made and provided. Dated at the day of in the year Clerk.

SEC. 2. All writs, original and judicial, issued by the supreme court, or by any court of common pleas, shall issue in the name of the state of Rhode-Island and Providence Plantations; shall be under the seal of the court from which they issue, shall be signed by the clerk of the court, shall bear teste of the chief justice of the supreme court; shall run throughout the state, and shall be directed to the sheriffs of all the counties in the state, or their deputies: *provided however*, that if the said chief justice be a party to the suit, the writ shall bear teste of any associate justice of the supreme court not a party to it; if the clerk be a party to the suit, the writ, if from the supreme court, shall be signed by one of the associate justices of that court, and if from any court of common pleas, by one of the associate justices of the same court; and if the sheriff of any county be a party to the suit, the process, if to be served in that county, shall, in addition to the former direction, be directed to the town sergeants in the county; and may be served by any one of them not a party thereto.

SEC. 3. Whenever a writ of arrest, or other writ authorizing an arrest, shall be delivered to an officer for service, he shall use his best endeavors to arrest the body of the defendant; but if such officer cannot find the body of the defendant within his precinct he shall attach his goods and chattels, to the value commanded in the writ, if so much can be found, and may attach any less value if the plaintiff or his attorney shall give order therefor on the back of such writ; and when any attachment is made in manner aforesaid, the same shall be sufficient to bring the cause to trial; and the officer who shall make any attachment as aforesaid, shall immediately after leave an attested copy of such writ, with a copy of his doings thereon, at the defendant's usual place of abode, with some person there, that the defendant may have knowledge of the suit.

SEC. 4. When any officer shall attach any goods or chattels on original writ, he shall keep the same in his hands as security to satisfy such judgment as the plaintiff may recover.

SEC. 5. When any officer shall attach on original writ any live animals, or any goods or chattels which are liable to perish or waste, or to be greatly reduced in value by keeping, or which cannot be kept without great and disproportionable expense, the court in which the same may be pending, in term time, or either of the justices of the court before which the suit is commenced, in vacation, or either of the justices of the supreme court, may, on the written application of any person interested in such property, cause the defendant and the attaching creditor to be notified to appear at a time and place appointed for that purpose, to show cause why the same should not be sold; and if after reasonable notice, no person appears or no sufficient cause to the contrary be shown, the said court or justice may direct the said officer to sell the same, in the manner prescribed by law for selling goods and chattels on execution; and such officer shall hold the proceeds of such sales, after deducting therefrom the necessary charges thereof, as security to satisfy such judgment as the attaching creditor may recover, in the same manner as he held the property itself.

SEC. 6. Whenever final judgment shall be rendered for the plaintiff in any suit in which the writ was served by attachment of real estate, goods and chattels, or stock or shares in any incorporated company, the execution issued on such judgment shall be levied on the property so attached, as soon as may be; but if the same shall not be so levied before the return day thereof, the property attached shall be discharged of such attachment.

SEC. 7. In all cases when execution shall be levied on any goods or chattels, such goods and chattels shall be kept in the officer's hands and be advertised at least ten days before they shall be exposed and offered for sale, in order that the person who owned such goods or chattels may, if he thinks fit, pay the money due, together with the costs which shall have accrued thereon, and thereupon have his said goods or chattels restored to him again. But in case such owner shall not redeem them as aforesaid, the officer shall sell the same, at public auction, to the highest bidder; and if any overplus shall remain after the debt or damages and costs and charges are paid, the same shall be delivered by the officer to the owner or to any person legally qualified, on his behalf, to receive the same.

SEC. 8. The household furniture and family stores of a

house-keeper shall not be liable to attachment on any warrant of distress or on any other writ, original or judicial: *provided* the whole, including beds and bedding, do not exceed in value the sum of two hundred dollars; neither shall the necessary wearing apparel of such house-keeper and his family, nor one cow, nor one hog, nor his working tools necessary for his usual occupation: *provided* the said tools do not exceed in value the sum of fifty dollars; neither shall the working tools not exceeding in value the sum of fifty dollars, nor the necessary wearing apparel of any debtor, be liable to distress or attachment.

SEC. 9. In case any officer for taxes, or by any warrant of distress whatsoever, shall distrain the goods and chattels of any person, he shall proceed in the same manner, and be holden to the same rules, as herein before directed in attachments in civil actions.

SEC. 10. Whenever any original writ shall issue against more than one defendant, the forms afore given may be altered so as to combine both the writ of arrest and the writ of summons; so that the same may be served on one of said defendants by arrest or attachment, and on the other by summons.

SEC. 11. When a writ shall be taken out from any court of common pleas, against any person whose body or personal estate cannot be found within this state, the words "or real estate," may be added in the writ next to the words "goods and chattels;" and the officer to whom the writ is delivered for service shall attach the real estate of the defendant, in the same manner as is directed by law for attaching personal estate; and the officer, upon attaching any real estate as aforesaid, shall leave a copy of the writ by which the same shall be attached, and of his doings thereon, with the person in possession, and also with the town clerk of the town in which said real estate lies; but if no person be in possession, then the officer shall set up notifications thereof, in three public places in the town where such real estate lies; and if the person whose real estate shall be attached as aforesaid shall be absent out of the state at the time of attaching his estate, and shall not return within the same before the time at which such writ is returnable, and shall not answer the suit in which his real estate shall be attached as aforesaid, the court shall continue the same for one term; and the defendant, in such case, shall have a right to answer the same six days previous to the term to which such case shall be continued; and in all cases where real estate shall be attached and the plaintiff shall recover judgment therein, he shall have execution granted

against the real estate attached as aforesaid ; and the officer charged with the service of the execution, if he shall levy the same on such real estate, shall set up notifications of said levy, in three or more public places in the town where said real estate lies, for the space of three months after said levy, and before the same shall be exposed to sale, notifying all persons concerned of the levy and intended sale of said estate, that the owner thereof may have an opportunity to redeem the same ; and he shall also notify said sale, by causing an advertisement thereof to be published, once a week, for the space of three weeks next before the time of such sale, in some newspaper in the county where said estate lies ; and if no newspaper be printed therein, then in some one printed in Newport or Providence. But if no person appear to redeem the said estate, then the officer shall sell the same, or so much thereof as shall be sufficient to satisfy the judgment obtained, and the costs and charges, at public auction ; and a deed thereof, by him given, shall vest in the purchaser all the estate, right and interest which the debtor had therein, at the time such estate was attached as aforesaid ; and the surplus of the money that shall arise from the sale of said estate, after satisfying the execution and the costs and charges, shall be lodged in the general treasury for the owner thereof, and be liable to be attached for his other debts. And such sale shall be made under the execution levied thereon, although the return day thereof may have passed. And in all cases when execution shall be issued upon any judgment where real estate was not attached by the officer on the original writ, if no personal estate can be found, nor the debtor's body, the party obtaining judgment may cause execution to be levied on real estate in manner aforesaid.

SEC. 12. The return of any officer that the body of the defendant named in any writ of arrest, served by the attachment of goods and chattels or real estate, cannot be found within his precinct, or within this state, shall be prima facie evidence only, of such fact ; which return may be rebutted by other evidence on issue joined upon such fact, in the suit in which such attachment shall be made : *provided, however,* that such fact shall be deemed and taken to be conclusively proved by a judgment for the plaintiff in said suit, whether the same shall be put in issue therein, or not.

SEC. 13. In all attachments of real estate or goods and chattels, and in all foreign attachments, he who first procures any such attachment to be made for any just debt or damages, shall be entitled to have his said debt or damages satisfied be-



same manner as by law provided for the sale of perishable goods and chattels, when attached on mesne process.

SEC. 17. Upon any such sale the attaching officer shall first apply so much of the proceeds of the sale as may be necessary to pay the amount for which the said property was mortgaged, with such deduction for interest for the anticipated payment or allowance for damages for such anticipated payment, as may be allowed by the court or judge directing the sale; and the officer shall hold only the balance, for the purposes of the attachment.

SEC. 18. When the attachment of such mortgaged estate is upon execution, it shall be sold as in cases of other attachments on execution; and the proceeds of the sale shall be applied to the payment of the amount due on the mortgage, with the deductions or damages above mentioned, to be ascertained and allowed by the court to which the execution is returnable; and the balance shall be applied to the payment of the amount due on the execution.

SEC. 19. The plaintiff in any such attachment may redeem the mortgaged estate in the same manner as the mortgagor might have done. And in case of such redemption, the plaintiff shall have the same lien on the property for the amount paid by him, with interest, as the mortgagee had.

SEC. 20. If the mortgage be not redeemed by the plaintiff or sold as before mentioned, before the time of redemption expires, the attachment shall become void.

SEC. 21. When any person shall reside or be absent out of this state, or shall conceal himself therein so that his body cannot be arrested, and when any incorporated company established out of this state, shall be indebted or liable to any person, then the personal estate of such absent or concealed person or foreign corporation, lodged or lying in the hands of their attorney, agent, factor, trustee or debtor, shall be liable to be attached, the plaintiff giving special order therefor on the back of his writ, to answer any just debt or demand; and the serving of any person or body corporate or any member of any firm or copartnership who have such personal estate in their hands, with a copy of a writ taken out against such absent or concealed person or foreign corporation, shall be a good service of said writ. Such writ shall be served by leaving an attested copy thereof with the person hereinafter required to make oath relative to the personal estate of the defendant intended to be attached thereby; and the person, corporation, firm or copartnership so served with a copy, shall be obliged to render an account upon oath, of what estate

they had of the defendant in their hands at the time such writ was served, if any, or otherwise to make oath that they had not, directly or indirectly, any such estate in their hands; which oath shall be made before the court to which such writ shall be brought, or before any justice of the supreme court, or any justice of the court of common pleas in the county where he on whom such copy shall be served dwells or corporation is located, and be filed in the clerk's office in the county where the action shall be brought, before the sitting of the court; and if such oath be made out of court, the plaintiff or his attorney shall be first notified by such justice of the time and place of taking the same; and, in all cases, the person so making oath shall be subject to examination by either party to the suit.

SEC. 22. Whenever any body corporate within this state shall be served with a copy of a writ as aforesaid, it shall be the duty, if a bank, of the cashier thereof, if an insurance company, of the president or secretary thereof, and if any other corporate body, of the treasurer thereof, or person executing the duties of treasurer, to render an account, upon oath, of what personal estate said body corporate had in their hands or possession at the time said writ was served, if any, or otherwise that they had not, directly or indirectly, any such estate in their hands; which oath shall be made in the same manner as is prescribed in the preceding section of this act.

SEC. 23. If it shall appear by the account or oath of any person or body corporate or by the account or oath of any member of any firm or copartnership served with a copy of a writ as aforesaid, that at the time of the service of said writ, such person, body corporate, firm or copartnership, had any of the personal estate of the defendant in their hands, then and in such case, the plaintiff, after having recovered judgment against such defendant, may bring his action against such garnishee, to recover so much as will satisfy such judgment with interest and costs, if there shall appear by said account to be a sufficiency for the same, otherwise for so much as shall appear by said account to be in his hands: and if it shall appear that several garnishees had property of the defendant as aforesaid, then the plaintiff may sue each separately, and recover the amount in his hands, until such plaintiff receive full payment of his judgment against the defendant with interest and costs: *provided always*, that any garnishee, after final judgment against the defendant, may satisfy such judgment or any part thereof to the amount of the estate attached in his hands, before any suit shall be brought against him therefor.



SEC. 24. If any person, body corporate, firm or copartnership, after being served with a copy of any writ against any absent or concealed person or foreign corporation as aforesaid, shall neglect or refuse to render an account on oath as aforesaid, of what personal estate of the defendant they had in their hands at the time of the service of such copy, such garnishee shall be liable to satisfy the judgment that the plaintiff shall obtain against the defendant in such writ, to be recovered by special action on the case. If several garnishees shall neglect or refuse to render an account upon oath as aforesaid in the same case, then the plaintiff shall bring his action against all such garnishees, jointly, and in no other manner.

SEC. 25. Any attorney, agent, factor, trustee or debtor, who shall be served with a copy of a writ against any defendant as aforesaid, shall have liberty to file an answer to such action and defend the suit in behalf and in the name of the defendant. In case any such action shall not be answered, and the defendant shall not return into this state before the return day of such writ, the court shall continue the action one term, and the defendant shall have a right to answer the same six days previous to the term to which such case shall be continued. If it shall appear by the oath of the person or body corporate or by the oath of any member of any firm or copartnership as aforesaid, who have been served with a copy of any writ as aforesaid, that they had not any of the personal estate of the defendant in their hands, then such action shall be dismissed, and the person who shall appear to defend said suit shall recover his costs.

SEC. 26. Every person, body corporate, firm or copartnership, served with a copy of a writ for attaching the estate of another in their hands, shall be paid all lawful costs and charges which they shall be at in consequence of their being served with such writ of attachment, by the person who brings the action; and so much of said charge as shall be judged reasonable by the court before whom the cause shall be pending, shall be allowed in the bill of cost.

SEC. 27. Whenever it shall appear by the oath of any person, or body corporate, or by the oath of any member of any firm or copartnership, served with a copy of any writ, as provided for by the twenty-first section of this act, that the personal estate in their hands belonging to the defendant in such action did not consist of money, but of one or more specific articles, it shall be lawful for such garnishee, after final judgment shall be rendered against the defendant, to surrender or

deliver to the officer charged with the execution issued on said judgment, such specific articles, that the same may be taken thereon, and which shall be a good discharge to such garnishee.

SEC. 28. Mariners' wages shall not be liable to attachment under this act, until after the termination of the voyage in which such wages shall have been earned; nor shall any debt which is secured by bill of exchange or negotiable promissory note.

SEC. 29. The stock or shares of any body corporate established out of this state, and the stock or shares of any person who shall reside or be absent out of this state, or shall conceal himself therein, in any bank, insurance company or other incorporated company within this state, shall be liable to be attached to answer any just debt, claim or demand; and whenever any writ shall be sued out as aforesaid, the plaintiff or his attorney shall, on the back of said writ, direct the officer who may be charged with the service thereof, to attach the defendant's stock or shares in such incorporated company; and the leaving an attested copy of such writ, with a copy of the plaintiff's direction thereon, if a bank, with the cashier thereof, if an insurance company, with the president or secretary thereof, and if any other corporate body, with the treasurer thereof or person executing the duties of treasurer, shall be sufficient to attach such defendant's stock or shares in said company, and the same shall be held to answer the said debt, claim or demand.

SEC. 30. Whenever any incorporated company as aforesaid shall be served with a copy of such writ as aforesaid, it shall be the duty, if a bank, of the cashier thereof, if an insurance company, of the president or secretary thereof, and if any other corporate body, of the treasurer thereof or person executing the duties of treasurer, to render an account, upon oath, to the court to which said writ shall be returnable, of what stock or shares the defendant had in said company at the time of the service of such writ, as aforesaid; and the said cashier, or president, or secretary, or treasurer or person executing the duties of treasurer as aforesaid, may be compelled to testify like witnesses in other cases; and when execution issues against the defendant for any such debt, claim or demand, the officer charged therewith shall serve a copy of the same, if a bank, upon the cashier thereof, if an insurance company, upon the president or secretary thereof, and if any other corporate body, upon the treasurer thereof or person

executing the duties of treasurer ; which shall be deemed a good and sufficient levy of such execution upon the stock or shares of the defendant in such company ; and the said stock or shares shall be advertised and sold, (or so much thereof as shall be necessary,) in the same manner as other personal property attached on execution ; and a deed or deeds thereof given by the officer aforesaid shall vest in the purchaser all the defendant's right, title and interest in such stock or shares so sold as aforesaid ; and said deed shall be duly recorded by the recording officer of such company.

SEC. 31. The stock or shares of any body corporate established without this state, or of any person whatsoever in any incorporated company within this state, shall be liable to be attached on execution duly obtained, like other personal property ; and such execution being directed to the proper officer, according to law, he may levy the same in the manner set forth in the preceding section, upon any stock or shares of the defendant to be found within his precinct ; and shall proceed to advertise, and sell, and give deeds thereof, in the manner therein prescribed.

SEC. 32. Nothing in this act contained shall be construed to destroy or impair any lien or claim which any incorporated company aforesaid or any person whatsoever may have upon any such stock or shares so attached or levied upon as aforesaid ; but the said lien or claim aforesaid shall be and remain as if this act had not been passed.

SEC. 33. The same proceedings respecting foreign attachments shall be observed in justice's courts, as in the supreme court or in any court of common pleas.

SEC. 34. When any incorporated company established without this state shall be indebted or liable to any person, the personal and real estate of such company within this state shall be liable to be attached and held to answer any just debt, claim or demand ; and a writ directed to the proper officer may be issued by any competent court, commanding such officer to attach the goods and chattels or real estate of such corporation, to the amount named in such writ ; and also to summon said corporation to appear at the proper court, by leaving a copy of the summons with any known agent of said corporation in this state.

SEC. 35. Upon making such attachment, the officer making the same shall leave an attested copy of such writ with the person in possession of such goods and chattels or real estate, if any person be in possession ; and if real estate

be attached, he shall also leave an attested copy with the town clerk of the town where the real estate is situated.

SEC. 36. If there be no agent or attorney of such corporation within this state known to such officer, upon whom such summons can be served, he shall publish a notification of such attachment for the space of two weeks, once a week, in some newspaper printed in the town nearest the place where the real or personal estate may be situated, and state all the facts in his return, to the end that the court may order further notice if they shall deem the same necessary.

SEC. 37. Whenever final judgment for any sum shall be rendered by any court against any incorporated company, (except corporations for charitable, literary or religious purposes, and banks,) execution on such judgment shall be issued against the goods, chattels and real estate of such corporation; and when any such execution shall be, by the officer charged with the service thereof, returned that he cannot find sufficient property of such corporation whereon to levy the same, it shall and may be lawful for the party in whose favor such judgment shall have been rendered, to sue out of the clerk's office of the court in which such judgment was rendered, a writ of scire facias against the president and directors of such corporation, if any such there be, and if none, then against so many of the stockholders thereof as he may think fit, returnable to the next term of said court; and on the return thereof, unless such president and directors or stockholders shall make it appear that they had not, at the time of the service of such writ of scire facias, within their possession and control, sufficient property of such corporation to satisfy said judgment or any part thereof, said court shall issue execution against such president and directors or stockholders, for the amount of such judgment, with interest and cost as for their own private debt; but if it shall appear that such president and directors or stockholders had property as aforesaid to satisfy part of said judgment only, then execution as aforesaid shall issue for such amount with costs.

SEC. 38. An original summons shall be served by reading the same to the person to be summoned, or by leaving an attested copy thereof at his last and usual place of abode, by the officer to whom the same shall be directed; said writs, if against any company incorporated in this state, shall be served by leaving an attested copy thereof, if a bank, with the cashier thereof, if an insurance company, with the president or secretary thereof, and if any other corporate body, with the treasurer or person executing the duties of treasurer thereof, un-

less provision to the contrary be made in the charter of such corporation, or in some general law of the state, relating to some particular class of corporations; and a certificate of such service by the officer who made the same shall be considered as due proof thereof.

SEC. 39. All writs of scire facias may be served by summons, arrest or attachment, at the election of the plaintiff, and the form of such writs may be so varied as to adapt them to either manner of service; but no attachment of personal or real estate, or by trustee process, shall be made thereon, except in such cases as is by law provided for such attachment on writs of arrest.

SEC. 40. A summons for a witness shall be served by reading the same to him; and every witness so summoned, and having his lawful fees tendered to him for his travel from his place of abode to the place at which he shall be summoned to attend, and for one day's attendance, shall be obliged to attend accordingly; and if he does not appear according to the tenor of such summons, having no reasonable let or hindrance to the contrary, he shall be liable to the action of the aggrieved party for all damages sustained in consequence of such default; and the court or justice of the peace shall have power, by writ of attachment, to bring such witness into court and to fine him, not exceeding twenty dollars, and to order him to pay the costs of such attachment, and to be committed to prison until such fine and costs be paid; but a witness summoned in behalf of the state shall have no right to have his fees paid or tendered to him before he shall be bound to obey the same.

SEC. 41. No civil process whatsoever shall be served on Sunday, but every such service shall be utterly void.

SEC. 42. All the waters of Narragansett bay situated to the northward of Field's Point shall be deemed a part of the county of Providence, and be within the jurisdiction of said county; and all the other waters of the said bay shall not be deemed to make part or be within the sole jurisdiction of any one particular county; but it shall be lawful for any sheriff or other officer duly authorized, to serve any writ or other process, whether of a civil or criminal nature, within any part of the waters of said Narragansett bay.

SEC. 43. Every original writ issued against any female, founded on a contract not under seal, shall be a writ of summons and not a writ of arrest. No execution shall issue against the body of any female, on any judgment founded on contract not under seal, where the debt or damages recover-

ed do not exceed the sum of fifty dollars. In such cases executions shall issue against the goods and chattels and real estate of the defendants.

*An Act prescribing the manner of proceedings in Courts.*

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*It is enacted by the General Assembly, as follows :*

SECTION 1. All actions and appeals in the supreme court and in the several courts of common pleas, shall be entered on the first or second days of the term, and not afterwards, without special leave of the court; which they are hereby empowered to grant, in their discretion, in case the party who brought the action to the same court, and whose duty it was to enter it, was prevented from so doing by mistake, inevitable accident or misfortune. But no action shall be considered as entered until the necessary papers are filed with the clerk, and the legal entry paid.

SEC. 2. In every indictment, and in every warrant or other process to arrest the body of any person in a criminal suit, and in every writ of arrest or original summons in a civil action, there shall be added to the name of the person against whom the same shall be issued, the place to which he shall, at the time of finding such indictment or issuing such writ, summons, warrant or other process, belong, or the place in which he is, or of late was, commorant, and also his degree or mystery; and in case such additions shall be omitted in any such indictment, writ, summons, warrant or other process, the same, upon exception being taken thereto, by the person with respect to whom such omission shall be made, shall be quashed or abated: *provided*, that nothing herein contained shall prevent the amendment of any process in the manner by law prescribed.

SEC. 3. It shall and may be lawful for any defendant in any action or suit, and for any plaintiff in replevin, in any court or before any justice of the peace, with leave of such court or justice, to plead as many several matters thereto as he shall think necessary to his defence; and, with like leave, any plaintiff may reply as many several matters to the defendant's plea or pleas as he shall think necessary.

SEC. 4. The defendant in every action of debt, action of covenant, and in every action on the case grounded on an express or implied contract, in every action of trespass for

breaking and entering the plaintiff's close, wherein the defendant shall, in his plea, disclaim all right, title and interest in and to the said close, and in every action of trespass or trespass on the case for any injury done to personal property, or for trover, that may be pending before any court or before any justice of the peace, shall have a right to make and plead a tender; or may have leave to bring into court the money which he shall acknowledge to be due on such contract or sufficient amends for such trespass or injury, together with the plaintiff's lawful costs expended up to the time of the tender made or pleaded, or the bringing of the money into court; and the plaintiff shall have a right to take the same in full or in part satisfaction of the demand made in such suit; but if he shall receive the same in part satisfaction only, and shall proceed further in the same suit, and the court or jury or justice of the peace, who shall finally assess the damages in such case, shall determine that no more was due on the demand made in such suit than was tendered or brought into court as aforesaid, at the time the same was tendered or brought in, the plaintiff shall not recover costs, but shall be obliged to pay the defendant his costs, after said tender or after the money was brought into court as aforesaid, as the case may be.

SEC. 5. When any action of debt shall be brought upon any bond without condition, or when an action of debt or writ of scire facias shall be brought on any judgment, if the defendant hath paid the money due upon such bond or judgment, such payment shall and may be pleaded in bar of such action or suit; and when an action of debt is brought upon any bond which hath a condition or defeasance to make void the same upon the payment of a less sum at a 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 defeasance or condition of such bond, though such payment was not made strictly according to the condition or defeasance, yet it shall and may, nevertheless, be pleaded in bar of such action; and shall be as effectual a bar thereof as if the money had been paid at the day and place, according to the condition or defeasance, and had been so pleaded.

SEC. 6. When an action shall be brought to recover a debt due on any book account, the plaintiff shall annex to his declaration on filing the same, an account of particulars; and the defendant in such case, and also in all actions on an account stated by the parties, a quantum meruit, quantum valebat, or for goods sold, or for services done at an agreed price,



may plead the general issue and may file any account he hath with his said plea; and the court or jury who shall assess the damages in such case shall determine the balance due to either party; and the party in whose favor the balance shall be found shall recover judgment therefor, together with his costs, and shall have execution accordingly; and whenever any defendant shall have any demand on the plaintiff for any sum liquidated, or for one which may be ascertained by calculation, and which is founded on a judgment, or upon a contract, whether express or implied, and whether with or without a seal, and which existed at the time of the commencement of the action and then belonged to the defendant, in his own right, and for which he might maintain a suit in his own name, he may set off the same in any action founded upon any demand which could itself be set off: to entitle the defendant to a set off, he shall file a statement of his demands in court, or in the clerk's office, at the term in which the action is entered, on or before the second day of said term, or within such further time as the court shall allow: in such statement the defendant shall set forth his demands with as much certainty as would be required in a declaration: and the court in which the action may be pending may render judgment for the defendant for the balance due to him, with costs.

SEC. 7. Whenever any court shall, at the same term, render final judgment for debts or damages, in two or more personal actions, in which the parties shall be reversed, and shall sue and be sued in the same right and capacity, such court shall set off the debts or damages recovered in the said judgment, and issue execution for the balance only, in favor of the party to whom it shall be due, with costs if costs were recovered, and a separate execution in favor of the other party for costs if costs were recovered by him.

SEC. 8. If any officer shall, at the same time, have two or more executions delivered to him to serve, in which the parties shall be reversed, and shall sue and be sued in the same right and capacity, he shall set off the debts or damages in the same, and levy and collect the balance only that will remain due thereon, with the costs on all said executions.

SEC. 9. In all actions brought for the breach of the condition of a bond, or to recover a penalty for the non-performance of any covenant, contract or agreement, when it shall appear by verdict, default, submission or otherwise, that the condition is broken or the penalty forfeited, judgment shall be entered in the common form for the penal sum, but no

execution shall issue thereon, except as is provided in the two following sections.

SEC. 10. The court shall award an execution in such case for so much of the penal sum as shall then be due and payable in equity and good conscience, for the breach of the condition, or other non-performance of the contract; which sum shall be ascertained and determined by the court, unless either party shall move to have it assessed by a jury, or unless the court shall think it proper to have the question so decided; in which case the sum so due shall be assessed by a jury.

SEC. 11. If any further sum shall afterwards become due on such bond or other contract, the plaintiff, or his executor or administrator, may have a scire facias on the judgment from the court in which it was rendered, against the original defendant or his executors, administrators, heirs, devisees or assigns, as the case may be, suggesting such further breaches of the contract as shall have occurred, and summoning the adverse party to shew cause why execution should not be awarded upon the judgment for the damages caused by such further breaches.

SEC. 12. The sum due in such suit shall be assessed and determined in the same manner as in the original suit, and execution shall be awarded accordingly; and the like proceedings may be repeated upon occasion of any further breaches of the same contract, as often as they shall occur, until the whole of the penalty is exhausted.

SEC. 13. Nothing herein contained shall prevent any person from bringing an action for the breach of any covenant or other contract, instead of suing for the penalty by which the performance of the covenant or contract may have been secured.

SEC. 14. In all cases in the supreme court and courts of common pleas, except when otherwise provided, when judgment shall be rendered on default, discontinuance, submission or demurrer, damages shall be assessed by the court, with or without the intervention of a jury, at the discretion of such court.

SEC. 15. In all cases relating to the realty, either party may have a jury to view the place in question, if the court shall be of opinion that such view is necessary; *provided* the party moving therefor shall advance such reasonable sum of money to the sheriff to defray the expenses of the jury on such view as the court shall order; and the amount of those expenses shall be taxed against the adverse party if he who advanced the same shall recover costs in the suit.

SEC. 16. The supreme court and courts of common pleas may permit the parties in any suit pending in said courts respectively, to enter into a rule of such court to refer such suit to the decision of one or more referees, to be agreed upon by the said parties; and also to refer, in the same rule, any other actions or causes of action that may subsist between them, either jointly or severally, generally or specially; and the said court shall also have power to permit any persons who may have causes of action subsisting between them, to enter a rule of said court, to refer the same to a decision of a referee or referees as aforesaid, generally or specially: and the parties to any rule may agree upon the time and manner of making report and of issuing execution on the judgment that may be rendered thereon, consistently with law; and every such agreement, made in manner aforesaid, shall be conclusive upon the parties: and the court shall render judgment upon the report of referees conformable thereto, and issue execution accordingly: *provided nevertheless*, that the court may, at any time, in their discretion, or on motion of either party, discharge the rule or recommit the said rule and report to the same referees; but such rule shall remain in full force until so discharged, and shall be continued from term to term until the report shall be made thereon. And each referee, before he proceeds to the business of the reference, shall take an oath faithfully and impartially to hear and examine the cause, and make a true and just report, according to the best of his skill and understanding; which oath may be taken before any judge of any court of record, or any justice of the peace or public notary; and the referees aforesaid shall have power to administer oaths to all witnesses in any matter tried before them, and shall also have power to compel the attendance of witnesses before them, in the same manner and by a similar process as courts of record are authorized to compel the attendance of witnesses; but any summons for witnesses may be issued and signed by any one referee, or, by the clerk of the court from which the rule is issued.

SEC. 17. The parties to any suit that may be pending before any justice of the peace shall have a right to enter into a rule to refer the same, and to include therein any other demands between them, not exceeding in the whole, on either side, the amount of twenty dollars, and in which the title to real estate shall not be concerned; and the justice shall have like power, and similar proceedings shall be had thereon, as are given and prescribed in this act respecting rules that may be entered in the supreme court and courts of common pleas.

SEC. 18. Any persons having any action or cause of action subsisting between them, may file with the clerk of the supreme court or court of common pleas in the county where either or all of them reside, in the vacation of the said courts, a petition, setting forth said facts, and that they have mutually agreed to refer the same to the decision of certain persons named therein as referees; whereupon the clerk shall enter said petition on the docket of the business of said court for the next term; make out a writ to said referees, annex thereto or embody therein said petition, which shall authorize them to hear and determine said dispute, with the same powers, in the same manner and with the same effect as though said petition had been filed in open court: *provided however*, that the report of said referees shall be made to the next or some other term of said court: and said court shall have the same powers over a petition so filed, as over one filed in open court.

SEC. 19. No summons, writ, declaration, return, process, judgment or other proceeding in civil causes, in any of the courts, shall be abated, arrested, quashed or reversed for any defect or want of form; but the said courts respectively shall proceed and give judgment according as the right of the cause and matter in law shall appear unto them, without regarding any imperfections, defects or want of form in such writ, declaration or other pleadings, return, process, judgment or proceeding whatsoever; and the said courts respectively shall and may, by virtue of this act, from time to time, amend all and every such imperfections, defects and want of form, and may, at any time, permit either of the parties to amend any defect in the process or pleadings, upon such conditions as the said courts respectively shall, in their discretion, or by general rule, prescribe.

SEC. 20. If any writ or process shall be brought against any trading or manufacturing company, not incorporated, which shall not be served on all the partners, or in which the name of any partner shall be omitted, the court on motion of any person, party thereto, may, and in case the same be pleaded shall, issue a summons to the partner omitted or not served, if within this state; said motion or plea being accompanied with an affidavit of the person making the same: such partner being served with such summons twenty days at least before trial, shall be deemed to be a party to the suit, to all intents and purposes, and the writ and declaration shall be amended accordingly; and such partner may file his plea in said action at any time within said twenty days, or after that

time by leave of court on cause shown. But if it shall be found that the party summoned was not a partner with the original defendants, the court shall render judgment against the party summoning him, in favor of such party for his costs, and in favor of the plaintiff against the original defendants for the damages or debts proved, with costs, unless such party summoned was made party on motion of the plaintiff; in which case judgment shall be rendered in favor of all the defendants for their costs against the plaintiff.

SEC. 21. In all actions relative to partnerships and all other joint accounts, and in all actions involving matters of book account, the supreme court and any court of common pleas are authorized and empowered, upon motion of either party, to appoint an auditor or auditors, who shall have the same powers, and be sworn, and proceed in the same manner as auditors in a proper action of account: and the court upon the reception of the report of the auditor or auditors, shall render judgment in pursuance thereto.

SEC. 22. When several persons shall be made defendants in an action of trespass or ejectment, and the same shall be discontinued as to any one or more of said defendants; or if upon the trial thereof any one or more of them shall be acquitted by verdict, or upon a demurrer, every defendant so discharged or acquitted, shall have and recover his costs.

SEC. 23. The plaintiff in any cause shall not have a right to be non-suit or to discontinue the same, in the supreme court, after the same shall be submitted to the decision of the jury; but the cause shall proceed and the verdict of the jury shall be taken therein, whether the plaintiff shall appear or not.

SEC. 24. If there shall in any case be two or more plaintiffs, or defendants, and one or more of them shall die, if the cause of 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, or against the surviving defendant or defendants.

SEC. 25. In addition to the actions which survive by the common law, the following shall also survive, viz: actions of replevin and trover; actions of waste; actions of trespass for assault, battery, imprisonment, or for goods taken and carried away; and actions of trespass and trespass on the case for damages done to real or personal estate: all the actions herein before mentioned may be originally commenced and pros-

ecuted by and against executors and administrators: and if commenced by or against the original party, in his life time, they may be prosecuted or defended by or against his executor or administrator: whenever any of said actions are commenced or prosecuted against the executor or administrator of the original party, the plaintiff shall be entitled to recover only the value of the goods taken, or the damage actually sustained, without any vindictive or exemplary damages, or damages for any alleged outrage to the feelings of the injured party; but in no case, shall the title to real estate be settled or affected, except so far as relates to the case on trial, if the same shall be prosecuted or defended by an executor or administrator.

SEC. 26. In case of the death of any party, either the appellant or appellee, before the sitting of the court appealed to, or where any action or suit is commenced or shall be pending in any court of common pleas, or in the supreme court, and it shall so happen that either party shall die before final judgment, the executor or administrator of such deceased party, in case the cause of action doth survive, shall have full power to prosecute or defend any such action or suit from court to court until final judgment; and is hereby obliged to prosecute or defend the same accordingly; and if any executor or administrator shall neglect to appear and take upon himself the prosecution or defence of any action or suit as aforesaid, being duly notified thereof, by order of the court where the same shall be pending, or if having appeared and become a party thereto, judgment shall pass against such executor or administrator, the said courts are hereby respectively authorized and empowered, unless the estate shall have been represented insolvent, to enter up judgment against the estate of the deceased in the hands of such executor or administrator; and the like process shall be had thereon as if the action had been originally commenced against them in their said capacity.

SEC. 27. Writs of attachment and execution, shall run against the goods, chattels, rights and credits of the person deceased only, in the hands of the executor or administrator; nor shall any executor or administrator be holden to bail upon mesne process, nor his own proper goods or estate be attached, nor his person be arrested or taken in execution for the debts or legacies of the testator or intestate, but upon suggestion of waste, founded on a return made by the officer on an execution issued against the estate of the testator or intestate as aforesaid, that he could not find any such estate whereon

to levy such execution ; in which case a writ of scire facias shall be issued out of the clerk's office of the same court against such executor or administrator ; which writ being duly served by the officer to whom it shall be directed, and returned, if the executor or administrator make default of appearance, or coming in shall not show sufficient cause to the contrary, execution shall be awarded against him of his own proper estate for the sum recovered, with the interest due thereon, with costs ; and for want of estate, against the body of such executor or administrator, as for his own proper debt.

SEC. 28. No action shall be brought against any executor or administrator in his said capacity, within one year after the will shall be proved or administration granted ; except for medicines and attendance in the last sickness, and funeral charges of the deceased, and excepting also actions brought in pursuance of the fourth section of an act entitled " an act for the limitation of certain personal actions ;" nor shall any action be brought against any executor or administrator in his said capacity, unless the same shall be commenced within three years next after the will shall be proved or administration shall be granted : *provided*, such executor or administrator shall give notice of his appointment, by publishing the same in some public newspaper in the state, nearest to where the deceased person last dwelt ; and in such other manner as the court of probate shall direct.

SEC. 29. When any judgment shall be had by or in the name of any executor or administrator, in such case, an administrator de bonis non, may sue out a writ of scire facias and take execution upon such judgment.

SEC. 30. The appellant shall in all cases file his reasons of appeal in the clerk's office of the court appealed to at least ten days before the sitting of such court ; and shall at the time of entering his appeal file in the same office a certified copy of the whole case : *provided however*, that whenever any party who shall appeal to the court of common pleas or supreme court, shall, through mistake, accident or misfortune, omit to file his reasons of appeal at the time prescribed as aforesaid, the said courts respectively, in their discretion, on sufficient cause being shown therefor, may, on the first or second day of the term of the court appealed to, permit such party to file his reasons of appeal in court, on such terms as they shall prescribe.

SEC. 31. If the appellant in any case shall enter his appeal at the court appealed to, the cause shall be tried and decided in the same manner as if both parties had appealed ;

and if the appellant shall neglect to enter his appeal as by law required, the adverse party, in case he did not also appeal, may at any time during the term appealed to, or at the next succeeding term, enter his complaint and obtain a confirmation of the former judgment, as of the third day of the said term ; with double interest from the time of the rendition of the judgment appealed from, to said third day, if damages were therein given, and double costs ; unless the court appealed to shall be satisfied that such appellant had reasonable ground to appeal, and that such appeal was not taken solely for delay ; and in such case, with single interest on such damages and single costs only.

SEC. 32. If any party shall obtain a new trial in any cause by act or by order of the general assembly, supreme court or any court of common pleas, and shall neglect to enter such action for trial on the first or second day of the court at which such trial was to be had, by such act or order, the adverse party may enter his complaint, and the said court shall thereupon affirm the last judgment rendered in said cause, with interest, if damages or debt were therein recovered, and additional costs.

SEC. 33. If the plaintiff in any case shall file his declaration in the clerk's office of the court of common pleas, as is by law provided, and shall afterwards withdraw or discontinue his suit before the sitting of the court and after answer filed, the defendant in such case shall recover his costs ; and in all other civil causes the party prevailing shall recover costs, except in cases where other provision is specially made by law ; and all bills of costs shall be taxed by the clerks of the respective courts, and shall be examined and allowed by one of the justices thereof ; except that in justices' courts they shall be taxed and allowed by the justice who signed the original writ ; and the clerk's fees in the case shall be paid before the execution shall be issued ; and the justice of any court who shall examine and allow any bill of cost shall strike out and disallow any sum that may be taxed or demanded for the expense of any witness or any evidence whatsoever that shall appear to such justice frivolous, or not material to the issue of the cause ; and no costs shall be allowed for any written evidence unless the fees be noted thereon or certified by the officer who issued or made out the same. Costs taxed in any court of common pleas may be revised, in case of appeal to the supreme court, in the taxation of costs there.

SEC. 34. In all actions of assumpsit, trespass or trespass on the case, where judgment is rendered on appeal, the court



rendering judgment may award costs for or against the plaintiff or defendant, or for neither, in their discretion, according to the circumstances of the case.

SEC. 35. In all actions of the case for slanderous words or malicious prosecutions, and in all actions for trespass, for assault and battery or imprisonment, that shall be commenced at any court of common pleas, if the court or jury who shall finally assess the damages in such case, shall assess the same at a less sum than seven dollars, the plaintiff in such case, shall recover no more costs than damages.

SEC. 36. Any one of the justices of the supreme court or courts of common pleas respectively, shall have power to adjourn such courts from day to day, in case a quorum is not formed on the day appointed by law for holding thereof, or on the day to which such courts may be adjourned, until a quorum shall be formed ; and the clerks of the several courts are hereby vested with similar powers, to adjourn the same courts respectively, in case one of the justices thereof shall not attend for that purpose : *provided however*, that such courts shall not be adjourned from day to day by one justice, or the clerks as aforesaid, for more than six days.

SEC. 37. Whenever it shall happen that a quorum of the supreme court, or any court of common pleas, cannot probably convene within six days from the time by law appointed for holding the same, by reason of the death or sickness of any of the justices of such court, or any other necessary and unavoidable let or hindrance of their attendance, it shall be lawful for any one of the justices of such court respectively, at any time within said six days, by writ under his hand and seal, directed to the sheriff of the county, therein inserting the occasion thereof, to adjourn the said court to a further day, as in said writ shall be expressed ; at as little distance of time as may be from the day wherein by law the court should have met, so that justice may not be delayed ; and the sheriff upon the receipt of such writ, shall cause publication to be made of the same at the court house in the county, and some other of the most public places within the same county ; and also cause a notification of such adjournment, and the time to which it is made, to be posted up at or near the said court house and other public places as aforesaid, to the intent that unnecessary travel, charge and attendance of all persons concerned, may be prevented ; and the sheriff shall return such writ with his doings thereon into the clerk's office of such court ; and all pleas, writs, actions, suits, processes, precepts, recognizances and other things whatsoever, returnable or hav-

ing day in said court, shall stand, abide and continue unto the said adjournments, and be holden, deemed and adjudged to be as good, effectual and available in law, to all intents, constructions and purposes, as if such court had been holden and kept on the day appointed by law for holding the same, and no adjournment thereof had been made.

SEC. 38. If the supreme court or court of common pleas shall not be holden at the time appointed by law for holding the same, or to which the same may be adjourned, as by this act provided, all the business of every kind and nature that might have been pending at such court shall be heard, proceeded upon and determined at the next term of such court, in the same manner as it might have been heard, proceeded upon and determined at the term which was to have been but was not holden as aforesaid.

SEC. 39. The foreman of any grand jury which may be empanelled shall have full power and authority to administer all necessary oaths and affirmations to witnesses who may be examined before the grand jury of which he is foreman.

SEC. 40. Each grand and petit juror, before his acting as such, shall take the oath herein prescribed: the oath to the grand jurors shall be as follows: You severally and solemnly swear, (or affirm,) that, as members of the grand inquest for the body of the county of \_\_\_\_\_ you shall diligently inquire and true presentment make of all such crimes and misdemeanors cognizable by this court as shall come to your knowledge; the state's counsel, your fellows' and your own, shall keep secret; shall present no person for envy, hatred or malice; neither shall you leave any person unrepresented, for love, fear, favor, affection or hope of reward; but you shall present things truly, as they come to your knowledge, according to the best of your understanding; so help you God; or, this affirmation you make and give upon peril of the penalty of perjury. The oath of the petit jurors in a criminal case shall be as follows: You swear, (or affirm,) that you will well and truly try, and true deliverance make, between the state of Rhode-Island and Providence Plantations and the prisoner (or defendant) at the bar, according to law and the evidence given you; so help you God; or, this affirmation you make and give upon peril of the penalty of perjury. The oath of the petit jurors in civil cases shall be as follows: You swear, (or affirm,) that in all cases between party and party that shall be committed to you, you will give a true verdict therein, according to law and the

evidence given you: so help you God; or, this affirmation you make and give upon peril of the penalty of perjury.

SEC. 41. Any inhabitant of any town shall be a competent witness in any cause, either civil or criminal, in which the town to which he belongs, or in which he may own any taxable estate, shall be interested, as well for as against such town; *provided* he hath no other interest in such cause than as an inhabitant of such town, or as owning an estate therein, and is not otherwise legally disqualified.

SEC. 42. No judge of any court or justice of the peace shall sit in judgment, in any cause brought to any court by appeal, in which he shall have before given judgment in chief, on trial, as a judge or justice.

SEC. 43. The clerks of the several courts shall, in the record of every judgment, recite the substance of the declaration and pleadings in such case; and whenever, by accident, neglect or otherwise, any clerk may have failed to record the proceedings of the court of which he is clerk, in any cause pending before them, said court may direct the acting clerk to record said proceedings, upon such evidence as may seem satisfactory to them; giving notice to the parties interested or their attorneys, whenever they may deem it proper from the circumstances of the case.

SEC. 44. No execution shall be issued on any judgment rendered by the supreme court or by any court of common pleas until the expiration of five days next after the rising of the court at which such judgment shall be rendered; and every execution issued from either of the said courts shall be made returnable to the next succeeding term thereof, and shall be returned by the officer charged therewith, within five days from the day appointed by law for the sitting of the court from whence it issued; and if such officer shall not return the same within that time, he shall be liable therefor, as by law prescribed: *provided, however*, that the supreme court are hereby authorized and empowered, in their discretion, on motion, to direct execution to issue, in due form of law, upon any judgment rendered by said court, at any time during the term of the court at which such judgment shall be rendered; with the same effect as if said execution had issued five days after the rising of said court.

SEC. 45. The representatives of one jointly bound with another, for the payment of any debt, or for performance or forbearance of any act, or for any other thing, and dying in the life time of the latter, may be charged, by virtue of such obligation, in the same manner as such representative might

have been charged, if the obligors had been bound severally, as well as jointly; *provided, however*, that the plaintiff shall first pursue the surviving debtor to final judgment and execution.

SEC. 46. No judgment rendered against a part only of the defendants in an action upon a joint contract, shall be a bar to any future action on said contract against such of the defendants upon whom or whose estate the writ in the original action may not have been served.

SEC. 47. All persons appealing from any judgment rendered by any of the courts of common pleas to the supreme court, upon any bond for money or upon any promissory note for money, or upon any bill of exchange against the acceptor thereof, whether interest be expressed to be payable in the same or not, shall pay down the costs of the court of common pleas and give bond to prosecute the appeal so made; and if the appellee in such case shall recover therein at the supreme court, he shall also recover double costs at such supreme court, and also double interest on the debt from the day of the judgment of the court of common pleas appealed from, to the time of the final trial in the supreme court: *provided, however*, if the supreme court on such final trial shall be satisfied that such appellant had reasonable ground of defence, and that such appeal was not solely for delay, they shall allow only single interest from the day of the judgment of the court of common pleas appealed from to the time of such final trial, with single costs.

SEC. 48. All original writs in which the plaintiff is not an inhabitant of this state shall, before the service of such writ, be endorsed by some sufficient person who is an inhabitant of the state; and in any case the court or justice of the peace before whom the same is pending may, upon motion of any defendant, upon cause shown, require the plaintiff to procure another or a sufficient endorser; and upon his neglecting to comply with such order, such case shall be dismissed with costs for the defendant.

SEC. 49. Every such endorser shall be liable, in case the plaintiff make not his plea good, to pay all costs that shall be awarded against the plaintiff: *provided*, suit be brought therefor within one year after final judgment in such suit.

SEC. 50. All actions and suits, as well in law as in equity, which concern the realty or any easement therein, or possession thereof; all actions of trespass for breaking and entering the close of the plaintiff, and all other actions in which title to real estate may be tried and determined, shall be brought and tried in the county in which the land lies; all other actions

and suits shall be brought and tried in the county where the plaintiff or defendant, or some one of them if there be more than one plaintiff or defendant, shall dwell, if the plaintiff or defendant or any one of them, if there be more than one plaintiff or defendant, dwell in this state, or in that county in which the defendant or some one of them if there be more than one, shall be arrested. But if neither plaintiff nor defendant shall dwell in this state, such actions may be brought and tried in any county. Actions commenced by or against corporations established in this state shall be brought and tried in the county in which such corporation was located by its charter, if there be any such location ; if not, then in the county in which the annual meetings of such corporation are required to be holden, or are actually holden, or in which the other party dwells ; actions commenced by or against corporations established out of this state shall be brought and tried in any county in this state ; all actions commenced contrary hereto, except as in the next succeeding section provided, shall be abated.

SEC. 51. All actions commenced on any promissory note in the name of an assignee or endorsee against the original promisor, shall be commenced in the same county wherein such action ought by law to have been commenced if no assignment or endorsement of such note had been made ; and no more costs shall be taxed, in any such action, than would, by law, be taxable, if the same had been commenced in the name of the original promisee.

SEC. 52. The plaintiff or appellant in every civil cause in the supreme court or any court of common pleas, shall pay to the clerk thereof the sum of five dollars, for the trial of each issue tried separately to a jury in every such cause before the verdict on such issue shall be recorded ; and the sum of two dollars and fifty cents for each cause which shall be opened to a jury, and disposed of without a verdict being rendered ; to be paid by the clerks respectively into the general treasury.

SEC. 53. Every judgment rendered by the supreme court or any court of common pleas, for debt or damages to the amount of twenty dollars, shall draw interest on such debt or damages, from the time of its rendition to the time of its discharge.

SEC. 54. The clerks of said courts shall note on the margin of every execution the time when the judgment recited in the same was rendered ; also, whether the execution was awarded against the defendant, in any suit brought against

him for trespass or other injuries attended with force, or for any malicious injury to the person, health, liberty or reputation of the plaintiff in the suit, and whether the cause of action accrued before the fifteenth day of June, one thousand eight hundred and thirty nine.

SEC. 55. Every sheriff, deputy sheriff and town sergeant, charged with the service of any execution issued by either of said courts, for twenty dollars or upwards, debt or damages, shall levy, collect, receive and pay over, interest on the same debt or damages, from the date so entered on the margin, up to the time of its discharge by him.

SEC. 56. Every judgment shall be entered as of the last day of the term in which it is rendered, unless there is an express order of the court for the entry thereof on some other day; in which case the day shall be noted by the clerk on his docket.

SEC. 57. Executions, original or alias, may be issued at any time within six years from the rendition of the judgment originally, or from the return day of the last execution.

SEC. 58. The supreme court and courts of common pleas shall have power to divide or apportion between the parties in a suit pending, the fees of surveyors and other persons performing services therein by direction of the court.

*An Act establishing and regulating Fees.*

**SECTION**

1. Fees of certain officers stated, to wit:  
Supreme Court,  
Court of Common Pleas,  
Secretary of State,  
Attorney General,  
Clerks of Supreme Court,  
Clerks of Court of Common Pleas,  
Justices of the Peace,  
Courts of Probate,  
Town Clerks,  
Public Notaries,  
Sheriff and Constables.
2. Officers serving process to indorse their fees thereon.

**SECTION**

3. Witnesses to leave certificates of attendance or lose their fees.
4. Strict conformity required to this act in taxation of costs.
5. In suits for or against a firm, one only to be allowed for travel and attendance.
6. Petitioners for benefit of insolvent act to pay prison fees when discharged from jail.
7. Fees of sheriffs, &c. in criminal matters before justices of the peace.—Of justices of the peace.

*It is enacted by the General Assembly, as follows:*

SECTION 1. The fees of the several officers herein after named, for the services herein after enumerated, shall be as follows :

*Justices of the Supreme Court.*

For every writ granted out of term,	\$0 25
For examining every bill of costs,	10

For every judgment, order or decree on any petition, or in any cause in equity, made in vacation, by a single justice,	\$1 00
For every mile's travel from the residence of the jus- tice to the clerk's office or place of hearing, To be paid, in the first instance, by the applicant for the same, and to be taxed in the bill of costs in the cause.	08
For examining every applicant for relief under the act entitled "An act for the relief of poor persons imprisoned for debt,"	50

*Courts of Common Pleas and the Justices thereof.*

For the entry of every action, petition and complaint,	1 00
For the entry of every special court action, if answer be filed and the justices meet,	3 00
But if no answer be filed,	1 00
For examining every applicant for relief under the act entitled "An act for the relief of poor persons im- prisoned for debt,"	50
For examining and allowing every bill of costs,	10
For receiving complaint against any turnpike road, and issuing notice thereon,	1 00
For every day spent in examining a turnpike road, To be paid by complainant in the first instance.	2 00

*The Secretary of State.*

For receiving and allowing a bond,	15
For all copies, for every page of two hundred words,	10
For searching records, by the hour,	10
For making a certificate and affixing seal of the state where the state is not a party,	1 00
For examining and allowing every bill of costs on pe- titions to the general assembly,	10
For each petition entered in the senate,	12
For each petition filed in the office,	10
For the continuance of every petition, each term,	10
For recording votes on petitions, for every page of two hundred words,	10
For every citation or notice,	25
For every writ of execution issued by him,	25

*The Attorney General.*

For every indictment drawn which shall be found by the grand jury,	1 50
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For the argument of every indictment within the exclusive jurisdiction of the supreme court, in which issue is joined in law or in fact,	\$5 00
For the argument of every other indictment in which issue is joined in law or in fact,	4 00
For attending the general assembly, the supreme courts and the courts of common pleas, by the day,	1 00

*Clerks of the Supreme Court.*

For the entry of every writ, action or petition,	25
For all copies of every lawful page of two hundred words,	10
For every writ,	25
For searching records, by the hour,	10
For attending the court, by the day,	50
For subpoena in equity,	75
For writ and rule to referees,	52
For acknowledging satisfaction of judgment upon record,	10
For taxing and examining every bill of costs,	12
For recording return of partition, for every page of two hundred words,	10
For all civil actions, if disposed of the first term,	2 00
For every continuance,	1 50
For all suits in equity, same as in civil actions, with the addition of ten cents for recording every page of two hundred words.	
For all petitions, except for the benefit of the insolvent act, if disposed of the first term,	2 00
For every continuance,	1 00
For indictment, within the exclusive jurisdiction of the supreme court, if disposed of the first term,	6 00
For every continuance,	2 50
For every other indictment, if disposed of the first term,	4 00
For every continuance,	2 00
For every petition for the benefit of the insolvent act, if disposed of the first term,	1 50
For every continuance,	50
For every recognizance, if disposed of the first term,	1 00
For every continuance,	50

*Clerks of Courts of Common Pleas.*

For every nil dicit,	75
For every answered action, if disposed of the first term,	1 25
For every continuance,	1 00



For every appeal, if disposed of the first term,	\$1 25
For every continuance,	1 00
For every petition, if disposed of the first term,	1 25
For every continuance,	1 00
For every indictment, if disposed of the first term,	3 00
For every continuance,	2 00
For every recognizance, if disposed of the first term,	76
For every continuance,	50
For certified copies, for every page of two hundred words,	10
For searching the records, by the hour,	10
For every writ of execution,	25
For every other writ, other than a summons to voucher,	15
For every summons to voucher,	50
For writ and rule to referees,	52
For every appeal bond,	10
For taxing and examining every bill of costs,	12
For attending court, by the day,	50
For recording partition, for every page of two hundred words,	10
For recording deputations and revocations of deputations, by the sheriff, for every page of two hundred words,	10

*Justices of the Peace.*

For rendering judgment in any civil case in which no answer is filed, and no appearance of the defendant entered, and for recording the judgment,	90
For trial of every civil case and recording judgment,	1 00
For examination of any person accused of a crime beyond the jurisdiction of a justice to determine, excluding mittimus or recognizance,	1 25
If more than one day is employed, for every day after the first,	75
For trial of any person accused of crime within the jurisdiction of a justice, excluding mittimus,	1 00
If more than one day is employed, for every day after the first,	50
No additional fee to be charged or taken if more than one person is included in the same process, if all be tried or examined at the same time.	
For every writ of execution,	16
For every mittimus in a criminal case,	25
For every recognizance taken for the appearance of a party or witness at a higher court, and recording the same,	30

For entering a rule of court, issuing commission, receiving report and recording same,	\$1 00
For every appeal bond,	10
For all copies, for every page of two hundred words,	10
For taking the acknowledgment to any instrument of one or more persons at the same time,	12
For engaging every officer,	12
For examining every applicant for relief under the act entitled "an act for the relief of poor persons imprisoned for debt,"	50
For every warrant issued not served, to be paid by complainant in cases where recognizance is given to prosecute,	25
For every writ in a civil case upon which no judgment is rendered,	25
Fees for taking depositions by any officer, for every page of two hundred words,	20
For every mile's travel to the place of caption,	08
For every hour necessarily employed,	25

*Courts of Probate.*

For the probate of every will, granting letters testamentary thereon, and allowing bond of executor to return an inventory,	1 00
For the probate of every will, granting letters testamentary thereon, and allowing bond of executor to pay debts and legacies: in addition to the foregoing the same per cent. on the amount of the personal property of the testator as would be payable if an inventory had been returned: such amount to be ascertained by the examination of the executor under oath.	
For the filing of every will proved out of the state,	1 00
For granting letters of administration on an intestate estate and allowing bond of the administrator,	1 00
For every warrant to appraisers, and engaging appraisers,	25
For receiving and allowing an inventory, and engaging the executor, administrator or guardian exhibiting the same, when the amount thereof shall be less than one hundred dollars,	25
If amounting to one hundred dollars and not exceeding five hundred dollars,	50
If amounting to five hundred dollars and not exceeding one thousand dollars,	1 00

If over one thousand dollars, one tenth of one per cent., not exceeding in any case,	\$50 00
For allowing an account of an executor, administrator or guardian, and engaging the person exhibiting the same,	75
For granting letters of guardianship over a minor or other person,	50
For granting a warrant for dividing real estate or assigning dower, and engaging the persons appointed therein,	1 00
For receiving and allowing a division of real estate, or assignment of dower,	50
For every decree on petition for sale of real estate, giving instructions and approving bond,	50
For each decree, judgment or order, other than as above,	25

*Town Clerks.*

For registering and copying, for every page of two hundred words,	10
For receiving and filing a certificate of attachment of real estate,	10
For receiving and filing an account under the lien law,	10
For recording every certificate of marriage,	05
For recording every birth or death,	05
For every certificate of the qualification of a voter,	10
For drawing bond and license for keeping tavern, retailing liquor or other purpose,	50
For allowing a discharge of a mortgage on the record,	25
For receiving an appeal bond and filing the same,	10
For taking bond and issuing letters testamentary, of administration or of guardianship,	50
For every warrant to commissioners to set off dower or make partition,	50
For warrant or citation,	20
For drawing probate of a will or codicil, decree of acceptance or allowance of an inventory, commissioners' report, account or guardians' list of debts,	25
For searching records, by the hour,	10
For every summons for witnesses,	06
For engaging officers and taking the acknowledgment of instruments, same as justices of the peace for the same services.	

*Public Notaries.*

For noting a marine protest,	\$1 00
For drawing and extending such a protest and recording same,	1 50
For taking affidavits,	25
For noting any note, bill of exchange, order or check, for non-payment or non-acceptance,	25
For every notice more than one,	10
For travel of more than one mile, per mile,	08
For extending a protest for the non-acceptance or the non-payment of a note, bill of exchange, order or check, and recording the same,	75
For engaging officers, same as justices of the peace.	
For taking the acknowledgment of any instrument and affixing his seal,	25

*Sheriffs—in civil cases.*

For serving a writ, citation, subpoena or monition, by arrest, by leaving a copy, by reading the same to the party to be served, or by attaching real estate, if not more than one mile from the place of appearance,	30
If the damage laid in the writ served by arrest or attachment is over five hundred dollars, one twentieth of one per cent. for all sums over.	
If more than a mile,	22
If by attachment of personal property,	50
And for every hour after the first actually employed in making a schedule of the property attached,	20
For taking bail, whether by bond or endorsement,	12
For committing a person on mesne process,	30
For committing a person on execution,	70
For serving all executions where the money due thereon is collected and does not exceed four dollars,	30
If above four and not exceeding seven dollars,	40
If above seven and not exceeding twenty dollars,	60
If above twenty and not exceeding fifty dollars,	1 00
If above fifty and not exceeding one hundred dollars,	1 50
If above one hundred and not exceeding two hundred,	2 00
If above two hundred dollars, one per cent. ; none of the less sums to be included in the greater.	
For serving an execution by levy on, or attachment of real estate,	30

For serving an execution by levy on, or attachment of personal estate, the same as for serving a writ by attachment of like property.	
For delivering possession of lands while actually employed, by the day,	\$1 00
For advertising real or personal estate to be sold at auction,	50
For advertising every adjournment of same,	50
For selling at public auction real or personal estate, if one hundred and fifty dollars or under, two per cent.	
If over one hundred and fifty dollars and under three hundred dollars, one and one-half per cent.	
On all sums over three hundred dollars, one per cent., to be computed on the amount of the sales; and none of the less sums to be included in the greater.	

*In criminal cases.*

For serving a warrant or capias and conveying the prisoner to court, if not more than one mile,	60
For committing a prisoner to any jail or to the state prison,	70
For travel with a prisoner in custody to county jail or to the state prison, per mile,	20

*Other Fees.*

For the copy of any writ or process, not to be charged unless actually given, for every two hundred words,	10
For serving a summons on a witness, if not more than one mile from the place of appearance,	12
For travel per mile to serve a summons or writ, to be computed from the place where the same is returnable; and if more than one person is named therein, the travel shall be computed from the place of service which shall be nearest, adding thereto the extra travel which shall be necessary to serve it on the others,	08
For attending a justice's court, by the day, in a civil case,	25
For attending a justice's court, by the day, in a criminal case,	50
For attending the supreme court or any court of common pleas, by the day,	1 00
Deputy sheriffs, town sergeants and constables shall be allowed the same fees as sheriffs for the same services.	

*Jailers.*

For taking custody of each prisoner committed to his custody, whether on civil or criminal process,	\$0 25
For discharging every such prisoner, and entering the same on the jail book,	25
For each bond for the liberty of the jail yard, drawn and furnished by the jailer,	25
For board of state prisoners and others, by the week,	1 00

*Other fees to be allowed in court.*

For the writ and declaration in every civil cause entered in the supreme court or any court of common pleas,	1 00
For every bill in equity,	5 00
For attorney or counsel's fee in the court of common pleas,	1 00
For same in the supreme court,	2 00
For answer to every bill in equity,	5 00
Only one to be taxed, even if more than one are filed, if the defence be joint.	
For the attendance of every witness before the supreme court or court of common pleas, by the day,	80
For his travel, per mile,	08
For attendance and travel of a witness before any other tribunal, including giving depositions, per day,	40
Travel, per mile,	04
For the attendance of the party, in a civil cause, recovering judgment, by the day,	12
For the travel of the same, per mile,	04
Only two days' attendance to be taxed in a nildicit case.	

SEC. 2. Every officer who shall serve any process, civil or criminal, shall endorse thereon the several items which constitute the amount of his fees ; and on failure thereof the same shall not be taxed in any bill of costs, nor be recoverable by law.

SEC. 3. Every witness, previous to his obtaining any fees except the amount which in certain cases must be tendered to him before he can be compelled to attend, shall give a certificate to the clerk of the court or justice of the peace wherein or before whom his attendance shall be given, certifying the number of days he shall have attended, and the number of

miles he shall have travelled, in pursuance of a summons issued for that purpose ; which certificate shall be subject to the examination of the court or justice, and such allowance shall be made thereon as shall be lawfully due. Unless such certificate shall be filed within four days after the rising of such court, no more fees shall be taxed for his attendance and travel than shall appear by the return on the summons to have been tendered to him, nor shall they be recoverable of the party that summoned him.

SEC. 4. Every person appointed and empowered to tax and allow costs shall conform strictly to this act, and shall disallow and reject all unlawful fees.

SEC. 5. In all civil actions brought by or against a firm, company or copartnership, and where there is a joint cause of action, or joint defence, costs for travel and attendance of one only of the parties recovering judgment shall be taxed.

SEC. 6. Whenever any petitioner for the benefit of the act entitled "an act for the relief of insolvent debtors" shall, on the reception of his petition, be liberated from jail on condition that he give bond to return again in case the prayer thereof should not be granted, or he be discharged from jail by the court upon the granting of his petition, he shall, before his liberation from jail, pay to the jailer in whose custody he may be, the sums which may be due to said jailer on account of his prison fees, and other incidental charges which may have accrued on such commitment.

SEC. 7. The attendance and fees of sheriffs, deputy sheriffs, town sergeants and constables, in criminal process issued by a justice of the peace, and of justices of the peace in criminal and civil cases, shall be as before in this act prescribed. In case other or greater fees are claimed in any criminal case, they shall be presented to the general assembly for allowance. A reasonable allowance may be made by any court or justice of the peace to any person employed by any officer as aid in the service of any process, when the same shall be adjudged necessary, by such court or justice, not exceeding in any case one dollar per day to each person employed as aid.

*An Act in relation to Bail in Civil Actions.*

## SECTION

1. Sheriffs, &c., to let persons arrested on writs, &c., in civil actions, to bail.
2. Bail, how taken.
3. Bail, how discharged.
4. Defendant committed, how bailed, if out of the county of Providence.
5. Defendant committed, how bailed, if in the county of Providence.
6. Principal surrendered by bail to court, to be committed.
7. Creditor to take debtor committed on mesne process in execution within limited time, or debtor to be discharged.

## SECTION

8. Scire facias to go against bail from court issuing execution, after execution against principal is returned unsatisfied.
9. Scire facias to be taken out from court common pleas on justices' execution if the debt, cost and interest exceed 20 dollars.
10. Limitation of suit against bail.
11. Death of principal before return day of execution against him, discharge of bail.
12. Bail's remedy against principal.

*It is enacted by the General Assembly, as follows :*

SECTION 1. Every sheriff, deputy sheriff, town sergeant and constable, who shall arrest any person by virtue of any writ or mesne process in a civil action, shall let the person so arrested to bail, upon his giving sufficient surety, in manner by this act prescribed, for his appearance at the court to which such writ or process shall be returnable, and to abide the final judgment which shall be rendered thereon.

SEC. 2. He who becomes bail for any person shall give bond to the sheriff, if the writ or process shall be served by the sheriff or his deputy ; and if the writ or process shall be served by a town sergeant or constable, the bail bond in such case shall be given to the officer serving the same ; or the person becoming bail as aforesaid may endorse his christian and surname on the back of the writ or process, which shall hold him as bail, for all the purposes mentioned in this act.

SEC. 3. Any person who shall become bail as aforesaid may discharge himself as bail, either by bringing his principal into court where the original writ or process shall be pending, and there delivering him into the custody of such court ; or by committing his principal, at any time before final judgment shall be rendered against such bail on scire facias, to the jail in the county in which he became bail, or in which the original writ was returnable ; paying the cost, if any, which may have accrued on a writ of scire facias against him as bail, and leaving with the keeper of such jail a certified copy of the original writ and the officer's return thereon, and giving to the plaintiff, if in this state, or his agent or his attorney of record, notice in writing, of the time and place of such commitment, within six days after making the same ; or by bringing his principal into the court where the writ of scire facias against him as bail shall be pending, before final judgment



shall be rendered thereon ; paying the costs on such writ of scire facias, and delivering his principal into the custody of said court.

SEC. 4. Any person who shall be committed to jail in any county, except the county of Providence, by virtue of an arrest on any writ or mesne process in any civil action, or by surrender of former bail in the same action, as herein provided, shall be let to bail or to new bail, as the case may be, in manner as before provided, at any time before the rendering of final judgment on the original writ on which the arrest was made.

SEC. 5. Any person who shall be committed to jail in the county of Providence, on any writ or mesne process in any civil action, or by surrender of former bail in the same action, may be let to bail or to new bail, as the case may be, by the keeper of said jail, or by the officer who served the process, at any time before final judgment shall be rendered on the writ on which the arrest was made, upon his giving sufficient surety for his appearance at the court to which such writ is returned, and to abide the final judgment which shall be rendered thereon. In case bail be taken by said keeper the person becoming bail shall give bond to said keeper in a penal sum equal to the damages laid in said writ ; but if bail be taken by the officer who served said writ, the person becoming bail shall give such bond to such officer, or may endorse his christian and surname on the back of said writ or process, which shall hold him as bail, as in other cases.

SEC. 6. If the principal shall be surrendered by his bail to the court in which the original writ or process is pending, he shall be by said court committed to jail, and there remain to be taken in execution or to be discharged in the same manner as though committed for want of bail in the first instance ; and he shall remain in jail in like manner if committed by his bail before final judgment be rendered on such original writ or process. If he shall be committed after such final judgment he shall there remain for the space of thirty days. If surrendered by his bail to the court before which scire facias is pending against the bail, he shall be by said court committed to jail, there to remain for the space of thirty days from such surrender.

SEC. 7. If the creditor shall not take in execution the principal who is committed in the first instance for want of bail, or who is surrendered to the court in which the original writ or process is pending and by said court is committed, or who is committed by his bail before final judgment shall be

rendered on such original writ or process, within thirty days after he shall have obtained final judgment against him, or within thirty days after he shall have been committed by his bail, after such final judgment, or within thirty days after he shall have been surrendered in court by his bail, during the pendency of a writ of scire facias against the bail, in all and either of such cases the said principal shall be discharged from jail upon paying prison fees.

SEC. 8. When the principal shall avoid, so that his goods and chattels cannot be found to satisfy the execution, nor the body found to be taken thereby, the plaintiff in the original writ may sue out his writ of scire facias against the bail, from the same court wherein final judgment was rendered against the principal, returnable to the term of the court which shall commence next after twenty days after such writ shall be served; and in case no legal cause be shown to the contrary, judgment shall be given against the bail for the debt or damages and costs recovered against the principal, with interest and costs, and execution shall be awarded accordingly.

SEC. 9. The plaintiff in any suit wherein judgment shall be rendered at any justices' court, and the amount of debt, cost and interest due upon said judgment shall exceed twenty dollars, may be entitled to his writ of scire facias against the bail from the court of common pleas in the county in which such judgment shall be rendered; upon which writ the proceedings shall be the same, in all respects, as if the judgment had been rendered in said court of common pleas.

SEC. 10. No writ of scire facias shall be served upon the bail unless it be within two years next after the entering up of final judgment against the principal: *provided, however*, that if by reason of the absence of the bail from the state, service of the writ of scire facias cannot be made within the time before mentioned, the said writ may be served at any time within two years next after the return of the bail into the state.

SEC. 11. The death of the principal before the return day of the execution against him shall discharge his bail.

SEC. 12. The bail may have remedy by action on the case against his principal for all damages sustained by his becoming bail as aforesaid.

*An Act in relation to Jurors.*

## SECTION

1. What persons liable to serve as jurors.
2. Who exempted.
3. Jurors to be drawn by town council.—Manner of proceeding.
4. Same subject—persons drawn, if excusable, &c.
5. Persons drawn to be notified by town-sergeant or constable when to attend.
6. Jurors for supreme court to be first drawn, &c.
7. Number of grand and petit jurors to be drawn in the several counties.
8. Penalty on council for neglect of duty.

## SECTION

9. Penalty on officer for neglect.
10. Courts may issue writs of venire.
11. Penalty on juror for non-attendance, &c.
12. Fines and penalties, how collected.
13. Jurors' fees.
14. Jurors' person and estate protected.
15. No cause of challenge that juror belongs to town which may be benefited by penalty in dispute.
16. Party knowing objection to juror shall state it before jury is empannelled, &c.

*It is enacted by the General Assembly, as follows :*

SECTION 1. All persons who are qualified to vote upon any proposition to impose a tax, or for the expenditure of money in any town, shall be liable to serve as jurors, except as is herein after provided.

SEC. 2. The following persons shall be exempted from serving as jurors, viz : the governor, lieutenant governor, attorney general, justices of the state and United States courts, clerks of courts, sheriffs, deputy sheriffs, town sergeants and constables, the marshal of the district and his deputies, ministers of the gospel, practising attornies, physicians and surgeons, president, professors, tutors, librarian, registrar and students of Brown University, cashiers of banks, school-masters, town clerks, revenue officers of the United States, one ferry-man to each ferry who usually navigates the boat, post-masters, post-riders, one miller to each grist-mill who usually tends the same, the keepers of asylums for the poor in the several towns, all persons over sixty-five years of age, all members of the fire engine, hydraulion, hose and fire-hook and ladder companies in the city of Providence, all members of similar companies in other towns which shall be elected members thereof by such towns, and all members of private incorporated companies for similar purposes in other towns, who shall be exempted by their several charters, so long as such persons continue members of such companies.

SEC. 3. The town council of each town shall in the month of April in every year make a list of such persons inhabiting the town, not exempted as aforesaid, as they shall think well qualified to serve as jurors, being persons of good moral character, of sound judgment, and free from all exceptions. The name of each of these persons shall be written on a separate piece of paper and placed in a box provided for that purpose

by each town, which box shall be delivered to the town clerk, to be by him kept locked. The town council of each town shall at a meeting thereof, not more than six weeks previous to each term of the supreme court and court of common pleas in the county, draw from said box the names of so many persons as such town is or shall be required to send for grand and petit jurors to such court.

SEC. 4. When the name of any person who is sick, out of the state, or exempted from serving as a juror, shall be drawn out, it shall be returned again into the same box and another drawn in his room. In case any drawn juror shall be excused by the court for which he is drawn, on the first or second day of the term, the clerk of such court shall, as soon as may be, give notice thereof to the town clerk of the town from which he came, and his name shall be returned into the same box. The names of all persons drawn as jurors, except as aforesaid, shall be put into another box provided for that purpose by each town, and kept locked by the town clerk, until the names in the first box shall be all drawn out, when the whole shall be returned into the first box.

SEC. 5. Immediately upon drawing jurors for any court the town council of each town shall issue a notification, under the seal of the council and hand of the clerk, to the persons so drawn, designating therein who are grand and who are petit jurors, and requiring them, except as is herein after provided, in the name of the state to attend the court for which they are drawn jurors, at a day and hour named therein, which shall be nine of the clock in the forenoon of the second day of the term; which notification shall be served by the town sergeant or one of the constables of such town, six days at least before the time at which they are required to appear, by reading the same in the presence and hearing of each of said persons, or by leaving a true and attested copy thereof at his last and usual place of abode; which notification when served shall be returned by the officer serving the same to the clerk of the court for which such jurors were drawn, before or at the opening of said court on the second day thereof; and the said sergeant or constable shall be paid twenty-five cents out of the town treasury for warning each person.

SEC. 6. When jurors for the supreme court and for the court of common pleas are to be drawn at the same session of the council, those for the supreme court shall be first drawn, and grand jurors shall be drawn before petit jurors.

SEC. 7. There shall be drawn in the county of Newport for the supreme court, when holden in said county, and for the court of common pleas in said county, thirteen grand jurors and sixteen petit jurors, that is to say; by the town of Newport, four grand and six petit jurors; Portsmouth, two grand and three petit jurors; Jamestown, one grand and one petit juror; Middletown, two grand and two petit jurors; Tiverton, two grand and two petit jurors; Little-Compton, two grand and two petit jurors, for each of said courts. There shall be drawn in the county of Providence, thirteen grand and twenty-four petit jurors, that is to say; Providence, one grand and five petit jurors; Smithfield, three grand and four petit jurors; Scituate, one grand and three petit jurors; Glocester, one grand and two petit jurors; Cumberland, one grand and two petit jurors; Cranston, two grand and two petit jurors; Johnston, one grand and two petit jurors; North-Providence, one grand and two petit jurors; Foster, one grand and one petit juror; and Burrillville, one grand and one petit juror, for each of said courts. There shall be drawn in the county of Washington, thirteen grand and sixteen petit jurors, that is to say; Westerly, two grand and two petit jurors; North-Kingstown, two grand and two petit jurors; South-Kingstown, four grand and four petit jurors; Charlestown, one grand and two petit jurors; Exeter, two grand and two petit jurors; Richmond, one grand and one petit juror; Hopkinton, one grand and two petit jurors, for each of said courts. There shall be drawn in the county of Bristol, thirteen grand and thirteen petit jurors, that is to say; Bristol, seven grand and six petit jurors; Warren, three grand and four petit jurors; and Barrington, three grand and three petit jurors, for each of said courts. There shall be drawn in the county of Kent, thirteen grand and fifteen petit jurors, that is to say; East-Greenwich, four grand and three petit jurors; Warwick, three grand and five petit jurors; West-Greenwich, three grand and two petit jurors; and Coventry, three grand and five petit jurors, for each of said courts.

SEC. 8. Any town council who shall neglect to make a list of persons liable to do duty as jurors, as provided in the third section of this act, or shall neglect to draw jurors as provided in the said section of this act, or shall neglect to issue a notification to persons drawn as jurors, as required in the fifth section of this act, or shall draw as a juror any person exempted from serving as juror, according to the second section of this act, shall forfeit for each and every offence, the sum of twenty dollars for the use of the state.

**SEC. 9.** Any officer charged with any notification to any persons drawn as jurors, who shall neglect to serve and return the same according to the provisions of the fifth section of this act, shall forfeit for each and every offence, the sum of twenty dollars for the use of the state.

**SEC. 10.** The supreme court and the court of common pleas, in term time, may issue writs of venire for additional jurors, whenever it shall be found necessary for the convenient despatch of their business; such writs to be served and returned, and the jurors required to appear at such times as shall be prescribed in such writs.

**SEC. 11.** Any person who shall be notified to attend any court as a juror, as prescribed in the fifth section of this act, or who shall be returned on any venire in pursuance of the tenth section of this act, and who shall not attend as therein required, or shall afterward absent himself, or neglect to appear according to the directions of the court, shall forfeit for every offence, the sum of twenty dollars for the use of the state.

**SEC. 12.** All fines incurred by jurors and persons returned or notified as jurors, under this act, shall be levied and collected by warrant of distress from the court, directed to the sheriff or his deputy, of the county in which such person dwells or his estate is to be found. All other fines and penalties imposed by this act shall be recovered by complaint or information before the court for which the jurors were, or should have been drawn.

**SEC. 13.** Each grand and petit juror who shall attend the supreme court or any court of common pleas shall be allowed one dollar per day for his attendance thereon, and four cents per mile for his actual travel going, and four cents per mile returning, if over one mile. If either of said courts shall adjourn or dismiss all the jurors summoned and attending for one day or more, exclusive of Sundays, the jurors shall be allowed travelling fees at the above rate; and, in the discretion of the court, they shall be allowed for their travel and attendance whenever the general assembly shall by special act adjourn any court, if they attend in pursuance of their notification without knowing of such adjournment.

**SEC. 14.** The person and estate of every drawn juror attending any court in this state, shall be free and exempt from all process in any civil action during the sitting of the court for which he was drawn, if not dismissed before, and for three days before the time he was required to appear, and for the three days next after he is discharged. Jurors taken on ve-

nire and attending court shall enjoy the same exemptions from the time they shall be required to appear, until the expiration of the three days after they shall be discharged. The service of all process contrary hereto shall be absolutely void.

SEC. 15. In complaints, indictments and penal actions, for the recovery of any sum of money or other thing forfeited, it shall not be cause of challenge to a juror that he resides or is liable to pay taxes in any town which may be benefitted thereby.

SEC. 16. If a party know of any objection to a juror before the jury are empannelled in his cause, and omits to suggest it to the court, he shall not afterwards make the same objection, unless upon express leave of the court.

*An Act authorizing and regulating the taking of Depositions.*

SECTION

1. Who may take depositions.
2. Governor may appoint a commissioner in each of the United States to take depositions.
3. Depositions taken before such commissioners of same effect as though taken by an officer in this state.
4. Commissioners before acting as such to file in secretary's office, in this state, a certificate of their being sworn on their commissions.
5. Adverse party to be notified how, when and in what manner, before any deposition shall be taken.
6. Depositions how to be taken and returned.
7. Adverse party to be notified when depositions are taken within 100 miles of place where court sits.
8. Depositions when taken according to this act to be used by party taking them, or other party may use copies of them.

SECTION

9. Depositions unduly taken not to be used as evidence.
10. Depositions taken out of the state, how and by whom to be taken in order to be used as evidence.
11. Supreme court and court of common pleas may grant commissions to take testimony.
12. Judges of supreme court and court of common pleas may take depositions in perpetual memory to be used in certain cases.
13. Formalities to be observed in taking depositions in perpetual memory.
14. Depositions taken during sitting of court not to be used as evidence, if taken within 100 miles.
15. Depositions may be taken to be used out of the state by any commissioner appointed for that purpose.

*It is enacted by the General Assembly, as follows :*

SECTION 1. It shall and may be lawful for any justice of the supreme court, justice of the court of common pleas, justice of the peace or public notary, to take the deposition of any witness to be used in the trial of any civil suit or action in which he is not interested, nor of counsel nor the attorney of either party, and which shall then be commenced or pending in this state or in any other state or government.

SEC. 2. The governor may appoint in each of the United States one or more commissioners under the seal of this

state, to continue in office during the pleasure of the governor, for the time being; who shall have power to administer oaths and to take depositions and affidavits to be used in this state; and also to take the acknowledgment of any deed or other instrument, to be used or recorded in this state.

SEC. 3. All oaths administered by such commissioners, and all affidavits and depositions taken by them, and all acknowledgments aforesaid certified by them, shall be as effectual in law, to all intents and purposes, as if done and certified by any judge, justice of the peace or public notary within this state.

SEC. 4. Before any commissioner appointed as aforesaid shall proceed to perform any of the duties of his office, he shall take and subscribe an oath before any justice of the peace or other officer authorized to administer oaths in the state for which such commissioner is appointed, that he will faithfully discharge all the duties of his office; a certificate of which shall be filed in the office of the secretary of this state within six months after the taking of the same.

SEC. 5. It shall be the duty of every justice or notary, previous to the taking of any deposition as aforesaid within this state, to cause the adverse party, if residing in this state, or within one hundred miles of the place of caption, or in case of his absence his attorney, to be notified of the time and place appointed for taking the same, and that he may attend and put interrogatories to the deponent if he think fit; and the notification shall be issued by the justice or notary who shall take such deposition, and shall be directed to any proper officer or to any impartial and disinterested person; and shall be served a reasonable time, not less than twenty-four hours, before the time of taking such deposition. And the officer or other person charged as aforesaid with such notification, shall serve the same by reading it to the party to be cited, if to be found, and if not to be found, by leaving a copy thereof at his usual place of abode; and shall in his return state the hour of the day when the service was made; and when such service shall be made by any person other than a sworn officer, he shall verify the same under oath before some justice or notary.

SEC. 6. Every person before deposing shall be carefully examined, cautioned and sworn to testify the truth, the whole truth, and nothing but the truth. He shall subscribe the testimony by him given after the same shall be reduced to writing, which shall be done only by the justice, notary or commissioner taking the deposition, or by the deponent in his



presence; and the deposition so taken shall be retained by such justice, notary or commissioner, until he deliver the same with his own hand to the court for which it is taken, or shall, together with a certificate of its having been duly taken, be by said justice, notary or commissioner, sealed up and directed to such court, and remain so sealed until opened in court; and any person may be compelled to appear and depose as aforesaid within this state, in the same manner as to appear and testify in court.

SEC. 7. In the taking of all depositions without the limits of this state and within one hundred miles of the place where the court shall sit in which such depositions are to be used, it shall be the duty of the party causing such depositions to be taken, to notify the adverse party or his attorney of the time and place appointed for taking the same; and such notification issued by any justice or notary in this state shall be served in the manner herein before provided, such reasonable time before the taking of such depositions as will give the adverse party a full opportunity to be present in person, or by attorney, and put interrogatories to the deponent if he thinks fit.

SEC. 8. The deposition of any person taken pursuant to this act shall be used as evidence in the trial of any cause in which it shall have been taken to be used; and if the party that took the same shall neglect to produce and use it, the adverse party may use in such trial a copy of such deposition, certified by the magistrate before whom it was taken, with the same effect as if the original deposition had been produced and used by the party taking the same.

SEC. 9. If any witness shall be induced to go out of this state in order that his deposition may be taken without the adverse party's having due notice, the deposition of such witness taken by such undue means shall not be used or admitted as evidence in any court in this state.

SEC. 10. Depositions taken without this state to be used in the trial of any cause pending in any court in this state, shall be received as evidence, unless such depositions are taken in the manner in the preceding section mentioned: *provided*, such depositions shall be taken with the formalities required by the law of the state or country in which the same shall have been taken, or before some commissioner appointed in pursuance of the second section of this act, or by some judge, chancellor or other civil magistrate of such state or country, in conformity to the provisions of this act.

SEC. 11. The supreme court of this state or either of the courts of common pleas on the motion of either party in any

civil suit pending therein, shall be authorized to grant a commission to take depositions according to common usage, when it may be necessary to prevent a failure or delay of justice.

SEC. 12. Any justice of the supreme court or any justice of any court of common pleas, as well before as after the commencement of any civil suit or action, on application, shall be authorized to take depositions in perpetuum rei memoriam; which depositions in case of the death of any deponent, his becoming non compos mentis, his absence from this state or inability to attend, may be used as evidence in any court in this state against any person who shall have had due notice of the taking of such deposition, his heirs, executors, administrators or assigns.

SEC. 13. The same formalities shall be observed in taking depositions in perpetuum rei memoriam, as in taking other depositions. The justice taking any such deposition shall seal up and direct the same to the clerk of the supreme court in the county in which some one of the persons notified of the taking of the same shall reside; which clerk on receiving such deposition so directed and sealed up, upon payment of legal fees for recording as in other cases, shall open and record the same, and the certificate of the caption thereof, in a book to be specially kept for that purpose; noting on said deposition the time when he received it, and the page of the book in which it is recorded; after which he shall deliver the original deposition to the party who took it: and no such deposition, not so recorded, shall be received as evidence in any court in this state, unless the same shall be opened in such court.

SEC. 14. No deposition taken within one hundred miles of the place of trial shall be used on the trial of any cause in any court in this state, which shall have been taken during the sitting of the court before which the cause may be pending, unless the same shall be taken by order of such court.

SEC. 15. Depositions may be taken in this state, to be used on the trial of any cause pending in any other state or government, by any person residing in this state, to whom a commission shall be directed and sent by such court, with such formalities as shall be prescribed in such commission, or as are prescribed in this act.

*An Act to establish the limits of the several jail yards.*

## SECTION

1. Limits of the jail yard in the county of Newport.
2. County of Providence.
3. County of Kent.

## SECTION

4. County of Bristol.
5. County of Washington.
6. Including all the lands and buildings within said limits.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The jail limits in the county of Newport shall be as follows: beginning at the south end of Washington street; thence northerly along the salt water to the street north of Fort Greene called Pine street; thence easterly along the north side of said Pine street to Third street; thence southerly along the east side of said Third street to Walnut street; thence easterly along the northerly side of said Walnut street to Farewell street; thence southerly along the easterly side of Farewell street to Warner street; thence easterly along the northerly side of said Warner to Spruce street; thence southerly along the easterly side of said Spruce street to Tanner street; thence easterly along the northerly side of said Tanner street to equality tree, standing on the intersection of Tanner and Broad streets; thence south westerly along the easterly side of said Broad street to Bull street; thence easterly along the northerly and easterly side of said Bull street to Catharine street; thence easterly along the northerly side of said Catharine street to Fir street; thence southerly along the easterly side of said Fir street to Beach road; thence westerly along the southerly side of said Beach road to a street running southerly from said Beach road, west of Job and Joseph Tew's rope walk; thence southerly along the easterly side of said street to the southerly end thereof; thence westerly to Bellevue street, now East Touro street; thence southerly along the easterly side of said East Touro street, late Bellevue street, to Perry street; thence westerly along the southerly side of said Perry street to Spring street; thence southerly along the easterly side of said Spring street to the northerly contemplated road to run westerly through the land of the heirs of William Lee, on the southerly side of said contemplated road, to Thames street; thence westerly in the same direction to the salt water; thence northerly along the salt water so as to embrace within said northerly line all the wharves and docks, and fifty feet west of the heads of said wharves, to the place of beginning.

SEC. 2. The jail limits in the county of Providence shall be as follows: beginning at the southerly line of Hopkins

street, on the easterly side of South Main street; thence running easterly on the southerly line of Hopkins-street to the westerly line of Benefit street; thence easterly directly across Benefit street to the easterly line thereof; thence northerly on the easterly line of Benefit-street to a point directly opposite to the northerly line of Star street; thence westerly directly across Benefit street to the northerly line of Star-street; thence westerly on the northerly line of Star-street to the easterly line of North Main street; thence westerly directly across North Main street to the westerly side thereof; thence southerly on the westerly line of North Main street to the northerly line of Smith street; thence westerly on the northerly line of Smith-street to the north-easterly corner of Shingle bridge, so called; thence westerly to the north-westerly corner thereof; thence northerly six feet to the north line of Smith street; thence on the northerly line of said Smith street, north seventy-five degrees west, forty-one rods, to the corner of Alexander Duncan's lot, west side of Davis-street; thence north seventy-seven and a half degrees west, on the north side of Smith-street fifty-four rods; thence north fifty-four and a half degrees west, fifteen rods, to North-Providence line; thence south thirty-two degrees west to Four stack meadow, to low water mark; from thence a straight line to the south-west corner of the wall on the south side of the state prison lot; thence on the south side of the wall to the south-east corner of the state prison lot; thence north eighty-two and a half degrees east, to a jog in the wall on Canal-street, a little south of the canal basin; thence southerly on the line of the caplogs on the westerly side of Canal street to the platform of the fish-market; thence around and including the fish-market and the platform thereof, to the south-westerly corner of said fish-market; thence in a straight line to the north-westerly corner of the wooden side-walk on the easterly side of the river between the two bridges; thence southerly on the westerly side, and including said side-walk, and in a line with the side-walk till it meets the caplog on the south-easterly corner of the bridge in South Water street; thence southerly on the westerly line of the wooden side-walk and the caplogs on the westerly side of South Water street, to a point directly opposite to the north-west corner of the brick store late occupied by William Blodget and company; thence easterly directly across South Water street to the north-west corner of the said store; thence easterly on a southerly line of a gangway to the westerly line of South Main street;

and thence on a straight line to the first mentioned bound, on the easterly side of said South Main street.

SEC. 3. The jail limits in the county of Kent shall be as follows: beginning at the north-east corner of the Wanton Casey dwelling-house, situated on the main street in the village of East-Greenwich; thence southerly, bounded by the buildings on the west side of said main street, to the street which runs west, next north of the state house; thence westerly, on the north side of the said street, until a south line will strike a wall on the west side of said state house lot; thence southerly and easterly, by a wall and fence enclosing said lot, to the north-east corner of the house owned by Eleanor and Amy Fry; thence southerly, bounded by the buildings on the west side of said main street, to the south-east corner of the dwelling-house lately owned and now occupied by Clark Brown; thence easterly across the street or highway, to the north-west corner of Thomas Bateman's land; thence easterly on said Bateman's land until it comes to the north-east corner thereof; thence east to the salt water, at low water mark; thence northerly on the said salt water at low water mark, to the south-east corner of the wharf owned by Pierce Salisbury and company; thence northerly by the plate of said wharf to the north-east corner thereof; thence northerly on a straight line to the south-east corner of the wharf owned formerly by Ethan Clarke, deceased; thence northerly by the plate of said wharf to the north-east corner thereof; thence northerly on a straight line to the south-east corner of the wharf now owned by Pierce Salisbury and company; thence northerly by the plate of said wharf to the north-east corner thereof; thence on a straight line to the south-east corner of the wharf now owned by Christopher Hawkins; thence northerly by the plate of said wharf to the north-east corner thereof; thence on a straight line to the north-east corner of the wharf owned by Ezra Pollard and company; thence northerly and easterly on said salt water at low water mark so far as that a west line will strike a whitish rock at high water mark, called Coon rock; thence west to the east side of the track of the rail-way of the New-York, Providence and Boston rail road company; thence southerly by said east side of said rail road track to the highway dividing Warwick from East-Greenwich; thence westerly, bounded by the fence and wall on the north side of said highway, to the south-west corner of Arnold Weaver's dwelling-house, standing on or near the dividing line of said towns; thence on a straight line to the south-east corner of John G.

Mawney's dwelling-house ; thence southerly on a straight line to the first mentioned bound.

SEC. 4. The jail limits in the county of Bristol shall be as follows : to comprehend all the lot of land whereon the jail stands, the land leading thereto from Hope street, John street, and all those parts of Thames, Hope and High streets, included between the north line of State-street and the south line of Church-street ; and all those parts of State and Church-streets included between the west line of Thames street and the range of the front of the public buildings standing on the common, so called, near the east line of said High street ; also the court house, Episcopal, Baptist and Methodist churches.

SEC. 5. The jail limits in the county of Washington shall be as follows : beginning on the south-west corner of a lot of land occupied by Thomas P. Wells ; thence northerly to the north-west corner thereof ; thence easterly along the northerly side thereof and the north line of land of Robinson & Anthony, and around land late John G. Clarke's, and a lot of Dr. Thomas A. Hazard, to the high-way, and straight across said highway ; then by the east line of the road to the north-west corner of a lot occupied by Jesse Babcock ; then around said lot, and land of John N. Reynolds', to the other highway and straight across the same ; then along the south side thereof, going around and including the house formerly of John P. Case, and the yard attached to it, to said highway again ; then along the south side thereof to the lot of Jeremiah S. Sherman ; then around said lot to lot of John H. Clarke, and around said lot to the land that John T. Nichols bought of William H. Case, and land of Luke Aldrich, to the highway and across the same ; then by the west line thereof to Christopher Gardner's lot ; then along said lot and around and along the south side of the lot late belonging to the shoe company, and the lot late occupied by Lewis Jansen, and from the south-west corner of said last mentioned lot to the south-east corner of Matthew Waite's lot ; then along the south line of said lot and the village lots to the south-west corner of the jail lot ; thence as the wall that runs south of the tan-yard lot to the factory road, and northerly by the east line thereof to the highway leading west from Kingston village ; thence to the place of beginning.

SEC. 6. Said jail limits shall respectively include all the lands and buildings within the bounds aforesaid.

*An Act for the relief of poor persons imprisoned for debt.*

**SECTION**

1. Person imprisoned for want of bail, &c. may be allowed the liberty of the yard on bond—condition of bond.
2. Damages for breach of condition of bond.
3. Narragansett Indians within the act.
4. Surety in bond may surrender his principal—who shall be recommitted; surety discharged.
5. Prisoner giving bond may go into private and public buildings, &c. within the limits—trespasses not authorized thereby.
6. Limitation of action on bond.
7. Person committed on execution to have liberty of yard, not exceeding thirty days, unless he assigns his estate for benefit of creditors.
8. Person imprisoned for debt, &c. may apply for his discharge—proceedings on such application.
9. Creditor or his attorney to be notified.
10. Justice may administer the oath prescribed—applicant to make an assignment to jailer for benefit of creditors.
11. Form of the oath to be administered.
12. Any person imprisoned as aforesaid may avail himself of the act.
13. Justices shall grant certificate—form of.
14. Jailer to assign to creditor all the property received by him under section ten.
15. Persons excepted from the provisions of the act.

**SECTION**

16. Who deemed the creditor within meaning of section eight.
17. Clerks and justices to note cause of action on execution—officer also—in case of omission jailer not liable.
18. Under what circumstances debtor may have a second citation.
19. Court before which action is pending may administer to defendant the oath prescribed in section eleven, in certain cases.
20. Same subject.
21. Same subject.
22. Same subject.
23. Same subject.
24. Defendant in execution, who if committed would be entitled to benefit of oath prescribed in section eleven, may before commitment apply therefor.
25. Same subject.
26. Same subject.
27. Defendant to make assignment before oath shall be administered.
28. Debts contracted before the act goes into operation not affected by nine preceding sections.
29. Prisoner presenting to jailer certificate prescribed in section thirteen shall be discharged from commitment—debt not discharged—proceedings consequent thereon.
30. Justice may adjourn the hearing on citation, from time to time.
31. Bond, &c. for ease of prisoners, void.

*It is enacted by the General Assembly, as follows:*

**SECTION 1.** Whenever any person shall be imprisoned for want of bail in any civil action; or upon surrender or commitment by bail in any such action; or on execution in any civil action, (except on executions awarded in actions on penal statutes or on bonds given in pursuance of this section, or in any actions of trover, detinue or trespass, other than trespass quare clausum fregit, in which title to the close was in dispute between the parties, and trespass and ejectment;) or for non-payment of any military fine or town or state taxes, the sheriff or keeper of the jail may grant to such person a chamber or lodging in any of the houses or apartments belonging to such prison, and liberty of the yard within the limits thereof, upon reasonable payment to be made for chamber room; such prisoner first leaving with such sheriff or keeper of the jail, a bond to the creditor with two or more sufficient sureties being inhabitants of this state, bounden jointly and severally, in double or not less than double the

sum for which he is imprisoned, with condition in form following, viz: "That if the above                      now a prisoner in the jail in                      within the county of                      at the suit of                      do and shall from henceforth continue and be a true prisoner in the custody, guard and safe keeping of                      keeper of the said prison, and in the custody, guard and safe keeping of                      his deputy, officers and servants, or some one of them, within the limits of the said prison, until he shall be lawfully discharged, without committing any manner of escape or escapes, during the term of his or her restraint, then this obligation to be void, or else to remain in full force and virtue."

SEC. 2. If the creditor shall obtain judgment on such bond for the breach of the condition thereof, he shall recover his just debt with interest from the time judgment was rendered in the original suit, and twelve per cent. interest on such debt for his damages; and the court shall render judgment thereon accordingly.

SEC. 3. Any one of the Narragansett tribe of Indians committed to jail for debt, upon mesne process or execution, shall be considered as a poor prisoner, within the true intent and meaning of this act, notwithstanding such prisoner may have estate, real or personal, in common with the said tribe or otherwise; and shall be entitled to and may receive all the benefits and advantages hereof.

SEC. 4. Any person who shall become surety in any bond given by any debtor for the liberty of the jail yard as aforesaid, shall have a right at any time to deliver up the principal in said bond to the sheriff of the county in which such debtor may have been committed, or to the keeper of the jail therein, and within such jail; whereupon he shall be detained by such sheriff or keeper in close prison, in the same manner as though he had not been liberated on bond, until he shall give other bond according to this act, or be otherwise discharged according to law; and none of the sureties, after the principal has been delivered up as aforesaid, shall be liable for any escape thereafter committed by the principal aforesaid.

SEC. 5. Any person confined in any jail who may hereafter give bond for the liberty of the yard pursuant to this act, may and shall be at liberty thereafter to pass over any highway or into any houses, lands or tenements or public buildings within the exterior limits of the yard, as they are or shall be established by law; and to abide and remain therein without being deemed to have committed an escape or to have forfeited such bond: *provided, however,* that nothing herein con-



tained shall be construed to authorize any trespass upon the property or possession of the owner or tenant of any such houses, lands or tenements whatever.

SEC. 6. No action shall be hereafter maintained for the breach of any bond given for the liberty of the jail yard as aforesaid, unless the same be brought within one year from and after such breach committed.

SEC. 7. No person committed on execution shall have the liberty of the prison yard for more than thirty days after his commitment, unless he shall within the said thirty days execute an assignment of all his estate of every kind not exempted from attachment by law, and wherever the same may be, to some citizen of this state, his heirs and assigns, in trust for the equal benefit of all his creditors in proportion to their demands. And if any person so committed shall neglect to render himself to the keeper of the jail in said jail within said thirty days, or make an assignment as herein before provided, he shall be deemed to have committed an escape under his bond for the liberty of the prison yard.

SEC. 8. Whenever any person who shall be imprisoned for debt, whether on mesne process or execution, or for non-payment of any military fine, or town or state taxes, or on execution awarded against him as defendant in any action of trespass and ejection, or trespass quare clausum fregit, in which title to the close was in dispute between the parties, shall complain to any justice of the supreme court or to any justice of the court of common pleas, or any justice of the peace of the county where such person shall be committed, that he hath no estate, real or personal, wherewith to support himself in prison, or to pay prison charges, and shall request the privilege and benefit prescribed by this act, such justice shall forthwith issue a notification to the creditor, if within this state, or if such creditor does not live within this state, then to his agent or attorney on record within this state, to appear at such time and place as the said justice shall appoint, to shew cause, if any he hath, why the person complaining as aforesaid should not have the benefit of this act.

SEC. 9. The notification referred to in the next preceding section shall be served on the creditor, his agent or attorney as aforesaid, seven days at least before the time appointed as aforesaid, by reading the same to him; or by leaving an attested copy at his last and usual place of abode, by the sheriff, his deputy or either of the town sergeants or constables in the county in which such creditor, his agent or attorney shall reside.

SEC. 10. Any justice of the supreme court or any justice of the court of common pleas of the county where such person shall be committed, and any justice of the peace in the said county who shall be disinterested, are hereby empowered, at the time and place appointed as aforesaid, to examine the return of said notification ; and if it shall appear to have been duly served, to administer the oath herein after prescribed to the party imprisoned as aforesaid, if after fully examining the prisoner under oath, and hearing the parties, the said justices shall think it proper so to do : *provided* such applicant shall then and there first make and execute a deed of assignment of all his estate of every kind, except what is exempted from attachment by law, and wherever the same may be, to such keeper and his successor in his said office and his assigns in trust, for the benefit of all his creditors in proportion to their respective demands.

SEC. 11. The oath to be administered in such a case shall be as follows : I do solemnly swear, (or affirm,) that I have not any estate, real or personal, in possession, remainder or reversion, over ten dollars ; and that I have not since the commencement of this suit against me, or at any other time, directly or indirectly, sold, leased or otherwise conveyed or disposed of to, or entrusted any person or persons whomsoever with, all or any part of the estate, real or personal, whereof I have been the lawful owner or possessor, with any intent or design to secure the same, or to receive, or to expect any profit or advantage therefrom, for myself or for any of my children or family or any other person ; or have caused or suffered to be done any thing else whatsoever, whereby any of my creditors may be defrauded : so help me God : or, this affirmation I make and give upon peril of the penalty of perjury.

SEC. 12. Any person imprisoned as aforesaid shall be allowed to avail himself of the provisions of this act, if he will make oath as aforesaid, that he hath not any estate, real or personal, in possession, remainder or reversion, except what is exempt from attachment by law ; and the said justices are hereby authorized to vary the form of the oath aforesaid accordingly.

SEC. 13. The oath above described, being administered by said justices and taken by said prisoner, the said justices shall deliver him a certificate thereof, under their hands and seals, in the following form, viz :

To                                    keeper of the jail at                                    in the county  
of                                    We, the subscribers, authorized by the statute in

such case made and provided, do certify, that a poor prisoner confined upon mesne process, (or otherwise as the case may be,) in the prison at aforesaid, hath caused the party at whose suit he was so confined, to be notified according to law, of his the said desire of taking the benefit of an act entitled "an act for the relief of poor persons imprisoned for debt;" that in our opinion the said hath not any estate, either real or personal, except what is exempt from attachment by law, sufficient to support himself in prison; and that he hath not conveyed or concealed his estate with design to secure the same to his own use, or to defraud his creditors; and that we have, after due caution to the said administered to him the oath, (or affirmation,) prescribed in the act aforesaid. Witness our hands and seals this day of A. D.

{ Justice of the supreme court, or  
 { Justice of the court of common  
 { pleas, of the county of  
 Justice of the peace.

SEC. 14. No keeper of any jail receiving an assignment under the tenth section of this act shall be held responsible to any person for any property of any assignor, except such as he has actually received into his possession: *provided* he shall assign all the interest he shall obtain thereby to the committing creditor on his request; to be held by such creditor, his heirs, executors, administrators and assigns, for the purposes and trusts set forth in said deed. No person who has been admitted to take the oath prescribed in the eleventh section of this act shall be retained in jail for the prison fees, or for the fees of the justices before whom he may have taken such oath.

SEC. 15. No person who shall be committed on execution awarded against him as plaintiff in replevin, or as defendant in any action on a penal statute, or in any action of trover or detinue, or for any malicious injury to the person, health or reputation of the plaintiff in such suit, or for breach of promise of marriage, or for seduction, or for any trespass excepting only such as are particularly named in the eighth section of this act, shall be deemed to be within the meaning of the provision of that section or entitled to any benefit therefrom.

SEC. 16. The person to whom the debt appears by the process to belong at the time complaint is made shall be

deemed the creditor within the meaning of the eighth section of this act.

SEC. 17. It shall furthermore be the duty of any justice of the peace and the clerk of any court issuing an execution against any person, to note on the margin thereof the cause of action on which the same issued; to the end that the keeper of the jail may ascertain whether such person, if committed, be entitled to the liberty of the jail yard; and it shall be the duty of any officer committing any person to jail on such execution to note in his commitment the cause of action on which the execution is founded, according to the note or memorandum of the justice of the peace or clerk; and if no such memorandum be made by such justice or clerk on any execution, or if the officer shall not note the same in his commitment, the keeper of the jail shall be held harmless if he permit the person committed to have the liberty of the jail yard, or discharge him on his producing a certificate of having taken the oath herein before prescribed.

SEC. 18. If a debtor takes out a citation to his committing creditor and has the same served and subsequently withdraws the same, or if upon trial he shall not be admitted to take the oath prescribed in the eleventh section of this act, he shall not be entitled to another citation to the same creditor unless on proof of some change of circumstances after the taking out of the first citation; which change of circumstances shall be annexed to or recited in the second citation and form a part thereof.

SEC. 19. The court before which any action is pending for the recovery of any debt or demand for which the defendant if committed to jail therein would be entitled to the benefit of the oath mentioned in the eleventh section of this act, may administer the said oath to the defendant as herein after mentioned.

SEC. 20. The defendant in such case may apply to any justice of the peace in the county in which he resides for a citation to the creditor to appear at the court in which such action is pending, to shew cause why the defendant should not be allowed the benefit of said oath.

SEC. 21. Such citation shall be served by any sheriff, deputy sheriff, town sergeant or constable, at least four days before the time therein appointed for taking said oath, by reading the same to the plaintiff or by leaving an attested copy thereof at his last and usual place of abode in this state; and such citation shall be returned to the court in which such action is pending. If the plaintiff do not reside in this state,

service of said citation may be made in like manner upon the agent or attorney of record of the plaintiff in this state.

SEC. 22. If it appear to the court in which the said action is pending that notice has been given as before provided, said court shall examine the defendant on his oath concerning his estate and effects and the disposal thereof, and may also receive any other evidence offered by the defendant or the plaintiff; and upon such examination, the court may in its discretion administer to the defendant the said oath.

SEC. 23. If said oath be administered, the execution which may be issued against the defendant in said action shall run against the goods and chattels or real estate of the defendant, and not against his body.

SEC. 24. Any defendant in any execution who would if committed to jail thereon be entitled to the benefit of the oath mentioned in the eleventh section of this act, may apply in the manner herein before mentioned, for a citation to his creditor to shew cause why he should not be allowed the benefit of said oath; such citation shall be served in the same manner as is required in the twenty-first section of this act.

SEC. 25. Upon the return of any such citation, any justice of the supreme court, or any justice of the court of common pleas in the county in which such defendant is liable to be imprisoned, and any justice of the peace in said county, may administer the said oath to the defendant, if upon examination of the defendant on oath, and of such other evidence as either party may produce, they may think proper.

SEC. 26. If the defendant be allowed to take the said oath, he shall thereafter be exempted from imprisonment on said execution or any future execution that may be issued on said judgment; and execution on said judgment may issue against the goods and chattels or real estate of the said defendant.

SEC. 27. Before the said oath shall be administered to any defendant under this act, he shall first make an assignment of all his estate, real and personal, not exempted from attachment by law, to some responsible inhabitant of this state, his heirs and assigns, in trust for the benefit of all his creditors, in proportion to their demands.

SEC. 28. Nothing contained in the nine preceding sections shall affect any debts contracted before this act takes effect.

SEC. 29. Whenever any prisoner shall present such a certificate as is prescribed in the thirteenth section of this act, to the keeper of the jail in which he is imprisoned, such

keeper shall forthwith discharge him from his commitment at the suit of the creditor named therein. Neither the commitment of the prisoner nor his discharge shall be a satisfaction of the debt for which he was committed. If committed on execution, the plaintiff may take out another execution, which shall not however run against the body of the defendant: if suit be brought on the judgment; execution in such suit shall not run against the body of the defendant, nor shall the defendant be held to bail on the writ in such case. If the defendant be committed on mesne process, when he receives a certificate as aforesaid, if that fact be shown by plea to the court or justice before whom the action is pending, then execution shall not issue against the body of the defendant; but in no case shall the real estate be attached, unless the defendant at the time of such attachment be absent from this state or concealed therein.

SEC. 30. It shall and may be lawful for any justice of the supreme court, or any justice of the court of common pleas, or any justice of the peace of the same county, who shall be present at the time and place to which any citation in behalf of any poor prisoner issued under the provisions of this act shall be duly returned, in the absence of another magistrate, to adjourn the hearing thereon to any other time or place, as he may think proper, with the same effect as if another justice were present.

SEC. 31. If any sheriff, deputy sheriff, town sergeant, constable or keeper of any jail, shall take or receive from any prisoner in his custody, any bond, obligation, covenant, promise or assurance whatever, to indemnify and save harmless the person taking the same, for the enlargement or ease of such prisoner, in any other form or manner than is prescribed by law for taking bail on mesne process in a civil action, or is prescribed in this act, every such bond, obligation, covenant, promise or assurance whatever, shall be utterly void.

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*An Act relative to Writs of Habeas Corpus.*

## SECTION

1. Who entitled to writ of habeas corpus.
2. Who not entitled to such writ.
3. Application for writ of habeas corpus made to supreme court or any justice thereof—what facts shall be set forth on such application.
4. Form of writ.
5. When issued by the court to be signed by the clerk.

## SECTION

6. Court adjourning after writ issued, writ to be returned to some justice of the court.
7. If party be in the custody of an officer, he to pay expense of bringing him before court, to be determined by the court and certified on the writ.
8. Writ to be returned by person to whom it is directed, within three days.

## SECTION

9. What the return shall set forth.
10. Return shall be signed and be under oath.
11. Body of the party to be brought before court when writ is returned.
12. If party be so sick that he cannot be brought into court, examination to be adjourned.
13. Causes of restraint to be examined into by court, as soon as writ is returned.
14. Notice to be given to person interested to detain party, if within certain distance.
15. If party be imprisoned for crime, notice to be given to attorney general or the complainant.
16. Return on the writ may be controverted at the examination.
17. If no legal cause for restraint be apparent, party shall be discharged.
18. If restrained for a cause bailable of right, he shall be bailed.
19. If committed for want of bail in a civil action, amount of bail may be reduced if unreasonable.
20. If not entitled to be enlarged, party shall be remanded.
21. Examination may be continued from day to day, and party remanded or put under keepers.

## SECTION

22. Penalty for refusing to give a prisoner a copy of the process by which he is detained.
23. Person refusing to obey a writ of habeas corpus directed to him, to be attached to compel obedience to it.
24. Attachment issued against a sheriff to be directed to some town sergeant or other person.
25. Upon refusal to obey a writ of habeas corpus, process to be issued to some officer to bring the party restrained.
26. Penalty for refusing to obey writ of habeas corpus.
27. Penalty for transferring custody of person named in habeas corpus to elude service of such writ.
28. Recovery of penalties no bar to action for false imprisonment.
29. No person enlarged on habeas corpus to be restrained for same cause.
30. Power of supreme court to bail for any cause not affected by this act.
31. Person committed for want of bail in a criminal matter, to be bailed by any justice of court of common pleas or justice of the peace.
32. Power of courts to issue habeas corpus to bring before them any person as a witness, not affected by this act.

*It is enacted by the General Assembly, as follows :*

SECTION 1. Every person imprisoned in any common jail, or otherwise restrained of his liberty, by any officer or other person, except in cases mentioned in the following section, may prosecute a writ of habeas corpus, according to the provisions of this act, to obtain relief from such imprisonment or restraint, if it shall prove to be unlawful.

SEC. 2. The following persons confined in any jail shall not be entitled of right to demand and prosecute said writ:

*First.* Persons convicted of treason against this state, murder, rape, robbery, arson, burglary, or as accessories before the fact in either of those crimes, or committed on suspicion of being guilty of either of those crimes, or as accessories thereto before the fact, when the cause is plainly and specifically expressed in the warrant of commitment.

*Secondly.* Persons convicted, or in execution upon legal process, civil or criminal.

*Thirdly.* Persons committed on mesne process in any civil action on which they were liable to be arrested and imprisoned, unless when excessive and unreasonable bail is required.

SEC. 3. Application for such writ shall be made to the supreme court, if in actual session in any county, and if not,

to any justice of said court, by complaint in writing, signed by the party for whose relief it is intended, or by some person in his behalf, setting forth,

*First.* The person by whom, and the place where, the party is imprisoned or restrained; naming the prisoner and the person detaining him, if their names are known, and describing them if they are not known.

*Secondly.* The cause or pretence of such imprisonment or restraint, according to the knowledge and belief of the person applying.

*Thirdly.* If the imprisonment or restraint is by virtue of any warrant or other process, a copy thereof shall be annexed, or it shall be made to appear that a copy thereof has been demanded and refused, or that for some sufficient reason a demand of such copy could not be made; and

*Fourthly.* The facts set forth in the complaint shall be verified by the oath of the person making the application, or by that of some other credible witness; which oath may be administered by the court or justice to whom the application is made, or by any justice of the peace or public notary.

SEC. 4. The court or justice to whom such complaint shall be made shall, without delay, award and issue a writ of habeas corpus; if against any sheriff, or deputy sheriff of this state, or against the keeper of any jail or prison in this state, or against any marshal or deputy marshal of the United States, it shall be substantially of the following form:

The State of Rhode-Island and Providence Plantations.

[SEAL.]                      sc.                      To                      greeting :  
 We command you, that the body of                      of  
 in our prison, in your custody, (or by you imprisoned and restrained of his liberty, as the case may be,) as it is said, together with the day and cause of his taking and detaining, by whatsoever name the said                      shall be called or charged, you have before our supreme court, holden at                      within and for the county of                      immediately after the receipt of this writ, to do and receive what our said court shall then and there consider concerning him in this behalf; and have there this writ. Witness,                      Esq., at                      this day of                      in the year                      Clerk.

And if not against such officer, it shall be substantially in the following form :



The State of Rhode-Island and Providence Plantations.  
 [SEAL.] SC. *To the sheriffs of our several counties and their  
 deputies,* *greeting:*  
 We command you, that the body of \_\_\_\_\_ of \_\_\_\_\_ by  
 \_\_\_\_\_ of \_\_\_\_\_ imprisoned and restrained of his liberty, as it  
 is said, you take and have before our supreme court, holden  
 at \_\_\_\_\_ within and for the county of \_\_\_\_\_ immediately after  
 the receipt of this writ, to do and receive whatever said court  
 shall then consider concerning him in this behalf; and sum-  
 mon the said \_\_\_\_\_ then and there to appear before our said  
 court, to show the cause of the taking and detaining of the  
 said \_\_\_\_\_ and have you there this writ with your doings  
 thereon. Witness \_\_\_\_\_ at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ in  
 the year \_\_\_\_\_ Clerk.

SEC. 5. When the writ is issued by the supreme court in session, it shall be signed by the clerk and tested like other writs in this state; when issued by a justice, it shall be signed by him.

SEC. 6. If the court to which the writ is returnable shall be adjourned before its return, the return shall be made before any one of the justices of said court. If issued by a single justice and the court shall be in session before its return, he may and shall adjourn the case into court, to be there heard and determined in like manner as if it had been returned into the court.

SEC. 7. If the party is confined in a common jail, or in the custody of any civil officer, the court or justice who grants the writ, shall certify thereon the sum to be paid for the expense of bringing him from the place of imprisonment; and the officer to whom the writ is directed shall not be bound to obey it unless that sum be paid or tendered to him.

SEC. 8. Any person to whom the writ is directed shall receive it, and upon payment or tender of charges, if any demandable for the execution of it, he shall make due return thereof within three days after receiving it.

SEC. 9. If the writ be directed to any sheriff, deputy sheriff, keeper of any jail, marshal or deputy marshal, as herein provided, such officer shall state in his return thereon:

*First.* Whether he has or has not the party in his custody or power, or under restraint.

*Secondly.* If he has the party in his custody or power, or under restraint, he shall set forth at large the authority, and the true and whole cause of such imprisonment or restraint,

with a copy of the writ, warrant or other process, if any, upon which the party is detained ; and

*Thirdly.* If he has had the party in his custody or power, or under restraint, and has transferred such custody or restraint to another, he shall state particularly to whom, at what time, for what cause, and by what authority such transfer was made. If the writ be directed to no such officer, the person summoned shall state the same particulars in writing to the court or justice before whom the writ is returnable.

SEC. 10. The return or statement shall be signed by the person making it, and it shall also be sworn to by him, unless he is a sworn public officer, and shall make the return in his official capacity.

SEC. 11. The person who makes the return or statement, shall at the same time bring the body of the party, if in his custody or power, or under his restraint, according to the command of the writ, unless prevented by the sickness or infirmity of the party.

SEC. 12. When from the sickness or infirmity of the party he cannot, without danger, be brought to the place appointed for the return of the writ, that fact shall be stated in the return ; and if it be proved to the satisfaction of the court or justice, the said court or justice may proceed to the jail or other place where the party is confined, and there make the examination ; or may adjourn the same to another time, or may make such other order in the case as law and justice shall require.

SEC. 13. When the writ of habeas corpus is returned, the court or justice shall, without delay, proceed to examine the causes of the imprisonment or restraint ; but the examination may be adjourned from time, to time as circumstances may require.

SEC. 14. When it appears from the return of the writ or otherwise, that the party is detained on any process under which any other person has an interest in continuing his imprisonment or restraint, the party shall not be discharged until sufficient notice shall have been given to such other person or his attorney, if within the state, or within thirty miles of the place of examination, to appear and object to such discharge if he thinks fit ; which notice shall be given by the party imprisoned, in the manner prescribed by the court or justice ; or in default thereof he shall be remanded to the custody of the person against whom the writ of habeas corpus issued.

SEC. 15. When it appears from the return of the writ or

otherwise, that the party is imprisoned on any criminal accusation, he shall not be discharged until sufficient notice shall have been given to the attorney general, or to the complainant in the matter, that he may appear and object to the discharge, if he thinks fit; which notice shall be given by the party imprisoned, in the manner prescribed by the court or justice; or in default thereof he shall be remanded to the custody of the person against whom the writ of habeas corpus issued.

SEC. 16. The party imprisoned or restrained may deny any of the facts set forth in the return or statement, and may allege any other facts that may be material in the case; and the court or justice shall proceed in a summary way to examine the causes of imprisonment or restraint, and to hear the evidence that may be produced by any person, interested and authorized to appear, both in support of such imprisonment or restraint and against it, and thereupon to dispose of the party as law and justice shall require.

SEC. 17. If no legal cause can be shown for the imprisonment or restraint, the court or justice shall discharge the party therefrom.

SEC. 18. If the party is detained for any cause or offence for which he is bailable, of right, he shall be admitted to bail, if sufficient bail be offered; and if not, he shall be remanded, with an order of the court or justice, expressing the sum in which he shall be held to bail, and the court at which he shall be required to appear; and any justice of the peace may, at any time before the sitting of said court, bail the party pursuant to such order.

SEC. 19. If the party is committed on mesne process in any civil action, for want of bail, and if it shall appear that the sum for which bail is required is excessive and unreasonable, the court or justice shall decide what bail is reasonable, and shall order, that on giving such bail the party shall be discharged.

SEC. 20. If the party is lawfully imprisoned or restrained, and is not entitled to be enlarged on giving bail, he shall be remanded to the person from whose custody he was taken, or to such other person or officer as by law is authorized to detain him.

SEC. 21. Until judgment be given, the court or justice may remand the party, or may bail him to appear from day to day, or may commit him to the sheriff of the county, or place him under such other care and custody as the circumstances of the case may require.

**SEC. 22.** Any officer who shall refuse or neglect, for six hours, to deliver a true copy of the warrant or process, by which he detains any prisoner, to any person who shall demand such copy, and tender the fees therefor, shall forfeit and pay to such prisoner the sum of one hundred dollars.

**SEC. 23.** If any person to whom such writ of habeas corpus shall be directed shall refuse to receive the same, or shall neglect to obey and execute it, according to the provisions of this act, and no sufficient excuse shall be shown for such refusal or neglect, the court or justice before whom the writ is returnable shall proceed forthwith, by process of attachment as for a contempt, to compel obedience to the writ, and to punish the person guilty of the contempt.

**SEC. 24.** If such attachment shall be issued against a sheriff or his deputy, it may be directed to any town sergeant, or to any other person, to be designated therein, who shall have full power to execute the same; and if the sheriff or deputy should be committed upon such process, he may be committed to the jail of any other county than his own.

**SEC. 25.** Upon such refusal or neglect of the person to whom the writ of habeas corpus is directed, the court or justice may also issue a precept to any officer or other person to be designated therein, commanding him to bring forthwith before such court or justice, the person for whose benefit the writ of habeas corpus was issued; and the prisoner shall be thereupon discharged, bailed or remanded, in like manner as if he had been brought in upon the writ of habeas corpus.

**SEC. 26.** Every person guilty of such refusal, or neglect to receive and execute a writ of habeas corpus, shall moreover forfeit and pay to the party aggrieved thereby, a sum not exceeding one thousand dollars.

**SEC. 27.** If any one who has in custody or under his power any person entitled to any writ of habeas corpus, whether any writ has issued or not, shall, with intent to elude the service of such writ, or to avoid the effect thereof, transfer such prisoner to the custody, or place him under the power or control of any other person, or conceal him, or change the place of his confinement, the person so offending shall forfeit and pay to the party aggrieved thereby a sum not exceeding one thousand dollars.

**SEC. 28.** The recovery of any penalty imposed by this act shall not bar any action at the common law for false imprisonment, or for a false return to the writ of habeas corpus, or for any other injury or damage sustained by the aggrieved party.

SEC. 29. No person who has been discharged upon a writ of habeas corpus shall be again imprisoned or restrained for the same cause, unless he shall be indicted therefor, or convicted thereof, or committed for want of bail by some court of record having jurisdiction of the cause; or unless after a discharge for defect of proof, or for some material defect in the commitment, in a criminal case, he shall be again arrested on sufficient proof, and committed by legal process for the same offence.

SEC. 30. Nothing contained in this act shall be construed to restrain the power of the supreme court, or any one of the justices thereof, to issue a writ of habeas corpus at their discretion; and thereupon to bail any person, for whatever cause he may be committed or restrained, or to discharge him, as law and justice shall require.

SEC. 31. When any person is committed to jail on any criminal accusation, for want of bail, any justice of the court of common pleas, or justice of the peace of the same county, may admit him to bail, in like manner as might have been done by the court or magistrate who committed him; and the said justices, respectively, shall have power to issue a writ of habeas corpus, and to cause such prisoner to be brought before them, when it shall be necessary for the purpose expressed in this section.

SEC. 32. Nothing contained in this act shall be construed to restrain the power of any court to issue a writ of habeas corpus, when necessary, to bring before them any prisoner for trial, in any criminal case lawfully pending in the same court; or to bring in any prisoner to be examined as a witness in any suit or proceeding, civil or criminal, pending in such court, when they shall think the personal attendance and examination of the witness necessary for the attainment of justice.

### *An Act concerning Actions of Account.*

**SECTION**

1. Action of account may be sustained by one tenant in common, &c., against his fellow commoner.
2. Defendant may appeal from judgment.
3. Court shall appoint auditors in case of final judgment to account.
4. Defendant neglecting to appear, &c., auditors may award whole demand

**SECTION**

- against him—auditors may administer oaths—party refusing to be sworn may be committed.
5. Court shall render judgment on report of auditors—for costs, &c.
6. Award as conclusive if signed by major part of auditors as if signed by all, if all met.

*It is enacted by the General Assembly, as follows :*

SECTION 1. When two or more persons have and hold any estate, interest or property, whether real or personal, in

common, as joint tenants, tenants in common, coparceners or joint owners, and one or more of the owners of such common property shall take, receive, use or have benefit thereof, in greater proportion than his or their interest therein, such owner or owners, his or their executors and administrators, shall be liable to render his or their account of the use and profit of such common property, to his or their fellow commoner or commoners, jointly or severally; and such the fellow commoner or commoners, or any or either of them, their executors or administrators, may and are hereby authorized to have his or their action of account against such receiver or receivers, or either of them, as his or their bailiff or bailiffs, for receiving more than his or their part or proportion as aforesaid.

SEC. 2. Any defendant in such action may appeal to the next term of the supreme court to be holden in the same county, from a judgment of the court of common pleas against him that he shall account; but if no such appeal be prayed in open court, within two days next after such judgment, the same shall be final.

SEC. 3. Upon rendering final judgment against the defendant in such action that he shall account, the court rendering the same shall appoint not exceeding three auditors; who, upon being sworn by said court or any justice of the peace or public notary, to a faithful and impartial discharge of their duties, shall appoint a time and place to meet the parties in said action, and to take the account as required in said judgment, and give notice thereof to said parties.

SEC. 4. When any defendant shall unreasonably refuse or neglect to appear at the time and place assigned by said auditors, or after appearing shall refuse or neglect to render an account, the auditors may award to the plaintiff the whole of his demand; and it shall be in the power of the auditors to administer an oath to the parties respectively, and to examine them respecting their accounts and the matters submitted to them; and upon either of the parties refusing to take an oath, truly to answer such questions as shall be asked, or to answer directly to the interrogatories put to him, it shall be in the power of the auditors to commit him to jail, there to remain at his own charge until he consent to take such oath and answer such interrogatories.

SEC. 5. When the auditors appointed in any case shall have made their report or award concerning the matters submitted to them to the court from whence they shall have received their appointment, if no legal cause shall be shown for

setting aside such award or report, judgment shall be rendered in conformity thereto, and also for costs, including such reasonable allowance to the auditors for their service as the court shall judge proper to make; and the said compensation to the auditors shall be paid down by the party in whose favor final judgment shall be rendered, before he shall have execution on said judgment.

SEC. 6. A major part of the auditors appointed in any case agreeing and signing said report or award, the same shall be equally binding and conclusive as if agreed to and signed by all of them: *provided always*, that it shall be necessary in order to give validity to such report or award, that all the auditors shall accept of their appointment, and meet on the subject matter thereof.

### *An Act regulating Proceedings in Replevin.*

#### SECTION

1. Goods, &c., attached or detained may be replevied.
2. Form of writ of replevin.
3. Sheriff being party to such writ the same to be directed to and served by a town sergeant in the county.
4. The officer charged with a writ of replevin to take bond before he serves the writ.
5. Defendant dissatisfied with amount or sureties on bond, court may order further bond.
6. Plaintiff neglecting to enter suit, defendant to have judgment for a return and damages, on complaint filed.

#### SECTION

7. Damages in case judgment be rendered on trial for defendant.
8. If plaintiff make good his plea, to have damages of defendant.
9. How judgment shall be rendered if plaintiff make good his plea for part of the goods only.
10. Goods taken on execution or mesne process, how long to be responsible after judgment for a return.
11. Damages recovered by an officer in replevin to enure to the creditor.
12. Form of writ of return.
13. Justice of the peace may issue writs of replevin.

*It is enacted by the General Assembly, as follows:*

SECTION 1. When any goods or chattels of more than twenty dollars value, shall be unlawfully taken or unlawfully detained from the owner or from the person entitled to the possession thereof, and when any goods or chattels of that value, which are attached on mesne process or execution, or warrant of distress, are claimed by any person other than the defendant in the suit or process in which they are attached, such owner or other person may cause the same to be replevied.

SEC. 2. The writ in such case shall be substantially as follows:

The State of Rhode-Island and Providence Plantations.

[SEAL.] *sc. To the sheriffs of our several counties and to their deputies, greeting :*

We command you, that you replevy, if to be found within your precinct, the goods and chattels following, viz: (here enumerate and particularly describe them) belonging to of now taken (detained or attached as the case may be) by of at in the county of and them deliver unto the said provided the same are not taken, attached, or detained upon mesne process, warrant of distress, or upon execution as the property of the said and summon the said that he appear before our court of common pleas next to be holden at within and for the county of on the Monday of to answer unto the said in a plea of replevin; that the said on the day of at said unlawfully, and without justifiable cause, took the goods and chattels of the said as aforesaid, and them unlawfully detained unto this day, (or unlawfully detained the goods and chattels aforesaid, as the case may be,) to the damage of the said as he says, dollars. Hereof fail not, and make true return of this writ with your doings thereon, together with the bond you shall take of the plaintiff.

Witness, Esq. at this day of in the year Clerk.

SEC. 3. If any sheriff or deputy sheriff be party to such suit, then the writ shall be directed to and served by either of the town sergeants in the county in which the same is to be served.

SEC. 4. The officer charged with the service of any such writ shall, before serving the same, take from the plaintiff or from some one in his behalf, a bond to the defendant, with sufficient sureties in double the value of the goods and chattels to be replevied; with condition to prosecute the said writ of replevin to final judgment, and to pay such damages and costs as the defendant in said writ shall recover against him, and also to return and restore the same goods and chattels in like good order and condition as when taken, in case such shall be the final judgment on said writ.

SEC. 5. In case the defendant shall, at any time pending the writ of replevin, be dissatisfied with the amount or the sureties in such bond, the court before which the same shall be pending may, on his motion, and for cause shown, in their discretion, order the plaintiff to give further bond or further



surety ; and if the plaintiff do not comply with said order, his action shall be dismissed, and judgment shall be rendered for the defendant for a return and restoration of the goods and chattels replevied, and for damages and costs, the same as if the plaintiff had neglected to enter his writ of replevin.

SEC. 6. Whenever any plaintiff in replevin shall neglect to enter and prosecute the suit, the defendant may upon complaint have judgment for a return and restoration of the goods and chattels replevied, and damages for the taking, to the amount of six per cent. on the penal sum of the bond, with reasonable costs ; and a writ of return and restoration thereupon accordingly.

SEC. 7. If upon trial of the writ of replevin judgment shall be rendered for a return and restoration, the defendant shall recover for his damages six per cent. on the penal sum of the bond, if such judgment shall be recovered within one year from the date of such writ ; but if such judgment shall be recovered after the expiration of one year from the date of said writ, the defendant shall have for his damages six per cent. per annum on the penal sum of the bond.

SEC. 8. If upon trial of the writ of replevin the plaintiff shall make good his plea, he shall recover of the defendant his reasonable damages for the taking and detention of the goods and chattels and his costs.

SEC. 9. If upon trial of the writ of replevin the plaintiff shall make good his plea for part of the goods replevied, and shall fail to make it good as to the other part, he shall have judgment for his reasonable damages for the taking and detention of the part adjudged to be his, and his costs ; and the defendant shall have judgment for a return and restoration, as provided in the seventh section of this act, for the goods and chattels adjudged to him, with damages, to be estimated as provided in said section, according to the relative value of such part, and all the goods and chattels replevied, with or without cost at the discretion of the court ; but the court before whom such trial shall be had shall in such case set off the damages recovered by each.

SEC. 10. When the goods and chattels replevied shall have been taken on execution or warrant of distress, they shall, in case of a judgment of return and restoration, be held responsible for the space of twenty days after the return thereof ; if on mesne process, until thirty days shall have expired after final judgment thereon, in case judgment shall not then have been given ; but if final judgment on mesne process shall have been given before the return, then for the space of



be kept until he pay the sums aforementioned with your fees, or until he be discharged by the said \_\_\_\_\_ or otherwise by order of law. Hereof fail not, and make true return of this writ and your doings thereon to our next court of common pleas to be holden at \_\_\_\_\_ in our said county of \_\_\_\_\_ on the \_\_\_\_\_ Monday of \_\_\_\_\_ next.

Witness \_\_\_\_\_ Esq. at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ year \_\_\_\_\_ Clerk.

SEC. 13. Justices of the peace shall have power to issue writs of replevin where the goods and chattels to be replevied are of twenty dollars or less in value, if they were taken, attached or detained in the town in which the justice dwells who issues the writ. They are also empowered to try the same and to award execution therein, adhering in their proceedings, as near as may be, to the forms herein prescribed.

### *An Act concerning Waste.*

#### SECTION

1. Tenant for life, &c., committing waste, to forfeit the place wasted.
2. Any joint tenant, &c., committing waste on the estate holden in joint tenancy, &c., to forfeit double the amount of the waste—how to be recovered.
3. Writs of estrepement when and by

#### SECTION

- whom to be issued, to whom directed, and how to be served.
4. Adverse party to be notified before writ of estrepement to be issued.
5. Court issuing writ of estrepement may require bond of the person applying for the same.
6. Writs of estrepement when returnable.

*It is enacted by the General Assembly, as follows :*

SECTION 1. If any person who shall be seized of any real estate for the term of his own life, or for the life or lives of any other person or persons, or as a tenant for years, shall commit or suffer any waste on such estate, he shall forfeit his estate in the place so wasted, and double the amount of the waste so done or suffered; to be recovered in an action of waste by the person entitled to the next estate in remainder or reversion, in the place so wasted.

SEC. 2. If any joint tenant, tenant in common or coparcener, shall commit any waste on any estate by him holden in joint tenancy, tenancy in common, or coparcenary, without the consent of the other joint tenants, tenants in common, or coparceners, he shall forfeit double the amount of the waste so done, to be recovered by the other joint tenants, tenants in common, or coparceners, to their own use; and it shall be lawful for any one or more of the other joint tenants, tenants in common, or coparceners, to commence an action for the same in the name of all the joint tenants, tenants in common,

or coparceners, not named as defendants therein; and if any person named as plaintiff without his consent shall neglect to appear after being duly notified, in such manner as the court shall direct, his name shall be stricken from the writ and pleadings, and the others shall have a right to prosecute the same to final judgment and execution, in their own names and for their own use.

SEC. 3. The supreme court in any county, and each of the justices thereof in vacation, on the application of the plaintiff, in an action of ejectment, trespass and ejectment, partition or waste, are hereby empowered, under the provisions following, to issue a writ of estrepement, directed to the sheriff or to his deputies, of the county in which the estate in question may be, requiring him to stay all the waste on the estate that shall be described in such writ of estrepement; and the sheriff or his deputy, who shall be charged with the service of such writ, shall have power to stay all waste, as shall be directed in such writ, and to take such aid as shall be necessary for that purpose.

SEC. 4. Upon the application of any party for a writ of estrepement, said court or justice, before issuing the same, shall cause the party whose interests may be affected thereby to be notified of the pendency of such application, in such manner and mode as said court or justice may deem proper, to the end that the party so to be affected by, as well as the party applying for said writ, may be heard in the premises. And upon such hearing, the said court or justice may, in their discretion, issue or refuse to issue said writ, in the same manner as courts of equity grant or refuse to grant injunctions in like cases.

SEC. 5. The said court or justice may, on said hearing and before the issuing of said writ, require of the party applying for the same, bond with sufficient surety, and in such sum as said court or justice may prescribe, to make good to the party whose interests may be affected by said writ, all loss and damage which he may suffer by reason of the issuing of said writ; if said court or justice, in their discretion, judge that the circumstances of the case or the rights of the parties require such bond to be given.

SEC. 6. If such writ of estrepement shall be issued by the court, it shall be returnable at such time as the court shall direct; and if such writ shall be issued by a justice of said court, it shall be returnable to the next term of said court within and for the county in which the estate lies, which is described therein.

*An Act relating to Dower and the assignment thereof.***SECTION**

1. Widow to be endowed.
2. How to be endowed of things entire.
3. When and by whom dower shall be assigned—when more than one parcel of land, dower may be set off in one only.
4. Until dower be assigned, widow may remain in mansion-house.
5. On refusal to set off dower after demand, writ of dower may be brought.
6. Judgment in dower to set forth the manner in which dower shall be assigned—party aggrieved at judgment in court of common pleas may appeal to supreme court.
7. On final judgment for dower, commissioners to be appointed to set it off—proceedings of commissioners—report of, to be recorded.
8. Action of dower not to abate by death of defendant.

**SECTION**

9. Courts of probate may set off dower on the joint application of all persons interested.
10. In such case court of probate to decree in what manner dower is to be set off; appeal from decree to supreme court.
11. Upon final decree commissioners to be appointed to carry it into effect.
12. Tenant in dower not to commit waste, on pain of forfeiture, but to keep estate in repair.
13. Jointure to be a bar to dower, but may be waived.
14. Conveyances in lieu of dower to cease in certain cases.
15. Widow evicted of her jointure lands to be endowed.
16. Widows may bequeath crops—fences erected by, may be removed within six months after widows' decease.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** The widow of any person dying intestate, or otherwise, shall be endowed of one full and equal third part of all the lands, tenements and hereditaments, whereof her husband, or any other to his use, was seized of an estate of inheritance, at any time during the intermarriage, to which she shall not have relinquished her right of dower by deed, except in the cases provided for in the thirteenth section of this act.

**SEC. 2.** Of inheritances that are entire, where no division can be made by metes and bounds, so that a woman can be endowed of the thing itself, and of wood lands, she shall be endowed in a special and certain manner, as of a third part of the rents, issues, growth or profits thereof, to be computed and ascertained in manner as is by this act directed.

**SEC. 3.** The heir or person having the next immediate estate of freehold in all or any of the lands, tenements or hereditaments which belonged to the deceased during the intermarriage, whereof the widow is dowable, may in writing and under his hand, assign and set off to such widow her dower or just third part of and in all such lands, tenements and hereditaments, according to the provisions of this act, at any time after the decease of the husband; and where dower is legally demandable in more than one lot or parcel of land belonging to the same person, such assignment need not be of a part of each lot or parcel, but may be together in one lot, as the interest and convenience of the widow and the heir or person having the next immediate estate of freehold shall re-

quire; and if the tenant in possession have but a term of years in such lands, he may join with the persons having the next estate of freehold in the same, in assigning and setting off dower as aforesaid.

SEC. 4. Until such dower be assigned and until she elect to receive her jointure in lieu of dower, according to the thirteenth section of this act, it shall be lawful for any widow to remain and continue in the mansion-house, and the messuage thereto belonging, without being chargeable to pay the heir any rent for the same; *provided* she bring her writ of dower within twelve months after the probate of the will or the granting of letters of administration on her husband's estate.

SEC. 5. If any person empowered according to the third section of this act, shall neglect for one month after demand made to assign and set off to any widow her dower in all the lands, tenements and hereditaments in his possession, of which she is dowable, or shall assign and set off less in value than the widow is entitled to, or in a manner not consistent with the provisions and true intent of this act, in either of these cases, such widow may sue for and recover her dower, by writ of dower, to be brought against the tenant in possession or the tenant of the next immediate estate of freehold.

SEC. 6. Whenever judgment for dower shall be rendered by any court of common pleas in favor of a plaintiff in an action of dower, the said judgment shall set forth the manner in which the plaintiff shall be endowed; and either party aggrieved by such judgment may appeal therefrom to the next term of the supreme court in the same county. If no such appeal be prayed in open court within two days after such judgment, the same shall be final and shall annul the dower before that time set off and assigned the plaintiff in the case, if any had been set off and assigned.

SEC. 7. When final judgment for dower shall be rendered in any action of dower in favor of the plaintiff, the court rendering the same shall appoint three disinterested men, who shall be under oath (to be administered by said court or by any justice of the peace or public notary) equally and impartially to set forth by metes and bounds, or to ascertain in the special manner pointed out in such judgment, the dower of the plaintiff, and also the damages sustained by the plaintiff by detention thereof after demand therefor; said men shall appoint time and place to meet the parties in the said action and give them notice thereof; and at such time and place, notwithstanding the absence of either or both of said parties, and unless good cause is shown, proceed to discharge their

duties and make report of the same, with a plat of the premises and of the dower set off, if set off by metes and bounds, as soon as may be to the court appointing them, under their hands ; and no sufficient cause to the contrary being shown, said court shall confirm said report, and enter up judgment according to the same, and issue a writ of execution for said damages, and to put the plaintiff in possession of her dower or perception of rents and profits, as the case may require : *provided* that execution shall not be issued until after the plaintiff produces to the court, or clerk if the court be adjourned, a certificate that the judgment of said court, confirming said report, has been duly recorded in the office of the town clerk of the town in which the premises lie ; the expense of which shall make part of the cost in the action of dower.

SEC. 8. No action of dower shall abate by the death of the defendant named therein, where the defendant is tenant of the freehold, if the property passes by devise or descent from him ; but such death being suggested, the heir or devisee shall be summoned to appear at the same or at the next term in the discretion of the court where the action is pending, and take upon him the defence of the suit ; and the suit shall proceed against him in the same manner as if he had been the original defendant.

SEC. 9. Any court of probate in this state which shall have granted letters of administration or letters testamentary on the estate of any deceased person, shall have power, upon the joint application of the widow of the deceased, and all the heirs at law or devisees having the next immediate estate of freehold, and all persons interested in all or any of the lands, tenements or hereditaments, lying within this state, which belonged to the deceased during his intermarriage, whereof such widow is dowable, to cause her dower therein to be assigned and set off to her.

SEC. 10. When such an application shall be made to such court of probate, said court upon hearing the parties thereto shall, in the first instance, decree in which manner the dower ought to be assigned in the premises described in such application ; whether by metes and bounds or in some special and certain manner as set forth in the second section of this act ; and any person aggrieved by such decree may appeal therefrom to the next term of the supreme court to be holden in the same county. But if no appeal be made within the time prescribed by law, or if the parties in writing within that time waive their right to appeal, then said decree shall be final.

SEC. 11. Upon the rendering of a final decree on such a petition prescribing the manner in which the dower shall be assigned, the court rendering the same shall appoint three disinterested men, who shall have and exercise the same duties and powers and in the same manner and under the same restrictions as though they were appointed to set off dower in an action of dower according to the provisions of this act; and their report being made to said court, like proceedings shall be had thereon and with like effect as in an action of dower: *provided, however*, that no damages shall be allowed on such petition for detention of dower; and *provided further*, that no appeal shall be had from any decree of any court of probate affirming any report made to them by the men appointed by them to set off dower as aforesaid.

SEC. 12. No woman who shall be endowed of any lands, tenements or hereditaments as aforesaid, shall commit or suffer any strip or waste thereon, upon penalty of forfeiting the whole of that part of the estate upon which such strip or waste shall be made, and the damages assessed for waste, to him who has the immediate estate of freehold or inheritance, remainder or reversion, by an action of waste to be brought therefor; and all tenants in dower shall maintain the houses and tenements, with the fences and appurtenances whereof they may be endowed, in good repair during the term, and shall leave them so at the expiration thereof.

SEC. 13. If any estate real or personal be conveyed by deed, or the same be devised or bequeathed for the jointure of the wife in lieu of her dower, to take effect in her own possession immediately on the death of her husband and to continue during her life, or in fee, determinable by such acts only as would forfeit her dower at the common law, such conveyance shall bar her dower of the residue of the lands, tenements and hereditaments, which her said husband at any time possessed; but if the said conveyance was before marriage and during the infancy of the woman, or after marriage, in either case the widow may, at her election, waive such jointure and demand her dower; *provided* the same be done in writing within twelve months after the probate of the will, if there be one, and if not, then within twelve months after the granting of letters of administration on her deceased husband's estate.

SEC. 14. When any conveyance or devise intended to be in lieu of dower shall, through any defect, fail to be a legal bar thereto, and the widow availing herself of such defect



shall demand her dower, the estate so conveyed with intention to bar her dower shall thereupon cease and determine.

SEC. 15. If any widow be lawfully expelled or evicted from her jointure, or any part thereof, without any fraud or covin, by lawful entry or action, she shall be endowed of so much of the residue of her husband's lands, tenements and hereditaments, whereof she was dowable, as the same lands, tenements or hereditaments, wherefrom she was so evicted and expelled shall amount and extend to.

SEC. 16. Widows may bequeath the crops as well of their dower, as of their other lands and tenements; and if any widow shall erect any fence on or around her dower land, her executors or administrators may enter thereon and remove the same, doing as little damage as may be to the freehold, at any time within six months after the death of such widow.

*An Act concerning Partition and Estates holden in Common and in Joint Tenancy.*

## SECTION

1. Joint tenants and tenants in common in fee in possession, compellable to make partition by writ of partition.
2. Joint tenants and tenants in common for life or years, compellable to make partition during the continuance of their estates, by writ of partition.
3. Partition between tenants of the fee and tenants for life or years may be compelled by writ of partition to continue during the shortest estate—if tenant in reversion join with tenant for life or years in compelling partition, partition to be of the fee—such suit not to abate by the death of the tenant for life or years.
4. If defendant in partition reside out of the state, copy of writ to be left with tenant—if such defendant live within the United States and do not appear the first term, cause to be continued, and agent to be appointed by court to attend to his interests.
5. If defendant be infant, &c., without guardian, court to appoint a guardian ad litem.
6. Either party may appeal from judgment of court of common pleas for partition in two days after judgment, but not after—one or more commissioners to be appointed and sworn to make partition agreeably to the judgment, after notice to the parties—their report when accepted to be final.

## SECTION

7. In case of appeal, supreme court after judgment for partition to appoint commissioners, and proceed as court of common pleas.
8. Costs in partition to be in the discretion of the court.
9. Omission of a party not to abate action, but omitted person to be summoned and his name inserted in the process.
10. Each plaintiff may have his share set off by itself.
11. Each defendant may answer separately and have his share set off by itself.
12. Suit in partition not to abate by the death of either plaintiff or defendant; but heirs at law to be cited in.
13. If plaintiff allege that any of his tenants are unknown to him, court to order notice to such unknown parties by advertisement or otherwise.
14. In cases where all parties are not known, the shares of the unknown parties to be left undivided, and the shares of the known parties only set off.
15. In actions for possession one or more tenants in common, &c., may sue for his separate right—and so for mesne profits.
16. All conveyances to more than one shall not convey a joint tenancy unless it be expressly stated in the conveyance to be so intended.

*It is enacted by the General Assembly, as follows:*

SECTION 1. All joint tenants, coparceners and tenants in common, who now are or hereafter may be actually seized or possessed of any estate of inheritance in any lands, tenements or hereditaments, in their own right, or in the right of their wives, may be compelled to make partition between them of such lands, tenements and hereditaments, by writ of partition.

SEC. 2. All joint tenants, coparceners and tenants in common, who now are or hereafter may be actually seized or possessed of any estate for life or years, in any lands, tenements or hereditaments, in their own right, or in the right of their wives, may be compelled to make partition between them of such lands, tenements and hereditaments, to continue until the estate of some of the parties to the same shall determine, and no longer, by writ of partition.

SEC. 3. All joint tenants, coparceners and tenants in common, who now are or hereafter may be actually seized or possessed of any estate for life or years, in any lands, tenements or hereditaments, in their own right, or in the right of their wives, with others who have estates of inheritance in possession in the same lands, tenements and hereditaments, may compel or be compelled to make partition of such lands, tenements and hereditaments, to continue until the estate of some of the parties shall determine, and no longer, by writ of partition; but if the tenant in reversion or remainder in fee join with the said tenant for life or years in compelling partition of any such lands, tenements or hereditaments, against the other co-tenants, the partition shall be of the whole estate and binding on the heirs and assigns of all parties; and no such action shall abate by the death of the tenant for life or years, or the expiration of the term of years; but the surviving plaintiff may prosecute the said action to final judgment and execution.

SEC. 4. When any person named defendant in such writ of partition shall not be an inhabitant of this state, and by reason of his absence cannot be personally summoned to answer thereunto, legal service of said writ shall be made by leaving a copy thereof with the tenant in possession (if any there be) of the estate, whereof partition is demanded; and if the said person named defendant as aforesaid shall live within the United States and shall not appear at the court to which said writ shall be returnable, to defend the same, the action shall be continued one term; and in such case, if the defendant does not then appear, it shall be the duty of the court to

appoint some discreet and disinterested person as agent of such defendant, whose duty it shall be to defend such suit; and in case judgment shall be rendered for partition, to attend to the partition to be made, and therein take care of the interest of the person for whom he shall have been appointed agent as aforesaid: *provided always*, that no judgment for partition shall be rendered in any case against the defendant who shall be out of the United States at the time of the service of such writ of partition, and shall not have been absent twelve months, and shall be expected to return within six months.

SEC. 5. In any action of partition where the defendant shall be an infant, non compos mentis or otherwise incapacitated to take care of his right and estate, and shall have no lawful guardian, it shall be the duty of the court before which such action shall be pending, to appoint some discreet and disinterested person as guardian to defend such infant, non compos mentis or otherwise incapacitated person against such suit; and in case of judgment for partition, to attend to the partition to be made, and therein take charge of the interest of the person for whom he shall be appointed guardian.

SEC. 6. Either party may appeal from the judgment of the court of common pleas that partition shall be made; but if no such appeal shall be prayed in open court within two days next after such judgment, the same shall be final; and it shall be the duty of such court thereupon, on the motion of the plaintiff in such writ of partition, to appoint, at their discretion, one or more discreet, impartial and disinterested persons, to make partition pursuant to such judgment, who shall be sworn to the faithful discharge of their trust; and it shall be the duty of the persons so appointed, first giving reasonable notice to the respective parties, to cause a just partition of the estate to be made amongst the respective parties according to their several rights, as ascertained by the judgment of the court ordering such partition; and to make report of their proceedings with a plat of the division by them made, to the court by whom they shall have been appointed; and if no sufficient cause shall be shown for rejecting the said report, judgment shall be rendered thereon in conformity thereto; and said report, plat and judgment shall be recorded in the office of the town clerk of the town or towns in which said estate may be; the expense of which record shall be made a part of the cost in said action.

SEC. 7. If an appeal from any judgment of the court of common pleas for making partition shall be prayed as afore-

said, and on hearing of the case before the supreme court, judgment shall therein be rendered for partition, it shall be the duty of said supreme court, in like manner, to appoint, at their discretion, one or more discreet, impartial and disinterested persons, to make partition pursuant to the judgment of said court, who shall cause partition to be made in like manner, and under the same regulations, as are above prescribed, in case the said judgment for partition had been rendered in the court of common pleas; and whenever any judgment of any court of common pleas for partition shall be confirmed by the supreme court, on the complaint of any party not appealing therefrom, similar proceedings shall be had in said supreme court.

SEC. 8. In all actions of partition, the court before which the same may be pending, may adjudge and determine as to them shall appear equitable and just relative to the apportionment of costs among the parties, plaintiff and defendant, by dividing the same equally or subjecting either party to the payment of the whole or any part thereof.

SEC. 9. In any action of partition, if any person who ought to be a party to such action shall be omitted in the writ, the writ or process in such action shall not be thereby abated; but in case the same is pleaded, a summons shall issue to the person thus omitted, which shall be served in manner prescribed by law, at least twenty days before trial; who may come in and defend in the same manner as though he had been originally made a party to such action; and if the person thus summoned shall appear or shall neglect to appear, his name may be inserted in the process by the court; and judgment shall be rendered in such action in the same manner as if such person had been originally a party in the writ.

SEC. 10. In all actions of partition by several plaintiffs, setting forth each of their several rights and interests in the estate for the partition of which the action is commenced, judgment may be rendered, that each plaintiff shall have his part of said estate set off to him in severalty; or that any two or more of the plaintiffs may have their parts set off to them in common.

SEC. 11. In all actions of partition against several defendants, each of the defendants may answer severally; or any two or more may answer jointly; and in their answers set forth the right or interest which they and each of them have in the estate for the partition of which the action is commenced; and judgment may be rendered that each de-

fendant may have his part set off to him in severalty ; or that any two or more of the defendants may have their parts set off to them in common.

SEC. 12. No action of partition shall be abated by the decease of either of the parties, plaintiffs or defendants, in such action. And in case of the decease of either of the plaintiffs or defendants in such action, the court shall cause the heirs at law or devisees of such deceased party to be notified of the pendency of such suit, in the same manner as if they had been parties in the original writ in said action ; and may, after such notice shall be given, render judgment in said suit in the same manner as might have been done had such heirs or devisees been original parties in said action : *provided*, that if such heirs or devisees voluntarily appear in court, without such notice, the court may proceed without further delay in the trial of and rendering judgment in said action.

SEC. 13. If any action of partition be commenced, in which it may be alleged by the plaintiff that some of the owners of said estate are unknown to the plaintiff, the court in which such action may be pending may order notice to be given to such unknown owners, by advertisement in some of the newspapers in this or other states, or in such other manner as to said court may seem proper ; and said court may proceed in said action and render judgment therein in the same manner as if said unknown owners had been parties to or had appeared in said action.

SEC. 14. In all cases in which it may be alleged that one or more of the owners of said estate are unknown to the plaintiff, partition of the estate shall be made only among the parties who are named in the suit, according to their respective rights and interests, as ascertained and determined by the judgment of the court ; and the share or shares of such unknown owner or owners shall remain undivided and in common ; and in all such cases it shall be the duty of the court, before rendering judgment for partition therein, to require of the parties named in the suit, and among whom such partition is to be made, sufficient proof of the extent, nature and validity of their several titles to said estate.

SEC. 15. In actions of ejectment or other actions concerning any estate holden or claimed in coparcenary, common or joint tenancy, where the possession of such estate claimed is the object of the suit, the same may be commenced by all or any two or more of the coparceners, tenants in common, or joint tenants, or the same may be brought by each

one for his particular share of such estate ; and the same rule shall prevail in actions of trespass for mesne profits.

SEC. 16. All gift, grants, feeoffments, devises and other conveyances of any lands, tenements and hereditaments, which shall be made to two or more persons, whether they be husband and wife or otherwise, and whether for years, for life, in tail or in fee, shall be taken, deemed and adjudged to be estates in common and not in joint tenancy ; unless it is or shall be therein expressly said, that the grantees, feeoffees or devisees, shall have or hold the same lands, tenements or hereditaments, as joint tenants or in joint tenancy, or to them and the survivors or survivor of them ; or unless other words be therein used clearly and manifestly showing it to be the intention of the parties to such gifts, grants, feeoffments, devises or other conveyances, that such lands, tenements and hereditaments, shall vest and be holden as joint estates, and not as estates in common.

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*An Act concerning Mortgages of Real and Personal Estate.*

**SECTION**

1. In action of ejectment on mortgage, court to ascertain the sum due—render conditional judgment.
2. Mortgaged estates redeemable.
3. Estates to be redeemed within three years after mortgagee has taken possession—possession in presence of witnesses, how taken.
4. Estates mortgaged before the passing of this act, when redeemable.
5. Mortgage of personal property—mortgagee to take property into possession or record mortgage deed—exception.

**SECTION**

6. Town clerk to record mortgages of personal property.
7. Personal property mortgaged may be redeemed.
8. Upon what terms—mortgagor may replevy, &c.
9. Mortgagor of real and personal estate may prefer bill in equity to supreme court for redemption.
10. Supreme court to hear, &c., bill for foreclosure.

*It is enacted by the General Assembly, as follows :*

SECTION 1. In every action of ejectment or trespass and ejectment for possession of any real estate mortgaged, in which the defendant by his plea shall aver a right of redemption in himself or in the person under whom he claims, which averment shall not be traversed by the plaintiff, or if traversed shall be found true, the court before which the same shall be pending shall, by themselves or by one or more judicious and disinterested men, by them appointed, ascertain, according to the rules of equity, the just sum due on such mortgage ; and shall thereupon render a conditional judgment, that if the mortgagor, his heirs, executors, administrators or assigns, shall pay unto the plaintiff in such action, or deposite in the clerk's office for him, the sum adjudged due as aforesaid, within two

months from the time of entering up judgment, with interest, then the mortgage or deed of bargain and sale operating as such, shall be void and discharged, otherwise that the plaintiff shall have his writ of possession.

SEC. 2. All real estates conveyed or pledged by mortgage, or deed of bargain and sale with defeasance, shall be redeemable by the mortgagor or vendor, his heirs, executors, administrators or assigns, on paying the moneys borrowed thereon with interest, or performing the condition on which the same was conveyed or mortgaged; deducting the rents and profits the mortgagee or any under him may have received over and above the suitable repairs, insurance and improvements, made by him or them, and all other necessary expenses in the care and management of the premises.

SEC. 3. No mortgagor, his heirs, executors, administrators or assigns, shall be allowed to redeem any mortgaged real estate, but shall be forever barred and foreclosed of all equity and right of redemption therein, unless such mortgagor, his heirs, executors, administrators or assigns, shall pay to the mortgagee, his heirs, executors, administrators or assigns, the full sum, both principal and interest, due on such mortgage, within three years next after such mortgagee or other person claiming under him shall, by process of law, or by peaceable and open entry, made in the presence of two witnesses, have taken actual possession of such mortgaged estate and continued the same during said term; and when possession shall be taken in the presence of witnesses as aforesaid, they shall give to the mortgagee or other person taking possession under him a certificate of such possession being taken; and the person delivering possession shall acknowledge the same to have been voluntarily done, before a justice of the peace in the town where such mortgaged estate lies; which said certificate and acknowledgment shall be recorded in the town clerk's office of such town.

SEC. 4. The limitation aforesaid shall not extend to any mortgage of any real estate made prior to the time the digest of one thousand seven hundred and ninety-eight took effect; and all such mortgages shall be redeemed within twelve years from the time the mortgagee, his heirs, executors, administrators or assigns, hath obtained or shall obtain possession of the mortgaged estate, in virtue of legal process; or within twenty years after possession shall have been obtained of any mortgaged estate by consent of parties, without legal process: *provided, however*, that in the latter case the supreme court shall be authorized to allow of the redemption of any mortga-

ged estate after a possession of twenty years obtained without legal process, if any peculiar circumstances shall, in the opinion of the court, render such redemption equitable : and *provided further*, that all mortgages of real estate made since the digest of one thousand seven hundred and ninety-eight, and prior to the time when the digest of one thousand eight hundred and twenty-two took effect, shall be entitled to six years redemption, as provided for in said last mentioned digest.

SEC. 5. No mortgage of personal property hereafter made shall be valid against any other person than the parties thereto, unless possession of the mortgaged property be delivered to and retained by the mortgagee ; or unless the said mortgage be recorded in the office of the clerk of the town where the mortgagor shall reside at the time of making the same : *provided*, that nothing herein contained shall affect any transfer of property under bottomry or respondentia bonds, or of any ship or goods at sea or abroad, if the mortgagee shall take possession thereof as soon as may be after the arrival of the same in this state.

SEC. 6. It shall be the duty of the town clerks to record mortgages of personal property in a book to be by them kept respectively for that purpose, with the time when the same are received and recorded.

SEC. 7. When the condition of any mortgage of personal property has been broken, the mortgagor, or any person lawfully claiming or holding under him, may redeem the same at any time within sixty days thereafter, unless the property shall in the mean time have been sold, in pursuance of the contract between the parties.

SEC. 8. The person entitled to redeem the property shall pay or tender to the mortgagee, or the person holding under him, the sum due on the mortgage, with all reasonable and lawful charges and expenses incurred in the care and custody of the property, or otherwise arising from the mortgage thereof ; and if the property is not forthwith restored, the person entitled to redeem the same may recover it in an action of replevin ; or may recover such damages as he may have sustained by the withholding thereof, in any proper action.

SEC. 9. Any person entitled in equity to redeem any mortgaged property, whether real or personal, may prefer a bill to redeem the same to the supreme court in the county in which the real estate sought to be redeemed is situated, or in which the mortgagor of personal property may reside, if in this state, and if not, then in any county in this state ;



which bill may be heard, tried and determined by said court according to the usages in chancery, and on the principles of equity.

SEC. 10. Any person entitled to foreclose the equity of redemption in any mortgaged estate, whether real or personal, may prefer a bill to foreclose the same to the supreme court sitting in the county in which said premises are situated, if said premises are real estate, and if personal, then in the county in which the mortgagor may reside, if in this state, and if not, then in any county in this state; which bill may be heard and tried and determined by said court, according to the usages in chancery and the principles of equity.

*An Act directing proceedings in cases of Forcible Entry and Detainer.*

**SECTION**

1. A justice of the supreme court with a justice of the court of common pleas, to inquire by a jury into every forcible entry or detainer.
2. Form of warrant to summon a jury, summons to the party complained of, oath of jurors and verdict.

**SECTION**

3. Jury finding complaint true, complainant to have judgment of restitution—form of writ of restitution.
4. Jurors' fees to be paid in first instance by plaintiff.

*It is enacted by the General Assembly, as follows:*

SECTION 1. Any justice of the supreme court with any justice of the court of common pleas, shall have power to inquire within the county in which such justice of the court of common pleas shall reside, by a jury, as is herein after directed, as well against those who make unlawful and forcible entry into lands or tenements and with a strong hand detain the same, as against those who having a lawful and peaceable entry into lands or tenements unlawfully and by force hold the same; and if it be found upon such inquiry that an unlawful and forcible entry hath been made, and that the same lands or tenements are holden and detained with force and a strong hand, or that the same, after a lawful entry, are holden unlawfully, and with force and a strong hand, such justices shall cause the party complaining to have restitution thereof.

SEC. 2. When complaint shall be formally made in writing and under oath to any two justices as aforesaid, of any unlawful and forcible entry into and detainer of any such lands or tenements as aforesaid, or of any unlawful and forcible detainer of the same after a peaceable entry, they shall make out their warrant under their hands and seals, directed to the

sheriff of the county or either of his deputies, commanding him in behalf of the state, to cause to come before them twelve good and lawful men, of the same county, and they shall be empaneled to inquire into the forcible detainer complained of; which warrant shall be in the following form, to wit :

The State of Rhode-Island and Providence Plantations.

[SEAL.] *sc. To the sheriff of the county of* \_\_\_\_\_ *or to his*  
*deputy,* \_\_\_\_\_ *greeting :*

Whereas complaint is made to us the subscribers, by  
of \_\_\_\_\_ that \_\_\_\_\_ of \_\_\_\_\_ upon the \_\_\_\_\_ day of  
at \_\_\_\_\_ with force and arms and with a strong hand did un-  
lawfully and forcibly enter into and upon a tract of land of  
him the said \_\_\_\_\_ in \_\_\_\_\_ aforesaid \_\_\_\_\_ containing  
acres, bounded as follows, viz : (or into the messuage or ten-  
ement of him the said \_\_\_\_\_ as the case may be,) and  
him the said \_\_\_\_\_ with force and a strong hand as afore-  
said did expel and unlawfully put out of the possession of the  
same : you are hereby commanded in behalf of the state to  
cause to come before us, upon the \_\_\_\_\_ day of \_\_\_\_\_ at  
in the said county, twelve good and lawful men of your coun-  
ty, to be empaneled and sworn, to inquire into the forcible  
entry and detainer as afore described. Given under our  
hands and seals the \_\_\_\_\_ day of \_\_\_\_\_ in the year

} Justice of the supreme court.  
} Justice of the court of common  
} pleas for the county of

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

The State of Rhode-Island and Providence Plantations.

[SEAL.] *sc. To the sheriff of our county of* \_\_\_\_\_ *or to his*  
*deputy,* \_\_\_\_\_ *greeting :*

We command you, that you summon \_\_\_\_\_ of \_\_\_\_\_ to  
appear before the subscribers at a place called \_\_\_\_\_ in  
in the said county, on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock  
in the \_\_\_\_\_ noon, then and there to answer to and de-  
fend against the complaint of \_\_\_\_\_ to them exhibited ; where-  
in he complains that (here recite the complaint) and you are  
to make return of this writ with your doings thereon unto the  
said justices, upon or before the said day. Witness \_\_\_\_\_ our  
said justices, the \_\_\_\_\_ day of \_\_\_\_\_ in the year

} Justice of the supreme court.  
} Justice of the court of common  
} pleas for the county of

Which summons shall be served upon the party complained against, or a copy thereof left at his usual place of abode, six days exclusive, before the day appointed by the justices for the trial ; and if after the service of such summons the party shall not appear to defend, the justices shall proceed to the inquiry, in the same manner as if he was present ; and when the jury shall appear, the justices shall lay before the jury the exhibited complaint, and shall administer the following oath to them, viz :

*Foreman's Oath.*

You, as foreman of this jury, do solemnly swear (or affirm) that you will well and truly try, whether the complaint of now laid before you is true, according to the evidence : so help you God ; (or this affirmation you make and give upon peril of the penalty of perjury.)

*The other Jurors' Oath.*

The same oath which your foreman has taken on his part, you and every one of you shall well and truly observe and keep : so help you God ; (or this affirmation you make and give upon peril of the penalty of perjury.) And if the jury shall find the complaint true, then they shall return their verdict in form following, to wit :

At a court of inquiry holden before one of the justices of the supreme court and one of the justices of the court of common pleas within and for the said county of                    at  
upon the                    day of                    in the year                    the jury, upon  
their oaths, do find that the lands or tenements in                    afore-  
said, bounded (or described) as follows, (as in the complaint,)  
upon the                    day of                    in the year                    were in the  
lawful and rightful possession of the said                    and that the  
said                    did, upon the same day, unlawfully, with force and  
arms and with a strong hand, enter forcibly into the same,  
and (or being lawfully upon the same) did unlawfully, with  
force and a strong hand, expel and drive out the said  
and that he doth still continue wrongfully to detain the pos-  
session from him the said                    : wherefore the jury find, upon  
their oaths aforesaid, that the said                    ought to have resti-  
tution thereof without delay.

And if by accident or challenge there shall not be a full jury, the said justices shall issue a writ of venire to the sheriff or his deputy, to return so many other good and lawful men as may be necessary to make a full jury ; and if the jury after

a full hearing of the cause shall find the complaint laid before them supported by evidence, they shall sign their verdict in form aforesaid ; otherwise the defendant shall be allowed his legal cost, and have execution therefor.

SEC. 3. If the jury shall return their verdict signed by the whole pannel, that the complaint is supported, the justices shall enter up judgment for the complainant to have restitution of the premises, and shall award their writ of restitution accordingly, with costs. If the verdict shall be that the complaint is not supported, the defendant shall recover his costs, and no appeal shall be allowed from the justices aforesaid : *provided nevertheless*, that the proceedings may be removed by certiorari into the supreme court holden in the same county, and be there quashed for irregularity, if any such there be ; nor shall such judgment be a bar to any after action brought by either party. The writ of restitution shall be in form following, to wit :

The State of Rhode-Island and Providence Plantations.

[SEAL.] SC. *To the sheriff of our county of* \_\_\_\_\_ *or to his*  
*deputy* \_\_\_\_\_ *greeting :*

Whereas at a court of inquiry of forcible entry and detain-  
 er, holden at \_\_\_\_\_ in our county of \_\_\_\_\_ upon the  
 day of \_\_\_\_\_ in the year \_\_\_\_\_ before one of the justices of  
 the supreme court and one of the justices of the court of  
 common pleas within and for our said county of \_\_\_\_\_ the  
 jurors empaneled and sworn by our said justices, did return  
 their verdict in writing, signed by each of them, that  
 was upon the \_\_\_\_\_ day of \_\_\_\_\_ in the rightful possession of  
 a certain messuage or tract of land, (as in the verdict return-  
 ed,) and that (as in the verdict,) whereupon it was considered  
 by our said justices, that the said \_\_\_\_\_ should have restitu-  
 tion of the same ; we command you, that taking with you the  
 power of the county if necessary, you cause the said  
 to be forthwith removed from the premises, and the said  
 to have the peaceable restitution of the same ; and also, that  
 you levy of the goods and chattels of the said \_\_\_\_\_ the sum  
 of \_\_\_\_\_ being costs taxed against him on the trial aforesaid,  
 together with twenty-five cents more for this writ, and also  
 your own fees for levying the same ; and for want of such  
 goods and chattels of the said \_\_\_\_\_ to be by you found, you  
 are commanded to take the body of the said \_\_\_\_\_ and him  
 commit to our jail in \_\_\_\_\_ in the said county of \_\_\_\_\_ there  
 to remain until he shall pay the sum aforesaid, together with  
 all fees arising on the service of this writ, or until he is deliv-

ered by order of law ; and make return of this writ and your doings thereon within twenty days next coming. Witness our said justices at aforesaid, the day of in the year

} Justice of the supreme court.  
 } Justice of the court of common  
 } pleas for the county of

*provided always*, that such complaint be made within three years after such forcible entry or detainer be committed, and not after.

SEC. 4. Each person summoned and attending as a juror shall be entitled to one dollar per day for his attendance, and four cents per mile going, and four cents per mile returning from said court ; to be paid in the first instance by the plaintiff, before the verdict shall be received, and to be taxed in the bill of costs if he recover.

### *An Act regulating Water Mills.*

#### SECTION

1. Owners of mills may improve their ponds, &c.
2. Remedy for persons injured by such ponds—mill pledged and liable for damages.
3. Appeal allowed—terms of.
4. Amount of damages to be ascertained by jury.
5. Justice to attend the jury—swear them—decide questions of law—issue venire in case, &c.
6. Jury to appraise past damages, also future yearly damage, also gross damages.
7. Verdict may be appealed from, to supreme court—court shall order venire and another trial.
8. Plaintiff may elect between yearly and gross damages—election conclusive—if plaintiff makes no election, court shall enter judgment for yearly damages.

#### SECTION

9. Execution to issue against goods and chattels, and also against mill, &c.
10. Sale on execution valid—redemption allowed.
11. Mill owner removing subject of complaint, plaintiff shall recover damages awarded for five years only.
12. Justice attending jury to be compensated.
13. Death of plaintiff not to abate the action—executor may prosecute—damages in such case how assessed.
14. Marriage of plaintiff not to abate action—party in interest may come in.
15. Joint tenants, &c., being plaintiffs, suit not abated by transfer of interest to co-tenant.
16. Suit not abated by death of defendant.
17. Owner of dam not to detain the natural stream, &c.

*It is enacted by the General Assembly, as follows :*

SECTION 1. Where any person has set up or shall set up any water mill upon his land or upon the land of another with his consent, the owner of such mill may continue and improve the pond and keep up the dam thereof on his land for his advantage, without molestation.

SEC. 2. Any person aggrieved or injured by the flowing of the pond raised by such dam, or by the stopping or raising of the water either above or below said dam, or by the back-

ing of water under his land, or by the flowing out of any fall of water in his land by means of such dam, may commence an action on the case before the court of common pleas in the county in which such dam is, against the owner of said dam, or any precedent owner thereof; a copy of which writ shall be left by the officer serving the same in the office of the town clerk of the town in which such dam is; and the mill and mill dam complained of, together with all their appurtenances and the land under and adjoining the same, shall thenceforth be pledged and liable for the damages which may be recovered in such action.

SEC. 3. Whenever it shall be adjudged by said court that the plaintiff in any such action is entitled to damages, the defendant shall have the right to appeal from such judgment to the supreme court, upon the same terms and conditions as appeals are allowed in other cases; and in like manner the plaintiff may appeal whenever said court shall adjudge that he is not entitled to damages: *provided however*, that such appeal be claimed within five days after the rendition of such judgment, or during the same term of said court, if said term shall not continue five days, by filing an appeal bond as in other cases.

SEC. 4. Whenever any plaintiff in any such action shall recover a final judgment for damages against the defendant, whether in the court of common pleas or in the supreme court, the court rendering the same shall issue a writ of venire to the sheriff of said county or his deputy, to return twelve good and lawful men of the same county, to meet at a time and place appointed in such writ, in order to ascertain the amount of such damages, in manner as is herein after provided.

SEC. 5. At the time and place appointed by such writ, some one justice of the court issuing the same, not interested in the cause shall attend said jurors; shall engage them to a faithful and impartial discharge of their duty; shall swear all witnesses produced by either party before them; shall decide all questions of law that may arise incidentally in the trial, and may charge the jury upon the law, after the parties have submitted their evidence and arguments to them. If all the persons summoned as jurors do not appear, or are excused, such judge may issue a venire to fill up the panel.

SEC. 6. Such jury shall appraise the damages which the plaintiff shall have sustained by the matters of complaint set forth in his writ and declaration, from the time of his ownership of the premises injured up to the date of the writ, if the

defendant hath been so long owner of the mill dam or pond; if not, then from the time the ownership of the defendant commenced up to the date of the plaintiff's writ, or until the defendant ceased to be owner. And in addition to the foregoing, the said jury shall also appraise the damages that the plaintiff ought yearly to receive and recover of the defendant, his heirs and assigns, owners of said dam, from the date of the plaintiff's writ until five years after said dam shall be removed by the said defendant, his heirs or assigns. Said jury shall also appraise what sum would be a just and reasonable compensation to said plaintiff, for all damages done to him by the matters of complaint set forth in his writ, from the date of his writ; which verdict, so rendered and signed by them, said justice shall return to the court issuing the venire, as soon as may be.

SEC. 7. If such verdict be returned to the court of common pleas, either party aggrieved thereby may appeal, as is herein after provided, from the judgment of the court accepting the same to the supreme court, to be holden in the same county; in which case said supreme court shall order a venire for and trial before another jury; which shall be had in the same manner and subject to the same rules as is herein before prescribed: *provided however*, that if the verdict rendered on such appeal shall not be more favorable to the party appealing than the one appealed from, such party shall recover no costs in such appeal, unless the same shall be adjudged him by the court accepting such verdict, upon cause shown.

SEC. 8. Upon the return and filing of any such verdict, the court to which it is returned shall continue the cause until the next term, before rendering any judgment, accepting the same; and the plaintiff shall, on or before the second day of said term in writing, make his election between the yearly damages and the damages in gross found by said jury; and no appeal shall be had unless made within three days after such election or during the said term of said court, if said term do not continue said three days; which election of the plaintiff shall be entered on the records of said court in said case, and shall be forever binding on said plaintiff and defendant and all claiming under them; and the judgment of the court shall follow the election of the plaintiff. But if the plaintiff neglect to make any election within the time and in the manner herein before prescribed, the court shall enter up judgment in his favor for the yearly damages found by said jury; and the judgment so rendered shall bar all actions for the injuries complained of by the plaintiff, excepting only

an action of debt on said judgment or scire facias to enforce the same.

SEC. 9. Any execution that may issue on any judgment for damages rendered as aforesaid, whether for yearly damages or damages in gross, shall run not only against the goods and chattels and body of the defendant and his real estate, as executions on other judgments, but if the defendant was owner of said mill at the date of the writ, also against the mill and mill dam which was the occasion of said suit, with all the appurtenances thereof; and the form of the execution shall be varied accordingly by the court issuing the same; and such execution may be levied thereon and the same proceedings may be had as on executions in other cases levied on real estate.

SEC. 10. Any sale of said mill or mill dam and appurtenances thereof made on such execution, shall be valid and effectual against the defendant, and against all persons whose titles shall accrue after the service of the writ in said action; but any person entitled to the premises sold may redeem the same at any time within one year after the sale, upon paying to the purchaser or person holding under him, the sum paid therefor, with interest thereon at the rate of twelve per cent. per annum.

SEC. 11. Whenever any plaintiff shall elect to receive the yearly damages awarded him as aforesaid, and the mill owner shall afterward remove the matter complained of in the writ, for which said damages were awarded, the plaintiff or his assigns shall recover said damages for five years after said matters shall be removed, and no longer.

SEC. 12. The justice of the court of common pleas or of the supreme court, who shall attend said jury in assessing damages, shall be entitled to compensation for his services and expenses, to be allowed by the court and taxed in the bill of costs.

SEC. 13. If the plaintiff in any such action shall decease pending the same, his death shall not abate said action, but his executor or administrator, as in suits which survive, shall come in, and prosecute the same; but the jury assessing damages shall assess damages only up to the date of the plaintiff's writ, (which damages shall be assets in the hands of such administrator or executor,) and not yearly damages or damages in gross, unless the heirs at law or devisees of such deceased shall, in writing or in person, in open court, consent to such appearance of the administrator or executor.

SEC. 14. No marriage of any party plaintiff, in any such action, shall abate the same, if the new party in interest, upon



the marriage being suggested by the defendant on the record, will at the same term, in writing or in person, in open court, amend the process and enter himself as one of the plaintiffs in said action; but the costs in said action shall not be increased by said marriage.

SEC. 15. If several joint tenants, tenants in common or coparceners, be plaintiffs in such a suit, and pending the same one or more of them shall sell his interest in the premises alleged to be injured, to one or more of his cotenants, such action shall not thereby be abated, but the cause shall proceed to judgment with the same effect as if such conveyance had not been made.

SEC. 16. If there be several defendants in such a suit, and one or more of them die pending the same, the suit shall not thereby abate, but the cause shall proceed to judgment with the same effect as if such death had not occurred. And if there be but one defendant, and he die pending the same, his death shall not abate said action, if the devisees or heirs at law will come into court at the term next following the decease, and substitute their names as defendants, instead of the deceased.

SEC. 17. No person owning any dam, on any river, or stream of water, shall detain the natural stream thereof, at any one time, more than twelve hours out of twenty-four hours, except on Sundays, when he shall be requested by the owner of any dam within one mile below on the same stream to suffer the said natural run of said river or stream to pass his said dam.

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*An Act to redress misemployment of property given to certain Charitable Uses.*

**SECTION**

1. Town councils to inquire into the application of property given for charitable uses.
2. Town council to make such orders relative thereto as case requires—orders conclusive until altered by supreme court.
3. Councils may render judgment and

**SECTION**

- execution against defaulters—defaulters may be committed.
4. Appeal granted—terms of appeal—sentence of council suspended in the meantime.
  5. Supreme court to have concurrent jurisdiction with councils.

*It is enacted by the General Assembly, as follows:*

SECTION 1. Whenever any real or personal property, or the use, issues or profits of any, have been or shall be given, limited, appointed and assigned by any person to and for the

relief of the poor, or the bringing up of children to learning, or for any other specific purpose, and have not been or shall not be employed according to the charitable intent of the giver and founder thereof, it shall and may be lawful for the town council of each town, within its respective jurisdiction, to inquire of and concerning the same; and of the abuses and breaches of trust, negligence, misemployment, not employing, concealing, defrauding and misconverting or misgovernment thereof, as often as it shall appear requisite and needful.

SEC. 2. Said town council, after notice to the parties entrusted with any such real or personal property, may set down such orders, judgments and decrees in relation thereto as the exigency of the case may seem to require; which orders, judgments and decrees, not being contrary or repugnant to the orders, statutes and decrees of the donors or founders, shall stand firm and good, according to the tenor and purport thereof, and shall be executed by the sheriff accordingly; until the same be altered or undone by the supreme court of this state upon complaint of the party aggrieved made unto them.

SEC. 3. Upon the finding of any breach of trust, negligence, misemployment, mismanagement or under renting any such property, judgments and executions shall be given forth by the said town council against the misemployers, mismanagers and misimprovers of the same, and the same shall be levied out of their estates; and for want of sufficient estate of theirs to be found to satisfy and pay the same, they shall be committed to jail until the same be satisfied and paid; and a just distribution thereof be made, according to the true intent and meaning of the donors or founders.

SEC. 4. It shall and may be lawful to and for any person aggrieved at any sentence, order, judgment or decree of any town council in any of the cases aforesaid, to appeal therefrom unto the supreme court; who are hereby empowered to alter, reverse or confirm such sentence, order or judgment of such town council, and to give a new and final judgment and determination in said case, as they shall think fit and agreeable to equity and good conscience, according to the true intent and meaning of the donors and founders thereof; and shall tax and award costs of suit as in suits in equity: *provided always*, that the party desiring an appeal from such town council to the supreme court do, the same day such order, sentence, judgment or decree is given, request that such his desire be entered in the records of said court, and within ten days after judgment give sufficient bond to said council with sufficient sureties to prosecute his appeal with effect,

and to stand and abide such final judgment as shall afterwards be given in said cause; or otherwise such person or persons shall lose his advantage of appeal as aforesaid; and in the meantime such sentence, order, judgment or decree of such town council shall be suspended and execution stayed thereupon, any thing in this act before contained to the contrary hereof in any wise notwithstanding.

SEC. 5. Nothing in this act shall be construed to deprive the supreme court of original jurisdiction over any such matter as is by this act placed within the jurisdiction of town councils.

*An Act for the relief of Insolvent Debtors.*

## SECTION

1. Petitions for insolvent act—by whom to be preferred—to what courts—when to be filed, and what exhibits to be filed therewith.
2. Supreme court may dispense with residence in the petitioner, in certain cases.
3. Petitions may be filed in term time.
4. Supreme court to hear and determine such petitions.
5. Petitioners to be strictly examined under oath, and such examinations to be recorded.
6. On receiving any petition proceedings for collection of debts may be stayed against the body and estate of the petitioner, or either, and he discharged from jail.
7. Further notice to creditors may be ordered, when court shall deem the same necessary.
8. When petition is granted, petitioner to make an assignment of his estate for benefit of his creditors.
9. Conveyances made by petitioners to children and others—void in certain cases, and persons receiving same subject to a penalty.
10. Assignees may be called to account, and dismissed by supreme court, and others appointed.
11. Duties of assignees under this act.
12. Same subject.
13. Appeal granted to general assembly

## SECTION

- from decree of supreme court on insolvent petitions and proceedings in case of appeal.
14. Same subject.
15. Same subject.
16. Insolvent debtors discharged under this act not liable to arrest or imprisonment for any debt contracted before filing petitions—effect of fraud or perjury on such discharge—how to be established.
17. Mutual debts to be off-set by assignees under this act.
18. Form of oath to inventory, to be taken by petitioners.
19. Debts due from any insolvent to this state, or any town, to have a preference.
20. Man intermarrying with a woman discharged under this act, to be liable for her debts only to the amount of her property.
21. Benefit of this act not to be granted to any debtors whose debts do not exceed one hundred dollars.
22. Petitioners may be surrendered or committed to jail by their bail, notwithstanding their petitions, and to be discharged upon giving bond.
23. Clerks to record proceedings under this act.
24. Nothing in this act to invalidate proceedings under any previous insolvent act.

*It is enacted by the General Assembly, as follows :*

SECTION 1. It shall be lawful for any inhabitant of this state, who shall have resided and been domiciled therein for the space of three years next preceding the preferring of his petition, and who is, or hereafter shall be insolvent, to prefer his petition for the benefit of this act to the supreme court,

to be holden in and for the county in which such petitioner shall be resident or domiciled ; which petition shall be filed in the office of the clerk of said court three weeks, at least, before the sitting thereof ; and the petitioner shall exhibit and file therewith, under oath, a just and true statement of all his debts, and to whom due, and of the losses and misfortunes by which his insolvency has been caused ; and also a just and true inventory of all his property and estate of every kind and nature, in possession or action, remainder or reversion, excepting wearing apparel not exceeding in value the sum of one hundred dollars ; said oath shall be taken by said petitioner before any judge, justice of the peace or public notary of the county in which said petitioner may reside ; and the said clerk shall notify the creditors of such petitioner of the pendency of said petition, by publishing a notification thereof at least three successive weeks next before the sitting of said court, to which said petition shall be preferred, in some public newspaper printed in this state ; the cost of such publication being first advanced by said petitioner.

SEC. 2. Said court shall have power, in their discretion, to dispense with the term of residence required by the first section of this act, in any cases in which, under all the circumstances, it may be in the opinion of the court, consistently with the true intent and meaning of that section, just and proper so to do.

SEC. 3. Said court, good cause being shown therefor, may permit any such petition to be preferred and received in term time, although not filed as aforesaid ; and in such case said petition shall be continued to the next term of the court, and notice thereof given to the creditors in the manner herein before prescribed.

SEC. 4. The supreme court are hereby vested with full jurisdiction over said petitions preferred as aforesaid ; and are hereby authorized and empowered to receive, hear and determine the same, and all questions and motions relating thereto ; with power to carry into full effect all the provisions of this act.

SEC. 5. Said petitioners shall be strictly examined by the court, and by any of the creditors who may think proper, in order to obtain from them, under oath, a full, true and undisguised disclosure of their actual condition and circumstances ; the real amount of their property and debts, the extent and nature of their losses, and of the conveyances, transfers or other disposition which may have been made of their property or any part thereof ; and how and in what manner, at

what time or times, to whom, and on what consideration, terms or conditions; and said court shall strictly and thoroughly examine into the conduct and proceedings of such petitioners, so far as the interests of their creditors may have been or are liable to be prejudiced or affected thereby; and, in addition to their disclosures and answers under oath, to require them if they think proper, to produce satisfactory evidence of all such facts as they may deem material to a full understanding of the merits of each case. And no such petitioner shall receive a discharge by virtue of this act, unless upon full investigation as aforesaid of his conduct and proceedings, and upon a hearing of such testimony (if any) as his creditors may present, he shall, in the opinion of the court exercising a sound discretion therein, be fairly and justly entitled thereto; and said examination being accurately taken down in writing, by order of the court, in a suitable record book, shall, in open court, be read to and signed by said petitioner. Said court shall have power to establish rules for the proceedings on all such petitions, and to prescribe such forms as may be found proper.

SEC. 6. On the reception of any petition for the benefit of this act, the supreme court shall have power, in their discretion, to stay all proceedings against the body and estate or either of the petitioner for the collection of debts; and to cause such petitioner to be liberated from jail, if confined in the county jail in the county of Providence, on his giving bond with surety or sureties, to the satisfaction of the keeper of said jail; and if confined in any other jail, on his giving bond with surety or sureties to the satisfaction of the sheriff of such county, conditioned to return to jail in ten days after the rising of the court at which the petition shall be finally disposed of, unless the petitioner shall be discharged by the court, and shall receive a certificate thereof, by order and under the seal of said court.

SEC. 7. The said court, upon inspection of the schedules of the petitioner attached to his petition, may order such other and further notice to all or any of the creditors as they may deem necessary.

SEC. 8. Whenever the benefit of this act shall be extended to any such petitioner, he shall in open court, at the same term and before receiving his certificate of discharge, execute, acknowledge and deliver to such assignee or assignees (not exceeding three) as said court shall appoint, upon the nomination of the major part, in value, of the creditors present, if they shall think proper so to nominate, an assignment

the final decision of the supreme court on the petition to the general assembly, upon filing notice of such appeal in the clerk's office of the supreme court in the county in which such petition shall have been tried and decided, within twenty days after the rising of the court at the term in which such petition shall have been so tried and decided; and the person so appealing shall file in the office of the secretary of state, on or before the first day of the stated or adjourned session of the general assembly next after the filing of such notice, a copy of the petition and of the whole case as tried before the supreme court; and such petition shall be proceeded on and tried before said general assembly; and if upon the trial of such petition before the general assembly, on the appeal of the petitioner, the prayer thereof shall be granted, such petitioner shall, on the second day of the next term of the court to which his petition was preferred, make an assignment of his estate and effects in the same manner and with the same effect as is provided in the eighth section of this act; and in all other respects the same proceedings shall be had as are provided in and by said section; and such petitioner shall thereupon be discharged and receive a certificate thereof, by order and under the seal of said court; and the effect thereof shall be the same, and the rights, liabilities, duties, remedies and proceedings of such petitioner and of his creditors, assignees and all others, shall, in all respects, be the same as if said petition had been granted by the supreme court; and if upon the appeal of a creditor the decision of the supreme court shall be reversed, or the original petition be withdrawn, dismissed or voted out, the discharge granted by the said court shall be null and void, but the assignment made in said court shall nevertheless be as valid as if said petition had been granted; and the rights, liabilities, duties, remedies and proceedings of the assignee and of the creditors shall be the same as are provided by this act where the petition is granted.

SEC. 14. When any creditor of a petitioner shall file notice of an appeal from the decision of the supreme court in manner aforesaid, if such creditor shall neglect to file in the office of the secretary of state a copy of the petition and of the whole case, as provided in the preceding section, or if upon the trial of such petition the prayer thereof shall be granted by the general assembly, the decision of the supreme court and the discharge granted by said court shall be as valid and effectual, to all intents and purposes, as if the same had not been appealed from.

SEC. 15. When the prayer of the petition shall have been

granted by the supreme court and the creditor shall appeal from the decision of said court, all proceedings for debt against the person of the petitioner shall be stayed until the trial of the petition in the general assembly, or until the general assembly shall otherwise direct.

SEC. 16. Every insolvent debtor who shall without fraud or perjury obtain a certificate of discharge by order and under the seal of said court, shall forever thereafter be exonerated and protected from arrest, imprisonment, or any manner of bodily restraint on account of any debt, covenant, contract, (except a promise of marriage,) agreement, or pecuniary obligation of any kind, not originating in tort or in criminal conduct, contracted, entered into or incurred prior to the filing of his petition; but any creditor of said insolvent may sue out an original summons against him, and upon final judgment rendered thereon in favor of such creditor, execution shall issue to be levied and served as in ordinary cases: *provided*, that such execution shall not run against the body of said insolvent, nor shall his real estate be attached thereon, unless he at the time of the attachment be absent from the state or concealed therein; and in no case shall the plaintiff in any suit against said insolvent be permitted to dispute the validity of said insolvent's discharge, unless he shall give notice thereof, and of the precise ground of his objection, in writing on the back of his original writ; which notice shall be read to the defendant as part of said writ, or be inserted in the copy left at his last and usual place of abode; and upon the trial of such action the defendant shall be at liberty to plead specially his said discharge, in bar thereto, or may give the same in evidence under the general issue; and in either case his certificate under the seal of the court shall be conclusive of his legal discharge, and the validity thereof shall not be called in question except upon sufficient legal proof produced in the trial of the charge, specified as aforesaid in the original writ, either of wilful perjury in his examination before the court, or on any other occasion before said court, during the pendency of his petition, or before said assignee, or before the magistrate in swearing to his inventory, list of debts or other statements; or of any other fraudulent proceeding or practices on the part of said defendant, and by him concealed from said court, for the purpose of fraudulently obtaining his said discharge; and if any one of said charges shall on trial be found true, then the plaintiff shall have judgment for his debt or damages, (being first proved and ascertained,) in the same manner as if no such discharge had ever

been granted to the defendant ; and said discharge shall, in all cases forever thereafter, be considered null and void. But in case the plaintiff shall fail to prove any one of said charges to the satisfaction of the jury or court before whom the same may be tried, then the defendant shall be entitled to his costs ; and the plaintiff upon paying the same to the defendant or to the clerk in open court for the defendant's use, shall be entitled to his judgment and execution as is first in this section provided ; but if the plaintiff shall fail so to pay said cost before the last day of the same term of the court, then the defendant shall have judgment and execution for the cost against the plaintiff : *provided*, that whenever any such insolvent shall be a partner in trade or business as a joint contractor with any other person, then the original writ against such partners or joint contractors shall run against said insolvent, as is herein before prescribed, and against all the other partners or joint contractors, as in ordinary cases ; and in any such case the final judgment, if in favor of the plaintiff, shall be against the property of said insolvent as is herein before provided, and against the other defendants in the usual form ; and separate executions shall issue in conformity to said judgment.

SEC. 17. In all cases where there shall be mutual debts or demands subsisting between the insolvent and any of his creditors, previous to the reception of his petition as aforesaid, said assignee shall (the just amount thereof being first ascertained) offset such mutual claims, and the balance only shall be paid or claimed on either side, respectively ; said assignee shall also have power to submit any and all claims and demands against said estate, or in favor thereof, to the final decision of referees under a rule of any competent court.

SEC. 18. The oath to be taken by the petitioner to his inventory, on his preferring his petition for the benefit of this act, and also the oath to be taken by him to the same, upon the appointment of his assignee, shall be as follows: You do solemnly swear, (or affirm,) that the inventory on file with your petition is a just, true and perfect inventory and account of all your property and estate of every kind and nature, in possession or action, reversion or remainder, excepting wearing apparel ; and that you have not at any time, directly or indirectly, sold, leased or otherwise conveyed or disposed of to, or intrusted any person or persons whomsoever with, all or any part of the property or estate, real or personal, whereof you have been the owner or possessor, to defraud your creditors or any of them, or with any intent or design to secure the same, or to secure or expect any profit,



benefit or advantage therefrom, for yourself or any of your children or family, or any other person ; nor done, nor caused nor suffered to be done, any act, matter or thing whatever, whereby any of your creditors may be defrauded ; so help you God ; or, this affirmation you make and give upon peril of the penalty of perjury.

SEC. 19. Before any dividend as aforesaid, all debts due to this state or any town therein for taxes, or to the United States, (if any,) shall be paid, so far as the property of the insolvent will go towards paying the same ; and nothing in this act shall be taken to impair any bona fide lien existing prior to the reception of any such petition upon any land, estate or effects of any such insolvent.

SEC. 20. No man who shall hereafter intermarry with any woman who shall have the benefit of this act extended to her, and who has complied with and conformed to all the requirements of this act on her part, shall be liable in any way, in his person or estate, for any debt incurred or on any contract, covenant, bond or agreement, entered into by his wife, before the benefit of this act was extended to her, for any greater amount than the value of such property as actually came to his possession or under his control, by her marriage, other than her wearing apparel.

SEC. 21. The benefit of this act shall not be extended to any debtor whose debts do not exceed one hundred dollars.

SEC. 22. If any petitioner for the benefit of this act, against whose person proceedings for the collection of debts shall be stayed, and whose petition shall be pending, shall be committed to jail by his bail, such stay of proceedings shall not prevent the detention of such prisoner in jail, in the same manner as he would be detained, if no such stay of proceedings had been ordered. And if any such petitioner shall be surrendered in court by bail, said petitioner shall be committed to and be detained in jail in the same manner as if no such stay of proceedings had been granted. But any petitioner who shall be committed or surrendered by bail as aforesaid shall be discharged from jail on giving bond with sureties to the satisfaction of the sheriff of the county in which such petitioner shall be committed, if committed to any jail other than the jail in the county of Providence ; and if committed to the jail in the county of Providence, then to the satisfaction of the keeper of said jail, conditioned to return to jail within ten days after the rising of the court at which the petition of such petitioner shall be finally disposed of, unless the petitioner shall be discharged by the court, and shall receive

a certificate thereof by order and under the seal of said court.

SEC. 23. The clerks of the supreme court for the respective counties shall respectively make and keep a correct record of all proceedings under this act; and shall receive the sum of one dollar from each petitioner, at the time the petition shall be filed, and such other compensation for his services as is allowed by law to clerks of said court; and shall also receive at the same time for and pay to the court, one dollar on each petition filed.

SEC. 24. Nothing in this act contained shall be considered or construed in any manner to invalidate or impair any proceedings heretofore had under the act passed June, A. D. one thousand seven hundred and fifty-six, entitled "an act for the relief of insolvent debtors," and the several acts heretofore passed in relation to such debtors, nor any discharge heretofore obtained in relation to such debtors, nor any discharge heretofore obtained in conformity to said act; but all such proceedings and discharges shall remain good and valid, and continue to have full force and effect in the same manner as if this act had not been passed.

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*An Act for quieting Possessions and avoiding Suits at Law.*

SECTION

1. Ancient grants ratified and confirmed.
2. Twenty years possession and claiming the same, to make a title—rights of

SECTION

infants, &c., saved—also those in reversion or remainder.

Whereas at the first settling of this state, and for sundry years afterwards, lands were of little or no value, and skilful men in the law were much wanted, whereby many deeds, grants and conveyances were weakly made, which may occasion great contests in law if not timely prevented; therefore,

*It is enacted by the General Assembly, as follows:*

SECTION 1. All grants, charters and conveyances heretofore made by the general assembly unto any town, corporation, community or propriety, or to any other person or persons whosoever, shall be, and they hereby are ratified and confirmed as good and effectual to all intents and purposes in law, for the conveying all such lands, tenements, rights, privileges and profits as are therein mentioned, to the said towns, corporations, communities, proprietries, person or persons, and to their respective successors, heirs and assigns forever.

SEC. 2. Where any person or persons or others from whom he or they derive their title, either by themselves, tenants or lessees, shall have been for the space of twenty years in the uninterrupted, quiet, peaceable and actual seizin and possession of any lands, tenements or hereditaments, for and during the said time, claiming the same as his, her or their proper, sole and rightful estate in fee simple, such actual seizin and possession shall be allowed to give and make a good and rightful title to such person or persons, their heirs and assigns for ever; and any plaintiff suing for the recovery of any such lands may rely upon such possession as conclusive title thereto; and this act being pleaded in bar to any action that shall hereafter be brought for such lands, tenements or hereditaments, and such actual seizin and possession being duly proved, shall be allowed to be good, valid and effectual in law for barring the same: *provided*, that nothing in this act shall be construed, deemed or taken to extend to prejudice the rights and claims of persons under age, non compos mentis, feme covert, or those imprisoned, or those beyond the limits of the United States; they bringing their suit therefor within the space of ten years next after such impediment is removed: *provided further*, that nothing above contained shall extend, or be construed or deemed to extend, to bar any person or persons having any estate in reversion or remainder, expectant or depending, in any lands, tenements or hereditaments, after the end or determination of the estate for years, life or lives; such person or persons pursuing his or their title by due course of law, within ten years after his or their right of action shall accrue; any thing in this act contained to the contrary notwithstanding.

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*An Act for the limitation of certain Personal Actions.*

## SECTION

1. Certain actions to be brought within six years—others within four—others within two—covenant, &c., within twenty.
2. If defendant be without the state, &c.,

## SECTION

- when suit may be commenced.
3. If plaintiff be under age, &c.
4. Case of the death of either party.
5. Case of abatement, or arrest of judgment.

*It is enacted by the General Assembly, as follows:*

SECTION 1. All actions of trespass, trespass and ejectment, detinue or replevin; all actions of account and upon the case, except on such accounts as concern trade or merchandize between merchant and merchant, their factors or

servants; all actions of debt founded upon any contract without specialty; all actions of debt for arrearages of rents; actions of debt for other causes, and all actions of covenant which shall be sued or brought at any time, after this act shall go into operation, shall be commenced and sued within the time herein after directed, and not after; that is to say, the said actions upon the case, excepting actions for slander, and the said actions of account, and the said actions for debt, founded upon any contract without specialty, or brought for arrearages of rents, and all actions of detinue and replevin, shall be brought and commenced within six years after the cause of the said actions, and not after; the said actions of trespass, and trespass and ejectment, shall be brought within four years next after the cause of such action, and not after; and actions upon the case for words within two years next after the words spoken, and not after; all actions of debt, other than those before specified, and all actions of covenant, within twenty years next after the cause of said actions, and not after.

SEC. 2. If any person against whom there is or shall be cause for any action, herein before enumerated, shall, at the time such cause accrue, be without the limits of this state, or being within said state at the time such cause accrue, shall go out of said state before said action shall be barred by this act, and shall not have or leave property or estate therein that can, by the common and ordinary process of law, be attached, then and in such case, the person entitled to such action may commence the same, within the time before limited, after such persons return into this state.

SEC. 3. If any person at the time any such action shall accrue to him shall be within the age of twenty-one years, feme covert, non compos mentis, imprisoned, or beyond the limits of the United States, such person may bring the same, within such time as is herein before limited, after such impediment is removed.

SEC. 4. If any person, for or against whom any of said actions shall accrue, shall die before the time limited for bringing the same, or within thirty days after the expiration of said time, and the cause of said action shall survive, such action may be commenced by or against the executor or administrator of the deceased person, as the case may be, at any time within one year after the granting of letters testamentary or of administration, and not afterwards, if barred by the provisions of this act.

SEC. 5. If any action duly commenced, within the time

limited and allowed therefor, in and by this act, shall be abated or otherwise avoided or defeated by the death of any party thereto, or for any matter, or if after verdict for the plaintiff the judgment shall be arrested, the plaintiff may commence a new action for the same cause, at any time within one year after the abatement or other determination of the original suit as aforesaid; and if the cause of action does by law survive, his executor or administrator may, in case of his death, commence said new action, within the said one year.

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*An Act to prevent Frauds and Perjuries.*

## SECTION

1. Actions not to be brought in certain cases unless upon promises in writing.

## SECTION

2. Fraudulent conveyances, &c., to be void.

*It is enacted by the General Assembly, as follows:*

SECTION 1. No action shall be brought whereby to charge any executor or administrator upon his special promise to answer any debt or damage out of his own estate, or whereby to charge the defendant upon his special promise to answer for the debt, default or miscarriage of another person; or to charge any person upon any agreement made upon consideration of marriage, or upon any contract for the sale of lands, tenements or hereditaments, or the making of any lease thereof for a longer time than one year; or upon any agreement which is not to be performed within the space of one year from the making thereof, unless the promise or agreement upon which such action shall be brought, or some note or memorandum thereof, shall be in writing, and signed by the party to be charged therewith, or by some other person by him thereunto lawfully authorized.

SEC. 2. Every gift, grant or conveyance of lands, tenements, hereditaments, goods or chattels, or of any rent, interest or profit out of the same, by writing or otherwise, and every note, bill, bond, contract, suit, judgment or execution, had or made and contrived, of fraud, covin, collusion or guile, to the intent or purpose to delay, hinder or defraud creditors of their just and lawful actions, suits, debts, accounts, damages or just demands of what nature soever; or to deceive or to defraud those who shall purchase bona fide the same lands, tenements, hereditaments, goods or chattels, or any rent, interest or profit out of them, shall be henceforth deemed and taken as against the person or persons, his, her or their heirs, successors, executors, administrators or assigns, and every of

them, whose debts, suits, demands, estates, rights or interests, by such guileful and covinous devices and practices as aforesaid shall or might be in any wise injured, disturbed, hindered, delayed or defrauded, to be clearly and utterly void; any pretence, color, feigned consideration, expressing of use, or any other matter or thing, to the contrary notwithstanding.

*An Act establishing Courts of Probate.*

## SECTION

1. Town councils constituted courts of probate.
2. Jurisdiction of courts of probate.
3. Courts of probate may remove unfaithful and incompetent executors, administrators and guardians.
4. Before any removal, complaint to be made by some person liable to be injured thereby, and person complained of to have notice.
5. If executor, &c., removed, be sole executor, &c., new executor, &c., to be appointed.
6. When executors, &c., bond insufficient, new bond to be required, and he neglecting to give it, to be removed.
7. Administrator, &c., appointed in place of one removed, entitled to recover possession of goods, &c., in hands of the administrator, &c., removed.
8. No suit to abate by removal of an executor, &c.
9. Courts of probate may grant license to sell real estate of deceased persons and wards to pay debts, &c.—terms of such licenses and sales.
10. On settlement of administrator's, &c., account embracing proceeds of sales of real estate, court of probate to adjudge whether terms of sale have been complied with.

## SECTION

11. Executor, administrator and guardian may resign trust—court of probate may appoint successor and require new bonds.
12. Town clerk to be clerk of probate.
13. Clerk being absent, court of probate may appoint clerk pro tem.
14. Suits on bonds given to probate court to be in name of court and not in name of persons composing court.
15. Notice to be given by court of probate before passing certain decrees—kind and mode of notice specified.
16. Appeal granted to supreme court.
17. Appeal when to be claimed, and appeal bond when to be given.
18. Reasons of appeal when to be filed, and adverse party when and how notified.
19. Appeals when to be tried—facts may be determined by a jury.
20. If party appealing neglect to enter his appeal, decree appealed from may be affirmed on complaint, by supreme court.
21. Decree appealed from to be suspended except in certain cases.
22. Municipal court of city of Providence a court of probate.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The town councils of the several towns in this state are hereby constituted and ordained courts of probate, within their respective towns. The major part of the members elected shall be a quorum for doing business, and the major part of those present at any legal meeting may decide upon any matter before them.

SEC. 2. Every court of probate shall have full power and authority to take the probate of wills, and to grant administration on the estates of persons deceased, being at the time of their decease inhabitants of or residents in the town to which such court of probate may belong; and also on the es-

tates of persons who, at the time of their decease, were not inhabitants of or residents within this state : *provided*, any of the rights, credits or estate of such deceased person shall be found therein ; and the administration first granted shall be a bar to any other administration, although such deceased person may have left such rights, credits or estate, in other towns ; to appoint suitable persons to have the charge and care of the personal property of such deceased persons, until letters testamentary or of administration be granted ; and may require such persons to give bond to such court, with or without surety, at the discretion of such court ; also to approve and to appoint guardians of the persons and estates, or of the persons only, or of the estates only, of such as are or may be subject to guardianship ; to examine, allow and settle the accounts of executors, administrators and guardians ; to make partition of estates, to assign dower to widows, and to do and transact all such matters and things as the courts of probate within the several towns shall, by the laws of this state, have cognizance and jurisdiction of, according to law.

SEC. 3. Every court of probate shall have power, whenever any executor of a last will and testament by such court approved, or any administrator or guardian appointed by such court, shall, by means of absence, sickness or insanity, become incapable of executing his trust, or shall neglect or refuse to do the duties thereof, or shall waste the estate of his ward, or that on which he administers, on a regular inquiry, to remove such executor, administrator or guardian, from office.

SEC. 4. In every such case, a complaint shall first be made, in writing, to such court, by an heir, devisee, legatee, ward, creditor, or surety in the administration or guardianship bond, who may have been injured or exposed to injury, or by any person interested in the same, and the court shall, thereupon, issue a summons to such executor, administrator or guardian, embodying therein or annexing thereto said complaint, or the substance thereof, and requiring such executor, administrator or guardian to appear at a time and place named therein, if he shall see fit, to show cause, if any he have, why he should not be removed, in pursuance of such complaint ; which summons shall be served on such executor, administrator or guardian, by some sheriff, deputy sheriff, town sergeant or constable, a reasonable time, to be determined by the court issuing the same, before the time appointed for hearing said complaint, by reading the same in his presence and hearing, or by leaving an attested copy thereof at his usual place of abode.

SEC. 5. If the executor, administrator or guardian removed from office in pursuance of the next preceding section be sole executor, administrator or guardian, the said court of probate shall appoint an administrator of the goods not administered or another guardian, as the case may require, as in case of the death of an executor, administrator or guardian.

SEC. 6. Whenever an administration or guardianship bond shall be found insufficient, either in amount or in security, it shall be the duty of the court of probate who took the same to require further bond or sureties of the executor, administrator or guardian; and on his neglect or refusal to give such further bond or sureties, to remove such executor, administrator or guardian without further notice, and to appoint an administrator or guardian to succeed him, as in the preceding sections is provided.

SEC. 7. The administrator or guardian appointed to succeed the executor, administrator or guardian removed from office for either of the causes aforesaid, or in the manner prescribed in the sixth section of the act entitled "an act respecting guardians," shall ask for, demand and receive of the executor, administrator or guardian so removed, his heirs, executors or administrators, or guardian, all the goods and effects of the deceased or of the ward, and also all books of account, bonds, notes or other securities, documents or papers whatsoever, touching the estate, which may be needed in the settlement thereof; and in case of refusal to deliver the same he may sue therefor; which action shall be no bar to any other proper action to be brought on such executor's or administrator's or guardian's bond.

SEC. 8. No action or suit in law or equity which, at the time such executor, administrator or guardian is removed from office as aforesaid, shall be pending in favor of or against such executor, administrator or guardian, shall abate by such removal; but the same may be prosecuted by or against the administrator or guardian who shall be appointed to succeed him.

SEC. 9. Courts of probate shall have cognizance and jurisdiction over petitions of executors and administrators for authority and license to sell the lands, tenements and hereditaments of deceased persons, or growing wood, or stone, or peat, or coal thereon, to pay the debts of such deceased, the expense of their funerals, of supporting their families, and settling their estates, with incidental charges; and over similar petitions of guardians to sell like property to pay the debts of their wards, the expenses of supporting them, their families, and of settling their estates, with incidental charges; to hear,



examine into and grant the same, under such conditions and restrictions as are or shall be imposed by law, or by the court granting the same. But before granting any such petition, notice shall be given by the court or clerk, for three weeks, of the pendency and prayer thereof, by advertisement published at least three times in some newspaper printed in this state, or by putting up notices thereof, as in case of an application for the appointment of an administrator; and every executor, administrator or guardian, empowered as aforesaid, shall and may, by virtue of such authority, make, sign and execute, in due form of law, deeds and conveyances of such real estate or property as they shall sell; and such deeds and conveyances shall make as good a title to the purchaser, his heirs and assigns, as the testator, intestate or ward, being of full age and of sane mind and memory in his life time, might or could have made. But before any sale, the executor, administrator or guardian, shall give thirty days public notice thereof by posting up notifications of such sale, in the town where the real estate or property to be sold lies, and in the town where the testator, intestate or ward dwells, or did dwell at the time of his death, and also in two next adjoining towns; or shall publish the same in some public newspaper, for four successive weeks, or in such other manner as the court of probate may direct; and whoever shall give most shall have the preference in such sale. The executor, administrator or guardian may, in his discretion, adjourn any such sale to any future day, whenever he may deem the same advisable, giving notice of such adjournment in the same manner in which notice of the sale was given, as soon as may be after such adjournment, and up to the day of the adjourned sale; unless the adjournment shall be from day to day only, and then by making public proclamation thereof at the place and time of the sale, and by setting up a notice thereof at such place. But every person so empowered to sell any land or property, before he makes any sale, shall give bond with surety, to the satisfaction of the court empowering him, to apply the proceeds of such sale to the purposes for which the court granted leave to make the same.

SEC. 10. Whenever any court of probate shall settle the account of any executor, administrator or guardian in which there shall be credited any sum, as the proceeds of any sale of any land which belonged to his testator, intestate or ward, or wood, or stone, or coal, or peat, standing, growing, or being on any such land, such court shall particularly examine whether all the requisitions of law in relation to such sale,

were duly complied with ; and shall specially adjudge and decree in relation to the same, whether such requisitions have been complied with or not, and the notice given before settling any such account shall state that it contains such a credit.

SEC. 11. Whenever any administrator or guardian appointed by any court of probate, or any executor of any will approved by any court of probate, shall, in writing, resign his trust to the court appointing him, such court may accept such resignation and appoint a successor, who shall have all the power that the person resigning had ; but no resignation shall be accepted until the person resigning shall have settled his accounts with said court. In case the person so resigning shall have been sole executor, administrator or guardian, said court shall proceed and appoint a successor ; if he were joint executor, administrator or guardian, with some other person not resigning, such person shall be required to give a new bond, in such sum as said court shall deem reasonable, with sureties satisfactory to said court ; upon the giving of which he shall have the same powers in relation to the estate of the deceased or ward that he, together with the person resigning, had jointly ; but in case he refuse to give such new bond, said court shall remove him, and appoint a new administrator or guardian, conforming to the requisitions contained in the sixth section of this act.

SEC. 12. The town clerk of each town shall be the clerk of the court of probate in such town ; he shall attend the meetings of such court, record their proceedings, and also all wills, administrations, inventories, accounts, decrees, orders, determinations and other writings, which shall be made, granted or decreed upon by the court of probate of such town ; and shall have the custody and safe keeping of the seal of said court, and of all the books and papers belonging to the probate office.

SEC. 13. Whenever the clerk of any probate court shall not appear at the time and place appointed for the meeting of the court, such court may appoint a clerk pro tempore ; who after being duly sworn shall perform all the duties, exercise all the powers, enjoy all the emoluments, and be subject to all the requirements, granted to or conferred on, or required of, clerks of probate courts.

SEC. 14. In all cases where bonds are required by law to be given to any court of probate, they shall be given to the proper court by name, and not to the individuals who may, at the time, constitute such court ; and may be sued in like manner ; and no person shall be disqualified from being a

witness in any such suit by reason of his being a member of the court of probate to which the bond was given: the same shall apply to bonds given to town councils.

SEC. 15. Previous to the granting of any letters of administration, or to the approving or disapproving of any last will and testament, or to the acceptance of the resignation of any executor, administrator or guardian, or to the making any order upon the report of commissioners on any estate which has been represented insolvent, and before the passing of any decree upon any executor's, administrator's or guardian's account, or of any order of distribution among the heirs of any deceased person, and in all such other cases as the court of probate may deem necessary and shall direct, the said court of probate shall cause all parties known to be interested in such order or decree to be notified thereof, by causing the clerk of said court to post up in some conspicuous place within his office, or at the place where said court of probate usually meet, and at one other public place within the town, at least three weeks before the rendering such order or decree, notice of the subject matter thereof, and of the time and place at which the same will be acted upon; or said court of probate may cause notice to be given by advertisement published for three successive weeks, once a week, at least, in some newspaper printed within this state; or by causing notice to be served upon all parties interested, by some sheriff, deputy sheriff, town sergeant or constable, by reading said notice to the party, if to be found, or otherwise by leaving an attested copy of said notice at the last and usual place of the party's abode; either of said modes of giving notice to be discretionary with the court of probate: *provided, however*, that if it shall appear to said court of probate before passing any such order or decree, that previous notice has been given to all known parties interested as aforesaid, by the clerk of said court, upon application to him made, in one of the modes prescribed in this section, and that mode be satisfactory to said court, or if all known parties interested in such order or decree shall have given their assent in writing to said court's proceeding at that time and place to determine in the premises, then said court may proceed to hear and determine in the premises in the same manner as though said notice had been given by order and direction of said court, as aforesaid.

SEC. 16. Any person aggrieved at any order, determination or decree of any court of probate, except express provision be made to the contrary, may appeal therefrom to the supreme court, at the term thereof to be holden in the same

county next after the rendition of said order, determination and decree, if said term do not commence within sixty days of said time, and if so, then at said term or at the next succeeding term of the said court in the same county.

SEC. 17. Such appeal must be claimed by the aggrieved party within forty days next after such order, decree or determination shall have been made; and bond shall then be given to said court of probate, with sufficient surety, satisfactory to the said court appealed from, or to the clerk thereof, if said court shall not then be in session, to prosecute such appeal with effect, or in default thereof to pay all intervening costs and damages, and such costs as the supreme court shall tax against the appellant.

SEC. 18. The person so appealing shall, within ten days after giving bond as provided in the preceding section, file his reasons of appeal in the office of the clerk of the court appealed to; and shall cause the adverse party to be served with a copy thereof, and to be cited at least ten days before the sitting of the court appealed to, that such party may prepare to answer the same.

SEC. 19. Appeals shall be proceeded upon at the term of the said supreme court at which they shall be entered. If a matter of fact be in controversy, the same shall be tried by a jury, if either party request it.

SEC. 20. If the party appealing give bond as aforesaid, but shall neglect to prosecute said appeal in manner aforesaid, the said supreme court, upon the complaint of any person interested in the order, determination and decree appealed from, may affirm the same and pass such further decree or order as may be necessary to carry the same into full effect.

SEC. 21. In case any order, decree or determination of any court of probate shall be appealed from, the operation of such order or decree shall be wholly suspended until the same shall be affirmed by the supreme court: *provided, however*, that if the decree shall be for granting letters testamentary, of administration or guardianship, the executor, administrator or guardian, on giving bond according to law, shall have power to collect, receive and take possession of all the rights, credits and estates of the testator, intestate or ward, which by law he could have collected, received or taken possession of provided no appeal had been made; and to take proper care of the ward and his family during the pendency of said appeal.

SEC. 22. The municipal court of the city of Providence is hereby declared to be a probate court within said city; and

shall have and execute all the powers conferred, and be subject to all the duties imposed by this act, or which hereafter may be conferred or imposed by any act on courts of probate in this state.

### *An Act in relation to Wills of Real and Personal Estate*

#### SECTION

1. Who may devise lands—no devise in fee tail to be for a longer time than to the children of the first devisee.
2. Wills to be in writing, signed by the party, and attested in his presence by at least three witnesses.
3. Will revocable by marriage of testator, by a subsequent will duly executed, by some other writing, by burning, cancelling, tearing or obliterating.
4. Wills of personal estate may be made by persons eighteen years of age, but those of married women to control only the property secured to them by the act concerning the property of married women; wills of personal estate to be executed and revoked by like formalities as wills of real estate. Exception in favor of mariners at sea and soldiers in service.
5. Widow shall refuse to accept provision made for her in lieu of dower, within one year from probate of will.
6. Child born after execution of will may inherit as if parent had died intestate.
7. Estate not devised to be distributed as the estate of an intestate person.
8. Devisee dying before testator, his lineal descendant to take the devise.
9. Legacy to a witness void, but legatee good witness to the will.
10. Creditor may be a witness, though lands are charged with payment of debts.
11. Devisee or legatee dying before probate of will, to be deemed a good witness.
12. Executor to prove will, or decline his office, within thirty days after the testator's death, on penalty of ten dollars per month.
13. If executor decline his office, administration to be granted to devisee, legatee, creditor, or other fit person, being an inhabitant of the state.
14. Who may be executors in their own wrong.
15. Executors to give bond, to return an

#### SECTION

- inventory and to render an account, unless they are residuary legatees, and then bond to pay debts and legacies.
16. Executor refusing to give bond, court of probate to appoint administrator.
17. Executor being under age, administrator to be appointed during his minority; no executor to act till he give bond.
18. Any executor being a residuary legatee may bring an action of account against his co-executors. Legacies recoverable by suit at common law.
19. Executor living out of the state, refusing to account, or any executor or administrator becoming insane, or incapable of performing his duties, to be removed, and another administrator appointed with the same powers.
20. Feme sole, joint executrix or administratrix marrying, her power to cease.
21. Feme sole, sole executrix or administratrix marrying, her power to cease.
22. Of several executors, the one accepting and the survivors to have the powers of all.
23. Administrator with will annexed, to have same power to sell real estate as the executor.
24. Debtor, executor, debt not extinguished thereby.
25. The executor of a deceased executor, not an executor of the first testator, but an administrator with the will annexed, to be appointed on the decease of the first executor.
26. Copy of a will proved in any other state or country may be filed and recorded in any town where necessary, after notice; other proceedings in such case.
27. The effect of filing and recording the copy of a will proved in any other state or country, to be the same as the filing and recording an original will; but shall not make valid a will not executed according to the provisions of this act.

*It is enacted by the General Assembly, as follows :*

SECTION 1. Every person being upwards of twenty-one years of age, and of sane mind, not being a married woman,

and being lawfully seized of any lands, tenements or hereditaments, in his own right, in fee simple, fee tail, or for the life of any other person, or for any other term of time than his own life, shall have a right to give, devise and dispose of the same, by last will or testament, in writing, to and among his children, or others, as he shall think fit; and he may also devise any lands, tenements or hereditaments, acquired subsequently to the execution of his will, provided his intention to devise the same appears by the express terms of his will: *provided*, that no person seized in fee simple shall have a right to devise any estate in fee tail for a longer time than to the children of the first devisee; and a devise for life to any person and to the children or issue generally of such devisee, in fee simple, shall not vest a fee tail estate in the first devisee, but an estate for life only; and the remainder shall, on his decease, vest in his children or issue generally, agreeably to the direction in such will.

SEC. 2. All devises and bequests of any lands, tenements or hereditaments, shall be in writing, and signed by the party so devising the same, or by some person in his presence and by his express direction; and shall be attested and subscribed in the presence of the devisor, by three or more witnesses, or else shall be utterly void and of no effect.

SEC. 3. No devise or bequest in writing of any lands, tenements or hereditaments, or any clause thereof, shall be revocable otherwise than by a marriage of the testator subsequent to the date thereof, or by some other will or codicil in writing, or other writing declaring the same, or by burning, cancelling, tearing or obliterating the same, by the testator himself, or in his presence and by his direction and consent; but all devises of lands and tenements shall remain and continue in full force until the same be burned, cancelled, torn or obliterated by the testator, or by his direction, in manner aforesaid; or unless the same be altered by some other will or codicil or other writing of the devisor, signed in the presence of three or more witnesses, declaring such alteration.

SEC. 4. Every person being upwards of eighteen years of age, and of sane mind, shall have a right to give and dispose of all his goods, chattels and other personal estate, of every kind, by last will and testament, in writing, in the same manner as he is authorized by this act, if upwards of twenty-one years of age, to dispose of real estate: *provided, however*, that no married woman shall make any last will and testament except of that or some portion of the personal estate secured to her by the act concerning the property of married women;

and no will or testament of any goods or chattels or other personal estate shall be valid and effectual to convey the same, unless such will or testament shall be in writing, and signed and executed in the manner prescribed in this act for the execution of wills of real estate; nor shall any will of goods, chattels or other personal estate of any kind be revocable, in any other manner than is herein before prescribed for the revocation of wills or testaments of real estate: *provided, nevertheless*, that any soldier in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate by will, as he might heretofore have done; any thing in this act to the contrary notwithstanding.

SEC. 5. The widow of any testator in whose will provision is made for said widow in lieu of her dower, shall, in case of her non-acceptance of that provision, signify the same in writing to the court of probate, within one year from the probate of the will.

SEC. 6. When any child shall be born after the execution of his father's or mother's will, without having any provision made for him in such will, he shall have a right and interest in the estate of his father or mother, in like manner as if the father or mother had died intestate, and the same shall be assigned to him accordingly.

SEC. 7. All such estate, real or personal, as is not devised or bequeathed in the last will and testament of any person, hereafter to be proved, shall be distributed in the same manner as if it were an intestate estate.

SEC. 8. When any child, grandchild or other person having a devise or bequest of real or personal estate, shall die before the testator, leaving a lineal descendant, such descendant shall take the estate, real or personal, as devisee or legatee, in the same way and manner as such devisee would have done in case he had survived the testator.

SEC. 9. If any person hath attested or shall attest the execution of any will or codicil, to whom any beneficial devise, legacy, estate, 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 debts, shall be thereby given or made, such devise, legacy, estate, interest, gift or appointment, shall, so far only as concerns such person attesting the execution of such will or codicil, or any person claiming under him, be utterly void; and such person shall be admitted as a witness to the execution of such will or codicil, such devise, legacy, estate, interest, gift or apportionment, notwithstanding.

SEC. 10. In case, by any will or codicil already made, or hereafter to be made, any lands, tenements or hereditaments are or shall be charged with any debt, 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.

SEC. 11. In case any devisee or legatee as aforesaid, who hath attested the execution of any will or codicil already made, or who shall attest the execution of any which shall hereafter be made, shall die in the life time of the testator, or before the probate of such will, such devisee or legatee shall be deemed to have been a legal witness to the execution of such will or codicil, within the intent of this act, notwithstanding such legacy or bequest.

SEC. 12. If any executor of the will of any person deceased, knowing of his being so named and appointed, shall not, within thirty days next after the decease of the testator, cause such will to be proved and recorded in the clerk of probate's office of the same town where the deceased person last dwelt, or present the said will, and in writing declare his refusal, every executor so neglecting his trust and duty in that behalf (without just excuse made and accepted by the court of probate for such delay,) shall forfeit the sum of ten dollars a month from and after the expiration of the said thirty days, until he shall cause probate of such will to be made, or present the same as aforesaid; every such forfeiture to be recovered by action of debt, in any court of competent jurisdiction in the same county; one moiety for him who shall sue for the same, and the other moiety for the use of the legatees named in the said will.

SEC. 13. Upon the neglect or refusal of the executor named in any will to present the same for probate, the court of probate shall commit administration of the estate of the deceased to one or more of the devisees or legatees, or in case of their refusal, to one or more of the principal creditors, or to such other person as they shall think fit, being an inhabitant of the state.

SEC. 14. If any person shall alienate or embezzle any of the goods, chattels or other personal estate of any deceased person, before he shall have taken out letters of administration, and exhibited a true inventory of all the known estate of the person deceased, every such person shall stand chargeable and be liable to the creditors and other persons aggrieved, as being an executor in his own wrong.



SEC. 15. Every executor named in a will hereafter to be proved, and taking upon him that trust by proving the same, shall give bond to the court of probate with sufficient surety or sureties, to return upon oath a true and perfect inventory of the testator's goods, chattels, rights and credits, unto the court of probate within three months, and to render an account of his proceedings thereon, in the same manner as administrators are by law obliged to be bounden; unless such executor is the residuary legatee, in which case bond may be given by him to pay the debts and legacies of the testator.

SEC. 16. In case such executor shall neglect or refuse for the space of twenty days to give bond as aforesaid, the court of probate may commit administration of the estate of such testator, with the will annexed, to some other person, in like manner as they may grant the same when the executor refuses the trust, or neglects or refuses to present the will for probate.

SEC. 17. When the executor is under the age of twenty-one years at the time of proving the will, administration may be granted with the will annexed during the minority of such executor, to an inhabitant of this state as aforesaid; and when there are divers persons named executors in any will hereafter to be proved, none shall intermeddle and act as such but those who actually give bond as aforesaid.

SEC. 18. Any executor being a residuary legatee, may bring an action of account against his co-executor or executors of the estate of the testator, in his or their hands, and may also sue for and recover his proportionable part thereof; and any other residuary legatee shall have the like remedy against the executors; and any person having a legacy given in any last will, may sue for and recover the same at the common law.

SEC. 19. When any executor of any last will and testament shall reside without the limits of this state at the time of his taking upon him that trust, or shall afterwards remove out of this state and shall neglect or refuse, after due notice from the court of probate, to render his account and make a settlement of such estate with the creditors, legatees or heirs, or their legal representatives; or when any executor or administrator shall become insane, or otherwise incapable of, or evidently unsuitable to, discharge the trust reposed in him, the court of probate that proved the will or granted letters of administration are authorized and empowered, in such cases, to grant letters of administration with the will annexed, (or otherwise, as the case may require,) to such person within this

state as to the said court shall seem meet ; and the administrator thus appointed shall have the same power and authority to administer the estate of the deceased not administered upon by such former executor or administrator, and be subjected to the same duties, in as full and ample a manner as if the executor or administrator so removed or residing without this state as aforesaid were actually dead.

SEC. 20. When any unmarried woman shall jointly with one or more persons be appointed executrix or administratrix and after such appointment shall marry, during the life of the other executor or administrator, such marriage shall not make the husband an executor or administrator in her right, but shall operate as an extinguishment or determination of such woman's power and authority ; and the other executor or executors, administrator or administrators, may proceed in discharging the trust reposed in them in the same way and manner as if such woman were dead.

SEC. 21. When any unmarried woman, executrix or administratrix shall marry, such marriage shall not make her husband an executor or administrator in her right, but shall operate as an extinguishment of such woman's power ; and the court of probate shall thereupon grant administration upon the unadministered part of the estate to such husband or to any other suitable person ; who may prosecute or defend any suit which may have been commenced by or against the first executrix or administratrix, in the same manner and to the same purpose and effect as she might have prosecuted or defended the same if her trust had continued.

SEC. 22. If any testator shall appoint more than one executor of his will and some of them do not accept the trust, or having accepted thereof, shall die, those who shall undertake to execute the will, and the survivors of them, shall have the same power and authority as is given by such will to the whole of them, to every intent and purpose whatsoever.

SEC. 23. The administrator with the will annexed who shall be appointed by the court of probate, shall have the same power to sell and convey real estate as may be given by such will, or by law, to the executor or executors thereof.

SEC. 24. The appointment of a debtor an executor shall in no case be deemed an extinguishment of the debt, unless it be so directed in the will.

SEC. 25. In case of the decease of any person who, while living, and at the time of his decease, was the executor of the last will and testament of any person previously deceased, and whose estate had not been fully administered upon by such

deceased executor, the court of probate in the town where such will was proved and recorded shall proceed and grant letters of administration with the will annexed, to such person within this state as to the said court shall seem meet, in the same full and ample manner as if such executor had become insane or otherwise incapable of, or evidently unsuitable, to discharge the trust reposed in him ; and in no case shall the executor of a deceased executor in consequence thereof, become an executor of the first testator.

SEC. 26. When the executor or any other person interested in any will that has been proved and allowed in a court of probate in any of the United States, or in a court of probate in any state or kingdom, shall produce a copy of such will, with a copy of the probate thereof, under the seal of the court where the same will has been proved and allowed, unto any court of probate in any town in this state where the testator had estate real or personal, whereon the same will may operate, and shall in writing desire the same may be filed and recorded in the probate office in such town pursuant to this act, the said court shall assign a time and place for taking the same into consideration ; and shall cause notice thereof to be given in the same manner as though said will was presented to such court for probate, to the end that any person may appear and show cause against the filing and recording the same ; and if at the time assigned no objection is made, or none in the judgment of said court sufficient to prevent it, the said court may cause the same copy to be filed in the registry of said court of probate, and direct the same to be there recorded ; saving always an appeal to any person apprehending himself aggrieved thereby, to the supreme court, as in other probate cases ; and the said court may grant letters testamentary to the executor therein named, or to the administrator appointed under the original will, or to such person being a resident in this state as said court shall deem fit, they giving bond according to law.

SEC. 27. When a copy of any will which has been proved and allowed in any court of probate in any of the United States or in any foreign state, shall be directed to be filed and recorded in any probate court in this state pursuant to this act, the filing and recording thereof shall be of the same force and effect as the filing and recording of an original will, proved and allowed in the said court of probate ; and said court may grant letters testamentary to the executor therein named, or letters of administration with the will annexed, to such person being a resident in this state as said court may deem fit,

taking bond from the said person according to law : *provided, however,* that nothing in this or in the next preceding section contained, shall be construed to make valid any will that is not executed, attested and subscribed in the manner prescribed by the laws of this state; nor to give any operation and effect to the will of any alien different from what it would have had, if originally proved and allowed in this state.

*An Act directing the descent of Intestate Estates and the settlement thereof, and for other purposes therein mentioned.*

**SECTION**

1. Course of descent of intestate estates; general rules.

2. Personal property to be distributed, as real, descends.

3. Widow to have her apparel and furniture, if estate be insolvent.

4. Real estate liable for debts; not to be aliened by heir till after three years and six months.

5. Court of probate may divide real estate among heirs, on petition.

6. Notice to be given on such petitions.

7. Court of probate on such petitions to decree who are heirs, and the proportion of each, and appoint commissioners to divide.

8. Form of warrant to commissioners.

9. Commissioners to set off shares by lot, in certain cases.

10. Commissioners to report their doings.

11. Amount of advancement to be deducted from child's share.

12. Infant interested in partition; guardian to act for him.

13. What an advancement.

14. Real estate not disposed of by will to be divided among heirs.

15. Real estate holden in common by devise, may be divided by court of probate.

16. Widow's dower lands may be divided after her decease.

17. Court of probate to apportion costs of partition.

18. Tenancy by curtesy recognized.

19. Administration to be granted to widow or next of kin, in thirty days.

20. After thirty days, administration to be granted to suitable person, inhabitant of state, not belonging to the court; form of administration bond.

21. Administrators, &c., to account for inventory at double its value, unless sold at auction.

22. Emblements—what are.

23. Administrator, &c., may maintain action of account against co-administrator, &c.

24. Husband to be administrator on wife's estate, without account.

25. Administration may be granted on estate of person absent three years.

26. Court of probate to examine on oath persons embezzling estate of deceased persons.

27. Debts secured by mortgage and mortgaged estate, assets in hands of administrator.

28. Administrator recovering possession of mortgaged estate to be seized for the heirs.

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31. Settlement of administrator's account, final.

32. Heir no right to portion of estate till three years after administration, except on giving bond.

33. Personal estate being insufficient to pay debts, court of probate may authorize sale of real estate.

34. Real estate liable for debts in hands of heirs, by attachment.

35. No action to be brought against heir till after three years.

36. If heir has aliened, to be personally liable for value of estate.

37. Creditors suing to be paid in the order of their attachment.

38. Form of judgment on an administration bond.

39. Pre-requisites to a suit on administration bond.

40. Tenant for life absent seven years, tenant in reversion may enter on estate.

41. Administrator not settling estate in three years, bond forfeited.

42. All claims on deceased person reckoned due at grant of administration.

43. Modes of perpetuating evidence of notice given on sales of real estate.

44. Administrators, &c., to settle accounts yearly with court of probate.

## SECTION

45. Legatee, &c., not demanding legacy in five years, executor to pay same to town treasurer.

## SECTION

46. Town treasurer to keep particular account of receipts under preceding section.

*It is enacted by the General Assembly, as follows :*

SECTION 1. When any person having title to any real estate of inheritance shall die intestate as to such estate, it shall descend and pass in equal portions to his kindred, in the following course :

To his children or their descendants, if any there be :

If there be no children nor their descendants, then to the father of such intestate :

If there be no father, then to the mother, brothers and sisters of such intestate, and their descendants, or such of them as there be :

If there be no mother nor brother nor sister, nor their descendants, the inheritance shall go, in equal moieties, to the paternal and maternal kindred, each in the following course :

First, to the grandfather :

If there be no grandfather, then to the grandmother, uncles and aunts, on the same side, and their descendants, or such of them as there be :

If there be no grandmother, uncle, nor aunt, nor their descendants, then to the great-grandfathers or great-grandfather, if there be but one :

If there be no great-grandfather, then to the great-grandmothers, or great-grandmother, if there be but one, and the brothers and sisters of the grandfathers, and grandmothers, and their descendants, or such of them as there be, and so on, in other cases, without end ; passing to the nearest lineal male ancestors, and for want of them to the lineal female ancestors, in the same degree, and the descendants of such male and female lineal ancestors, or such of them as there be.

But no right in the inheritance shall accrue to any persons whatsoever, other than to the children of the intestate, unless such person be in being, and capable in law to take as heirs, at the time of the intestate's death.

And when herein the inheritance is directed to go by moieties to the paternal and maternal kindred, if there be no such kindred on the one part, the whole shall go to the other part ; and if there be no kindred, either on the one part or the other, the whole shall go to the husband or wife of the intestate ; and if the wife or husband be dead, it shall go to his or her kindred in the like course as if such husband or wife had survived the intestate and then died, entitled to the estate. The

descendants of any person deceased shall inherit the estate which such person would have inherited had such person survived the intestate.

When the title to any real estate of inheritance as to which the person having such title shall die intestate, came by descent, gift or devise, from the parent or other kindred of the intestate, and such intestate die without children, such estate shall go to the kin next to the intestate, of the blood of the person from whom such estate came or descended, if any there be.

Bastards shall be capable of inheriting or transmitting inheritance, on the part of their mother, in like manner as if they had been lawfully begotten of such mother.

Nothing in this section shall be construed or operate to bar any widow of any intestate, of her right of dower in the real estate of her deceased husband.

SEC. 2. When any person shall die possessed of any chattels or personal estate, the same shall stand chargeable with the payment of all the just debts and funeral charges of the deceased, and the expenses of settling his estate; and after the payment thereof the surplusage, (if any there be,) not by him bequeathed, shall be distributed, by order of the court of probate who shall have granted administration on such intestate estate, as follows; one third part thereof to the widow of the deceased forever, unless the intestate died without issue, in which case she shall have one half thereof forever; the residue shall be distributed amongst the the heirs of the intestate, in the same manner real estates descend and pass by this act, but without having any respect to the blood of the person from whom such personal estate came or descended.

SEC. 3. Whenever the personal estate of any deceased person shall be insufficient to pay the debts and funeral charges of the deceased, the widow shall nevertheless be entitled to her apparel, and such bedding and other household goods as the court of probate shall determine necessary, according to her situation and the circumstances of the estate; and such part of the personal estate as the court of probate may allow the widow, shall not be assets in the hands of the executor or administrator.

SEC. 4. The real estate of any deceased person shall, in all cases, stand chargeable with all the debts of such deceased, over and above what the personal estate shall be sufficient to pay as aforesaid; nor shall the heir or devisee, within three years and six months after the probate of the will or administration granted, encumber or aliene said estate, but

the same may be sold by the executor or administrator, if necessary, as prescribed by law : *provided, however*, that, after the expiration of three years and six months, the heir or the devisee may aliene, and the same shall not be liable for the debts of the deceased, in the hands of the purchaser thereof, or any other person.

SEC. 5. After payment of the debts, funeral charges, and expenses of settling the estate of any person dying intestate, the court of probate which granted administration on such estate may divide the real estate of which such intestate died seized, among his heirs at law, in the proportions by law prescribed ; whenever application in writing shall be made to them for such purpose, by all of the said heirs at law, setting forth and particularly describing each parcel of said real estate.

SEC. 6. Upon the filing of such application, a time shall be appointed for proceeding therein, unless such time be specified in such application ; and notice thereof shall be given according to law, or in such manner as the court of probate shall appoint, to such heirs at law.

SEC. 7. At the time appointed, such court shall by decree determine who are the heirs at law of the intestate, entitled to a share of such estate, the amount of advancement or settlement made by such intestate to any of such heirs, and the share to which each of said heirs is entitled out of such real estate ; and shall thereupon appoint three or five discreet and disinterested persons, residing in any or either of the towns wherein the lands to be divided do lie, as commissioners, to make partition thereof, according to such decree.

SEC. 8. Such court shall issue their warrant to the commissioners, which shall be in substance as follows :

The State of Rhode-Island and Providence Plantations.

sc. To of  
in the county of greeting :

Whereas the court of probate of the town of at their meeting on the day of did pass the following decree, to wit : (here insert a copy of the decree :) You are therefore hereby authorized, after being first engaged to the faithful discharge of the trust reposed in you, to appraise all the real estate described and referred to in said decree, each piece and parcel by itself, at the present value thereof in money ; and after having made such appraisal, you are faithfully and impartially to divide the same among the heirs at law of said named in said

decree, in the proportions set forth therein : You are to let all persons named in said decree have notice when you proceed to make such appraisement and division, and having completed the same, you are to make return of this warrant, with your doings thereon, unto the court of probate of the said town of \_\_\_\_\_ as soon as may be. Signed for and in behalf of the court of probate of the town of \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ Clerk.

SEC. 9. Said commissioners shall proceed as soon as conveniently may be after receiving their warrant to execute the duties required of them by virtue thereof, and shall divide said real estate in the manner and proportion prescribed in the decree recited in said warrant. If the share of any one of said heirs shall be less than the share of each of the other heirs, and the shares of those other heirs be equal, in such case, said commissioners shall set off said smaller share to such heir, and assign the other shares by lot; and the assignment shall also be by lot if all the shares be equal: *provided, however,* that if none of the heirs be a married woman or under age, the assignment may be made by agreement among themselves.

SEC. 10. Said commissioners shall make report of all their proceedings under said warrant to the court of probate that appointed them; which report shall be recorded among the proceedings of said court, and, if finally established, shall also be recorded in the records of land evidence in the several towns wherein any of said lands do lie.

SEC. 11. If any child or grand-child of the intestate shall have received from such intestate any real or personal estate for his advancement or settlement, the court of probate shall ascertain the amount thereof before appointing commissioners to divide such real estate; and shall, in their said decree of division, direct said commissioners to deduct the amount thereof from the share of such child or grand-child.

SEC. 12. In case any infant shall be interested in the partition of any estate as aforesaid, the application for the same shall be made and signed by his guardian, duly appointed, whose acts in the premises shall be conclusive on such infant.

SEC. 13. If real estate shall be conveyed by deed of gift, or personal estate shall be delivered to a child or grand-child and charged, or a memorandum made thereof in writing by the intestate, or by his order, or shall be delivered expressly for that purpose in the presence of two witnesses, who were



desired to take notice thereof, the same shall be deemed an advancement to such child, to the value of such real or personal estate.

SEC. 14. Whenever any person shall die leaving a last will and testament duly executed, and shall at the time of his decease be seized of any real estate not disposed of by such will, if acquired subsequently to the execution thereof, the said estate may be divided among the heirs at law of the deceased, in the same manner as though he had left no will; but in making such division every bequest and devise in the said will contained, to any of such heirs, shall be deemed and taken as an advancement to such heirs.

SEC. 15. Real estates holden in common by devise shall and may be divided according to the respective rights claimed thereby, in the manner and form herein before prescribed for the division of intestate estates; and the like proceedings shall be had for effecting and confirming the same.

SEC. 16. Such part of the real estate of any testator or intestate as shall be assigned to his widow for her dower, shall after her decease be divided amongst the devisees or heirs at law of the deceased, in the same manner as the same would have been divided in case it had not been assigned for dower as aforesaid.

SEC. 17. When partition or division shall be made by any court of probate or upon appeal by the supreme court of the real estate of any deceased person, agreeably to this act, and any one or more of the interested parties shall neglect or refuse to pay their just proportion of the expense of such division, it shall and may be lawful for the court who ordered such division to issue a warrant of distress against such delinquent: *provided*, an account of such expense be first laid before such court, and the just proportions of the persons interested, settled and allowed; they having been duly notified to be present at such settlement and allowance.

SEC. 18. When a man and his wife shall be seized of any real estate in her right, in fee, and issue shall be born alive of the body of such wife, that may inherit the same, and such wife shall die, the husband shall have and hold such estate during his natural life as tenant by the curtesy.

SEC. 19. After the decease of any person intestate, administration of such intestate's estate, both real and personal, shall be granted unto the widow or next of kin to the intestate, being upwards of twenty-one years of age, or to both, as the court of probate shall think fit, within thirty days; and an inventory shall be taken of all the goods, chattels, rights and

credits of the deceased, within three months, by three suitable persons appointed by the court of probate; who shall be sworn by said court or by some justice of the peace of the town in which they are appointed, or public notary, for the faithful discharge of that trust.

SEC. 20. After the expiration of thirty days from the death of any person intestate, in case the widow or next of kin shall neglect to take out letters of administration or to apply therefor within that time, the said court may commit administration of such estate to some suitable person, not being at the time a member of said court, as the court shall think fit: *provided*, that in every case the person appointed administrator as aforesaid shall be an inhabitant of and resident in this state: every administrator before he shall enter upon the execution of that trust shall give bond to the court of probate, with sufficient sureties, in substance of the following form, to wit:

Know all men by these presents, that \_\_\_\_\_ are holden, and stand firmly bounden and obliged unto the court of probate in the town of \_\_\_\_\_ in the county of \_\_\_\_\_ in the full sum of \_\_\_\_\_ dollars, to be paid to the said court: to the true payment whereof we bind ourselves, jointly and severally, firmly by these presents. Sealed with our seals, this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_. The condition of this obligation is such, that if the above bounden \_\_\_\_\_ who is appointed administrator on the estate of \_\_\_\_\_ late of \_\_\_\_\_ deceased, do make or cause to be made a true and perfect inventory of all and singular the goods, chattels, rights and credits of the said deceased, which have or shall come to the hands, possession or knowledge of the said \_\_\_\_\_ or unto the hands or possession of any other person for \_\_\_\_\_ and the same so made do exhibit upon oath to the court of probate for the said town of \_\_\_\_\_ within three months from the date hereof; and the same goods, chattels, rights and credits, and all other the goods, chattels, rights and credits of the said \_\_\_\_\_ at the time of \_\_\_\_\_ death, or which at any time hereafter shall come to the hands and possession of the said \_\_\_\_\_ or to the hands and possession of any other person or persons for \_\_\_\_\_ do well and truly administer according to law, and further do make or cause to be made a just and true account of \_\_\_\_\_ said administration, upon oath, at or before the day of \_\_\_\_\_ which will be in the year \_\_\_\_\_ and all the rest and residue of said goods, chattels, rights and credits, which shall be found remaining upon said administrator's account,



refuse to account with the other administrator or executor, then and in such case, it shall and may be lawful for such aggrieved administrator or executor, to bring his action of account against the other administrator or executor, and recover his proportionable share of such estate.

SEC. 24. The husband shall, except as provided in the act entitled "an act concerning the property of married women," be entitled to the administration of his wife's personal estate; and shall not be compelled to distribute the same amongst her next of kin, but shall have and retain the surplus thereof, after payment of her debts, for his own use; any thing in this act to the contrary notwithstanding.

SEC. 25. If any person shall be absent from this state for the term of three years, without due proof of his being alive, the last will and testament of such person may be proved, and administration may be granted on such person's estate, as if he were naturally dead: *provided, nevertheless*, that if such person shall afterward return to this state, or shall constitute an agent or attorney to act in his behalf, the executor or administrator as aforesaid shall be accountable for, and shall deliver to such person or his lawful agent or attorney, all the estate of every kind which shall then be in his hands as executor or administrator as aforesaid; after deducting such sum or sums as the court of probate shall allow, in the settlement of his accounts, for any payment or disbursements which he may have legally made in his said capacity, or which said court of probate may think reasonable to allow for his personal trouble in executing the trusts of executor or administrator as aforesaid.

SEC. 26. Courts of probate shall have power to call before them and examine upon oath, any person suspected and complained of by any executor, administrator, heir, creditor, legatee, or other person having lawful right or claim to the estate of any person deceased, to have concealed, embezzled or conveyed away any of the personal estate left by the testator or intestate, for the discovery of the same; and if the person suspected and complained of as aforesaid shall refuse to be examined, or to answer interrogatories upon oath, respecting the estate which he may be suspected of concealing, embezzling or conveying away, the said court of probate are hereby empowered to commit such person so refusing to the common jail of the county; there to remain until he shall consent to be examined and answer interrogatories upon oath as aforesaid, or be released by the consent of the person sus-

pecting and complaining against him, or by order of the supreme court.

SEC. 27. Whenever any person to whom any real estate may be mortgaged for the payment of any debt or the performance of any collateral promise or engagement whatsoever, shall decease before the recovering of seizin and possession of the real estate mortgaged, the debt due on said deed of mortgage and the real estate mortgaged by the same shall be assets in the hands of his executor and administrator, as personal estate; and the executor or administrator shall have the same control of all the estate which the said deceased had in the real estate mortgaged, as if it had been a pledge of personal estate; and may sell or dispose of the same, in his discretion, for the amount due thereon, or for any less amount upon obtaining leave therefor from the court of probate appointing him; and executors or administrators may bring actions of ejectment for the recovery of seizin and possession of the real estate mortgaged as aforesaid; in which actions it shall be sufficient to declare on the seizin and possession of the mortgagor and his conveyance by mortgage to the testator or intestate as aforesaid; and in all cases, debts due by mortgage shall be considered as personal property, and distributed as such.

SEC. 28. Whenever any executor or administrator shall recover seizin or possession of the real estate mortgaged as aforesaid, he shall be seized and possessed of the estate so recovered, to the sole use and behoof of the heirs of the intestate, or the devisees of the testator, to whom said estate may be devised; but in case the lands mortgaged and recovered as aforesaid shall be necessary for the payment of debts, legacies or charges of administration, and the same shall be certified from the court of probate, the said executor or administrator shall have full right, power and authority to dispose and make sale of the whole or part of the real estate recovered as aforesaid, subject however to the equity of redemption; and it shall be lawful for the said executor or administrator to sell the same at private sale to any person who shall pay therefor the whole of the money due upon the mortgage at the time of sale, provided the court of probate shall give leave for such private sale; otherwise the same shall be sold at public auction to the highest bidder; and notice of such intended sale shall be given in the manner prescribed by law for the sale of real estate by executors or administrators.

SEC. 29. After the executor or administrator shall recover seizin and possession of any real estate mortgaged as afore-

said, and before conveyance or assignment thereof in manner aforesaid, if any mortgagor, his heirs, executors, administrators or assigns, shall, within the time limited for the equity of redemption, redeem the said mortgaged premises, the executor or administrator shall, in every instance, be entitled to receive the said redemption money; and is hereby authorized, empowered and directed to discharge the said mortgaged premises, by release, quitclaim or other legal conveyance.

SEC. 30. The court of probate shall, in the settlement of the accounts of executors and administrators, make reasonable allowance for the support of the family of the deceased, after his decease, until the same can otherwise be provided for, having due regard to the situation of the family, and the value and circumstances of the estate, not exceeding the term of six months; and such executors and administrators shall also be allowed, in their accounts, all reasonable charges and disbursements which they shall lay out and expend in the funeral of the deceased and other their administration; and may be allowed such recompense for their personal trouble as the court of probate, on settling their accounts, may consider just; and may be compelled to pay interest for the detention of money in their hands, if in the opinion of said court it shall be reasonable.

SEC. 31. The settlement of the accounts of any executor, administrator or guardian, by the court of probate, or in case of appeal by the supreme court, shall be final and conclusive on all parties concerned therein, and shall not be subject to re-examination in any way or manner whatsoever.

SEC. 32. No person entitled to a share in any intestate estate shall have a right to demand the same within three years after administration or letters testamentary granted on such estate, unless he shall give bond to the administrator or executor, with sufficient surety, to be approved by the court of probate, to refund the proportionable share of the estate in case any debt or debts should afterwards appear against the same, and the executor or administrator should not have a sufficiency of the estate in his hands undivided for the payment thereof: *provided, however,* that the heirs at law or devisees may, during said term, take the rents and profits of the real estate as heretofore.

SEC. 33. When the personal estate of any person deceased shall not be sufficient to pay the debts which the deceased owed, the expenses of his funeral, and of supporting his family and settling his estate, in manner prescribed by law, the court of probate which shall have granted letters testamentary

or of administration on such estate, shall thereupon authorize and empower the executor or administrator appointed to settle such estate, to make sale at public auction of so much of the land or of so much of the wood standing or growing on the land, or of so much of the stone in the quarry or otherwise on the land, or of so much of the coal, or of so much of the peat on the land of such deceased person as shall be necessary to make up the deficiency of the personal estate for the purposes aforesaid, with incidental charges.

SEC. 34. The real estate of all deceased persons shall be liable for the payment of their just debts, by actions to be brought against the heirs at law or devisees of such estate; and execution may be levied thereupon, upon all judgments obtained against such heirs at law or devisees; and the sheriff shall sell such real estate or so much thereof as shall be sufficient to satisfy such execution, at public auction, to the highest bidder, having first advertised the same as is prescribed by law in cases where the real estate is taken by execution; and on such sale he shall give a deed of such real estate to the purchaser thereof.

SEC. 35. No action shall be brought against any such heir or devisee within three years next after probate of the will or administration granted; and when any action shall be brought against the heirs or devisees of any testator or intestate as aforesaid, for any debt due from such testator or intestate, the same shall be brought against all the heirs and devisees who hold the real estate by devise or descent from such testator or intestate, if to be found; and execution shall be served upon, and the debt and costs recovered, levied and collected out of the estates of the several devisees or heirs, in the same proportion as they hold the same, if such real estate remain unaliened, and it can conveniently be so done; and in case the same be levied in any other proportion, the parties aggrieved thereby shall be entitled to an action, and recover against any person or persons in arrears, all such arrearages with costs.

SEC. 36. If the heir or devisee of any real estate shall aliene such estate before the same shall be attached for the debt of the testator or intestate, by virtue of this act, such heir or devisee shall be liable to pay the value of the estate so aliened, to the creditor of the testator or intestate, to be ascertained by a court or jury, who shall assess the damages in the suits that may be brought against such heir or devisee by virtue of this act; and the execution in such case shall

issue against the heir or devisee who shall have aliened as aforesaid, in manner prescribed by law for his own debt.

SEC. 37. The creditors who shall commence their actions against the heirs or devisees as aforesaid shall be entitled to satisfaction of the debts due to them respectively from the testator or intestate, in the same order in which their writs shall be served by attaching the real estate; or in case of alienation, then in the same order in which their writs shall be served by summoning the heir or devisee, who shall have alienated as aforesaid: *provided, nevertheless*, that nothing in this act contained respecting the bringing of actions against heirs and devisees shall interfere with, prevent or obstruct the settlement of any estate, whether solvent or insolvent, by executors and administrators in manner by law provided: nor shall any action be brought against any heir or devisee, by virtue of this act, unless the personal estate of the testator or intestate shall be insufficient for the payment of his debts, funeral charges and expenses of supporting his family and settling his estate.

SEC. 38. When it shall satisfactorily appear upon a hearing in chancery on an administration bond, for whose particular use and benefit the money for which execution issues is to enure, the judgment shall be rendered that the plaintiffs now have execution for \_\_\_\_\_ being part of the penalty forfeited and costs taxed at \_\_\_\_\_ for the use of

of \_\_\_\_\_ in the county of \_\_\_\_\_ a creditor or heir of \_\_\_\_\_ deceased, as the case may be; and the person to whose use judgment shall be rendered, in the name of the court of probate as aforesaid, may sue out execution thereon and have the same levied according to law, and shall be deemed and taken to be the creditor, to every intent and purpose whatsoever; and when there are several persons to whose use the monies recovered on an administration bond are to enure, there shall be as many separate and distinct judgments, in form aforesaid.

SEC. 39. When a suit on an administration bond is instituted at the desire of a creditor of the deceased, such creditor shall first have his debt or damages ascertained by judgment of court, unless the estate is insolvent, and likewise make it appear that a demand had been made of the administrator therefor, and that the administrator had refused or neglected to satisfy the same, or to show goods or estate of the deceased for that purpose; when the estate is insolvent, the creditor shall produce a copy of the order of distribution of the estate of the deceased among the creditors, particularly



specifying each creditor's claim, and the dividends they are severally entitled to, and prove that a demand has been made of the administrator for his particular dividend; when an heir has the suit brought for his part of the personal estate, he shall exhibit a copy of the decree of the probate court, ascertaining its quantum, and that he has made a demand thereof upon the administrator; and in the preceding instances, the writ, in addition to the usual endorsement of the name of the plaintiff or his attorney, shall also have the name of the person or persons for whose particular use and benefit the suit is brought, written thereon; and the party aforesaid shall give security for costs, as provided by law in other cases; and in case the defendant recovers, execution shall issue against such party for the defendant's costs as aforesaid; and if the administrator shall refuse or neglect to account, upon oath, for such property of the intestate as he has received, especially if he has been cited by the court of probate for that purpose, execution shall be awarded against him for the full value of the personal property of the deceased that has come to his hands, without any discount, abatement or allowance for charges and expenses of administration, or debts paid; and when it shall appear that the administrator shall have received the personal property of the intestate, and shall not have exhibited upon oath a particular inventory thereof, execution shall be awarded against him for the whole of the damages sustained thereby; the like judgment and proceedings, so far as they can with propriety take place, shall be had upon bonds of executors, guardians and others, given to probate courts in their said capacity.

SEC. 40. If any person shall be absent from this state for the term of seven years without due proof of his being alive, for whose life any estate shall be holden by himself or any other person, the person claiming the remainder or reversion of said estate expectant upon the death of such person so absent as aforesaid, shall and may enter upon such estate and hold the same according to his title, or until such absent person shall return to this state, or due proof shall be made of his being alive.

SEC. 41. If any executor or administrator shall not within three years from the probate of the will or administration granted, raise money out of the testate or intestate estate, by collecting debts due, or by selling the personal estate or real estate if need be, or he has power or can obtain license as aforesaid to sell the same, or shall neglect to pay over what he has in his hands to the several creditors of the testator or

intestate, or shall by his neglect as aforesaid subject the real estate of the heir or devisee to be taken in execution, it shall be deemed unfaithful administration in such executor or administrator, and an action may be brought against such executor or administrator, and his or her sureties upon the administration bond, by any such creditor, heir or devisee who may have been damaged thereby.

SEC. 42. All claims existing against any testator or intestate, shall be considered due and payable at the time letters testamentary or of administration were granted; and the same may be filed and prosecuted with other claims against such estate, although by the terms thereof they may not be then due; and shall be entitled to payment with other claims, deducting the interest for the anticipated payment thereof.

SEC. 43. And whereas executors, administrators and guardians, upon their obtaining license to sell real estate, are by law directed before sale be made, to give thirty days public notice thereof, by posting up notifications of such sale in the town where such real estate lies, as well as where the deceased person last dwelt, and also in the two next adjoining towns, or by publishing the same in some public newspaper, for four successive weeks, or otherwise, as the court of probate shall direct: the following method is provided for perpetuating the evidence that such notice was given: the affidavit of the executor, administrator or guardian, or the affidavit of such person or persons as may be by them employed to post up such notifications, taken before the probate court where such executor or administrator derived his authority to administer, within six months next following the sale of the real estate, and there filed and recorded, together with one of the original advertisements of the time, place and estate to be sold, or a copy of such advertisement, is hereby declared to be one mode, but not the exclusive one, of perpetuating the evidence that such notice was given, and also to make the originals or copies thereof from the clerk of the court of probate, admissible evidence in any court of law; and when the person employed to post up such notifications resides more than ten miles distant from such probate court, his deposition respecting the matter, taken before a justice of the peace and filed with the clerk of such probate court, within six months as aforesaid, shall have the same force and effect as if the same was taken before such court as aforesaid; or copies of the original notice printed in a newspaper as aforesaid, certified by the affidavit of such executor, administrator or guardian or by some other person, and filed and recorded as afore-

said, shall be another mode, but not the exclusive one, of perpetuating such evidence.

SEC. 44. It shall be the duty of every executor, administrator and guardian, to make out and return to the court of probate, yearly and in every year, his account relative to the estate in his hands, with a statement of the liquidated balance that may be due to or from him, at the time of such settlement; and it shall be the duty of the court of probate to issue a citation to each executor, administrator or guardian, having accounts unsettled with such court, (after the term limited for the exhibit of the first account,) who shall neglect as aforesaid, to be and appear before such court at the first meeting thereof next after the first Monday of January in every year thereafter, to show cause why he has neglected to exhibit an account as aforesaid; and in case such executor, administrator or guardian, after being cited as aforesaid, shall neglect or refuse to present his account for settlement as aforesaid, for the space of thirty days, without assigning to such court satisfactory reason therefor, such executor, administrator or guardian shall be held accountable for the full value of the personal property of the deceased or ward, with interest, and shall be entitled to no compensation for his services; and shall incur a penalty of not less than twenty dollars, nor more than one hundred dollars, to be recovered by any one who may sue for the same, by action of the case, one moiety for the use of the person interested in said estate, and the other moiety to and for the use of the town in which such court may be.

SEC. 45. Whenever any person who shall be entitled as legatee, distributee or creditor to the personal estate or any part thereof in the hands of an executor, administrator or guardian appointed in this state, shall for the space of five years after the decree of the court of probate approving the will or ordering distribution, or establishing the amount of the claim, neglect to apply for the same, such executor, administrator or guardian shall pay over the same to the town treasurer of the town, wherein administration or guardianship was granted on said estate, taking said treasurer's receipt therefor; which shall be a sufficient voucher in the settlement of his account with the court of probate.

SEC. 46. Whenever the town treasurer of any town shall receive any money by virtue of the preceding section of this act, he shall retain the same in his hands for the use of the town for which he is treasurer, until called for by the party entitled thereto, or his representatives. And such town shall be liable to repay the amount so received, to the party enti-

ted to the same. And said town treasurer shall keep a record of his proceedings herein. Whenever the town treasurer of any town shall receive any legacy which shall consist in whole or in part of any property, other than cash, he may sell the same at public auction, and retain the proceeds of such sale in his hands under the limitations and for the uses aforesaid.

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*An Act for the Equal Distribution of Insolvent Estates.*

**SECTION**

1. Insolvent estates to be distributed among all creditors equally—preference given to United States, funeral charges, &c.
2. Before payment to any, administrator to represent the estate insolvent to court of probate, and commissioners shall be appointed.
3. Duty of commissioners.
4. Time to be allowed by court of probate for bringing in and proving claims—may extend time in certain cases—report to be made to court of probate, and proceedings thereon.
5. Creditor whose claim is rejected by commissioners may sue for the same.
6. Administrator dissatisfied with any creditor's claim allowed, the same to be stricken from the report—may refer claims to referees.

**SECTION**

7. Claims ascertained by referees or by court of law, to be added to commissioners' report.
8. No action to be brought against administrator during pendency of commission, except in certain cases.
9. Actions brought against administrator to be continued until ascertained whether estate be solvent.
10. Creditor not exhibiting and proving his claim, or suing the same as afore provided, to be barred, unless property remain in hands of administrator after payment of debts reported by commissioners.
11. Pendency of commission to bar no action after two years from granting of administration.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** When the estate of any person deceased shall be insolvent or insufficient to pay all the just debts which the deceased owed, the same shall be distributed to and among all the creditors in proportion to the sums to them respectively owing, so far as the said estate will extend; saving that the debts due to the United States and necessary funeral charges of the deceased, for attendance and medicines in the last sickness, for debts due to this state, and for all state and town taxes, are to be first paid, and in the order in which they are named.

**SEC. 2.** The executors or administrators of any such insolvent estate, before payment to any be made, except as aforesaid, shall represent the condition and circumstances thereof, unto the court of probate which granted letters testamentary or of administration thereon; and the said court shall appoint three fit and disinterested persons to be commissioners, with full power to receive and examine all claims of the several creditors, and how they are made out.

SEC. 3. Said commissioners shall put up notifications of the times and places of their meeting, to attend the creditors for the receiving their claims, in three or more public places in the town, and one notification on or near the door of the court-house in the county where the deceased last dwelt; or shall advertise the said times and places in one or more of the newspapers printed in this state for three weeks successively; and shall be sworn to the faithful discharge of their duty, before some magistrate or the court appointing them; they shall have power to administer oaths to all persons who shall be called to give evidence in any matter to be tried before them, and to compel the attendance of any witnesses in the same manner and by the same process that courts of record now have.

SEC. 4. The court of probate shall allow six, twelve, or eighteen months time, as the circumstances of any estate may require, unto the creditors, to bring in their claims and prove their debts; and if it shall be made to appear to said court before the actual distribution of any of the estate, as is herein after provided, that any of the creditors of the deceased have neglected, through accident or mistake, to present their claims to the said commissioners, within the time limited for that purpose, said court may extend the said time for presenting claims to any period not exceeding eighteen months from the date of the commission; and such notice shall be given of such extension as said court may direct; at the end of which limited time, the commissioners or major part of them, shall make their report and present a list of all the claims by them allowed, including interest on such as draw interest, up to the time of the death of the testator or intestate, unto the court of probate, who shall, upon receiving said report, order them a meet recompense out of the estate, for their care and trouble in examining the claims; and the debts due to the United States, and necessary funeral charges of the deceased, for attendance and medicines in the last sickness, for debts due to this state, and for all state and town taxes, being first paid, in the order aforesaid, and deducted by the court of probate, they shall order the residue and remainder of the estate, both real and personal, the real estate being sold according to law, to be paid and distributed to and among the creditors who shall have made out their claims as aforesaid, in proportion to the sums unto them respectively due and owing; saving unto the widow, if any there be, her apparel and such bedding and other household goods as are necessary for the upholding of life, and her right of dower in the real estate of the deceased.

SEC. 5. Notwithstanding the report of the commissioners, any creditor whose claim is wholly or in part rejected, may have the same determined at common law, in case he shall give notice thereof in writing in the clerk of probate's office, within twenty days after such report shall be received, and bring and prosecute his action as soon as may be.

SEC. 6. In case the executor or administrator shall be dissatisfied with any creditor's claim allowed by the commissioners, and shall give notice thereof in the clerk of probate's office and also to the creditor, within twenty days as aforesaid, such claim shall by the court of probate be stricken out of the commissioners' report. Executors and administrators are hereby empowered to agree to submit any claim named in this or in the preceding section, to reference; in which case the determination of the referees shall be final.

SEC. 7. When a claim shall be settled by referees, or in the course of the common law as aforesaid, execution shall not issue as in common cases; but the amount so ascertained shall be the amount of the claim, and added to or deducted from the commissioners' report, as the case may require.

SEC. 8. No action brought against any executor or administrator after the estate shall be represented insolvent, shall be sustained, except for debts due to the United States, and necessary funeral charges of the deceased, for attendance and medicines in the last sickness, for debts due to this state, and for all state and town taxes; unless the executor or administrator having objection to the claim upon which such action shall be brought shall consent to have the same settled by course of law; in which case the judgment of the court shall determine the said claim, which with the taxed costs shall be reported by the commissioners as the amount thereof.

SEC. 9. All actions brought against any executor or administrator before the estate is represented insolvent, or against the testator or intestate in his life time, which shall survive, and in which the executor or administrator being cited shall appear, shall be continued until it shall appear whether the said estate is insolvent or not; and if found insolvent, the process shall be conducted as above provided.

SEC. 10. If any creditor shall not make out his claim with the commissioners within the time of their commission, or at the common law, or before referees, in the manner provided by this act, he shall be forever barred of his action therefor against the executor or administrator; unless there shall be estate remaining in the hands of such executor or administrator upon the settlement of his account with the court of pro-

bate, after deducting the amount of the claims allowed by the commissioners, from the amount of the estate of the testator or intestate remaining in the hands of such executor or administrator, to be applied to payment of the debts of the testator or intestate.

SEC. 11. The pendency of any commission as aforesaid shall be no bar to any action against the executor or administrator as aforesaid, after the expiration of two years from the time letters testamentary or of administration were granted.

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*An Act securing the Estates of persons dying leaving real or personal estate within this State, and leaving no known heir or others entitled to distribution, within the United States.*

SECTION

1. Town treasurer to take possession for use of the town.
2. Town to account with the heir.

SECTION

3. Town council may examine persons concerning such estates.
4. Persons refusing to deliver, &c., may be sued by treasurer.

*It is enacted by the General Assembly, as follows :*

SECTION 1. When any person shall die leaving any real or personal estate within this state, and shall leave no known heir or legal representative within the United States to claim the same, it shall be lawful for the town council of the town in which such real or personal estate may be, to direct the town treasurer of such town to take the same into his possession for the use of such town, until the heir or other legal representative of such deceased person shall call for the same ; to whom the same shall be delivered on being claimed, and evidence of the right or title of the claimant shown ; and the said town shall, in such case, account with the claimant for such real or personal estate.

SEC. 2. When any real or personal estate shall be taken into possession by any town treasurer, pursuant to this act, the same shall be subject and liable to the payment of the debts of the deceased to whom it belonged ; and such town treasurer shall be holden to pay the same to the amount of the value of the estate received.

SEC. 3. The town council of the town shall have authority to cause to appear before them any person whom they may suspect of being possessed of the personal estate of any person dying without heirs as aforesaid, and them to examine on oath concerning the same.

Sec. 4. If any person shall appear to be possessed of any real or personal estate of any person dying without heirs or other legal representatives as above mentioned, and shall on request refuse to deliver or surrender possession thereof to the town treasurer agreeably to the provisions of this act, in such case it shall and may be lawful for such town treasurer to commence and prosecute an action for the recovery thereof.

*An Act regulating Conveyances of Real Estate.*

SECTION

1. Real estates how to be conveyed.
2. Deed to be void unless acknowledged and recorded—except, &c.
3. Town clerk to note when deeds are lodged for record.
4. Grantor refusing to acknowledge may be committed, unless he appeals—terms of appeal—grantee may file copy of deed in clerk's office.
5. Grantor dying, deed may be proved.
6. How acknowledged when executed without the state.
7. Same subject.

SECTION

8. Bond of defeasance to be recorded within five days—otherwise deed not to operate as mortgage.
9. Right of dower saved—wife may bar by deed.
10. Mode of conveying the wife's estate—if by attorney, power to be acknowledged, &c.
11. Deed to transfer the possession without livery of seisin.
12. Mortgages how to be discharged.
13. Tenant in tail may devise or convey in fee simple.

*It is enacted by the General Assembly, as follows :*

SECTION 1. No estate of inheritance or freehold, or for a term exceeding one year, in lands or tenements, shall be conveyed from one to another by deed, unless the same be in writing, signed, sealed and delivered by the party making the same, and acknowledged before a senator, judge, justice of the peace, public notary or town clerk, by the party or parties who shall have sealed or delivered it, and recorded or lodged to be recorded in the office of the town clerk of the town where the said lands or tenements do lie.

SEC. 2. All bargains, sales and other conveyances whatsoever of any lands, tenements or hereditaments, whether they be made for passing any estate of freehold or inheritance, or for term of years, exceeding the term of one year, and all deeds of trust and mortgages whatsoever, which shall hereafter be made and executed, shall be void unless they shall be acknowledged and recorded as aforesaid: *provided, always,* that the same between the parties and their heirs shall nevertheless be valid and binding.

SEC. 3. Whenever any deed, lease, covenant, bond of defeasance or other instrument whatever, touching the transfer or conveyance of any such real estate, shall be presented to any town clerk for record, it shall be the duty of such town



clerk immediately thereupon, to cause to be entered in writing on such deed or other instrument, the day, and as near as may be the hour and minute, when the same was presented for record.

SEC. 4. If any grantor of any lands, tenements or hereditaments shall refuse to acknowledge his deed or conveyance by him signed, sealed and delivered, being thereunto required by the grantee, his heirs or assigns, it shall be lawful for any judge or justice of the peace within the town where the grantor dwells, on complaint in writing made by the grantee, his heirs or assigns, and supported by the oath of the complainant, to issue a warrant against the party refusing, and to examine him touching such refusal; and if he shall persist in such refusal, to commit him to prison without bail, until he shall acknowledge the same, unless he shall appeal to the supreme court at the term thereof next to be holden in and for the county in which such examination shall be had; and in case of such appeal the appellant shall give bond with surety for his appearance there, and prosecuting his appeal with effect; and the grantee may file a copy of his deed in the town clerk's office, pending such appeal; and the same being so filed shall be equally available to the party during the pendency of such appeal as though the said deed was acknowledged and recorded as above directed; and the same shall be accounted sufficient caution to all persons against purchasing the estate in such deed mentioned to be conveyed.

SEC. 5. When any grantor after the execution of the deed shall die or remove out of the state before the same shall be acknowledged, the said deed may be proved by the oaths of one or more of the witnesses to such deed, if any there be; but if there be no witnesses to such deed, then the hand writing of the grantor may be proved by other sufficient evidence before the supreme court or any court of common pleas within this state: and such proof shall be equivalent to the party's acknowledgment.

SEC. 6. Any conveyance of lands being within this state, or any instrument relating thereto, executed without the limits of this state, and within the United States, may be acknowledged before any judge, justice of the peace, mayor or public notary in the state where the same is executed; and if without the limits of the United States, before any ambassador, minister, charge des affaires, recognized consul, vice-consul, or commercial agent of the United States, in the country in which such deed or instrument is executed.

SEC. 7. Any conveyance of lands lying within this state,

or any instrument relating thereto, executed without the limits of the United States, to which any ambassador, minister, charge des affaires, recognized consul, vice-consul, or commercial agent of the United States, in the country where the deed or instrument shall be executed, shall be grantor, may be executed in the presence of two witnesses; and an official certificate under the hand and official seal of the grantor, that such deed or instrument is his act and deed, shall be equivalent to an acknowledgment of such deed or instrument, in the manner required by law.

SEC. 8. Whenever any bond of defeasance or other instrument shall be executed, which shall cause any deed or other conveyance of lands, tenements and hereditaments to operate as a mortgage, or to pass an estate redeemable, such bond or other instrument shall be recorded in the office of the town clerk in the town where such lands, tenements and hereditaments shall be, or be there lodged, to be recorded within five days after the execution thereof; and if the person entitled to such bond of defeasance or other instrument, shall neglect to cause the same to be lodged or recorded within five days as aforesaid, the same shall not cause the deed to which it relates to operate as a mortgage against any person who shall bona fide, and without notice of said incumbrance, purchase the real estate conveyed in such deed of the person to whom the same was made; and the person entitled to the same as aforesaid shall be barred of all right of redemption against such second purchaser, his heirs or assigns.

SEC. 9. Nothing in this act shall be construed to bar any widow of any grantor of any lands, tenements or other real estate, of her dower therein; but a married woman may bar her right of dower in any estate conveyed by her husband by joining with him in the deed conveying the same, and therein releasing her claim to dower; or by releasing the same by subsequent deed jointly with her husband, or by joining in a deed given by a guardian of her husband: she may also bar her right of dower in any estate in which the interest of her husband has been formally conveyed by a deed thereof, executed by her, in the presence of two witnesses, and acknowledged by her, after a separate examination and an explanation of the deed to her, in the same manner as is required by law for a conveyance of real estate owned by her in her own right.

SEC. 10. Where the husband and wife being of lawful age are seized of any lands, tenements or other real estate in the right of the wife, they shall be authorized to convey the same

by deed or other instrument in writing, signed, sealed and delivered by them respectively; but in every such case the wife acknowledging such deed or instrument shall be examined privily and apart from her husband; and shall declare to the officer taking such acknowledgment, that the deed or instrument shown and explained to her by such magistrate is her voluntary act, and that she doth not wish to retract the same; and if the wife on such privy examination shall refuse to make such acknowledgment, the deed or other instrument executed by the husband and the wife as aforesaid, shall not operate to convey to the grantee named in such deed or instrument, any other or greater estate in the premises described in such deed than what belongs to the husband; and if such deed be executed by attorney of the wife, or any deed affecting her right of dower in any estate of her husband during his life, the letter of attorney shall be executed and acknowledged with like formalities as are required in the execution and acknowledgment of a deed by a husband and wife of an estate held in the right of the wife.

SEC. 11. By deed of bargain and sale, by deeds of lease and release, by covenant to stand seized to use, or by deed operating by way of covenant to stand seized to use, or by any other deed signed, sealed, delivered and acknowledged by the party having good and lawful right and authority thereto, the possession of the bargainor, relessor, grantor or covenantor, shall be transferred to the bargainee, relessee, grantee, or person entitled to the use of the estate or interest which such person hath or shall have in the use, without livery of seizin or other act or ceremony whatever.

SEC. 12. Any mortgagee of lands, tenements or other real estate, his heirs, executors, administrators or assigns, having received full satisfaction for the money due on such mortgage, shall at the request of the mortgagor, his heirs, executors, administrators or assigns, and at his or their cost, acknowledge and cause satisfaction and payment to be entered on the margin or face of the record of such mortgage, and shall sign and seal the same, which shall forever afterwards discharge, defeat and release such mortgage, and perpetually bar all actions to be brought thereupon in any court. If any mortgagee, his heirs, executors, administrators or assigns shall not within ten days after a request made in that behalf, and a tender of all reasonable charges, repair to the clerk's office, and there make, sign and seal an acknowledgment as before directed, or otherwise make and execute a release and quitclaim of the estate so mortgaged, and acknowledge the same

before some proper officer, he or they so refusing shall be liable to make good all damages that shall accrue for want of such discharge or release, to be recovered by an action of the case, in a court of record; and in case judgment shall pass against the party sued, he shall pay unto the plaintiff treble costs upon such suit: *provided, nevertheless*, that nothing herein contained shall be construed to defeat, invalidate, annul, or render ineffectual any other legal discharge, payment, satisfaction or release of any mortgage.

SEC. 13. If any person shall be seized of any estate in fee tail, he shall have a right to convey the same in fee simple, by his last will and testament, or by deed duly executed, under his hand and seal, and acknowledged before the supreme court or any court of common pleas in this state; and such conveyance shall vest an estate in fee simple in the grantee, his heirs and assigns, and shall bar the tenant in tail, his heirs and assigns, and all others who may claim the same in remainder or reversion, expectant upon the determination of such estate tail.

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*An Act declaring what is Real and what Personal Estate, in certain cases.*

## SECTION

1. Main wheel—engine, &c., in manufacturing establishment declared to be real estate.

## SECTION

2. Other machinery, tools, &c., personal estate, except for taxes.  
3. Partition may be made of property in section two.

*It is enacted by the General Assembly, as follows:*

SECTION 1. The main wheel, steam engine, boilers, and shafts, whether upright or horizontal; drums, pullies and wheels, attached to any real estate for the purpose of operating machinery, and all kettles set and used in any manufacturing establishment, are hereby declared to be real estate when the same belong to the owners of the real estate to which they are attached.

SEC. 2. All other machinery, tools and apparatus of every description used and employed in any manufacturing establishment, are hereby declared to be personal estate; and as such shall be considered in assignments of dower, in attachments, and in all cases whatever except the assessment and payment of taxes.

SEC. 3. Partition of the property mentioned in the second section of this act may be compelled between the owners thereof, in the same manner as though the same were real estate.

*An Act regulating Marriage and Divorce.*

**SECTION**

1. Marriage within certain degrees, prohibited—issue illegitimate—Jews excepted.
2. Former wife or husband living—idiot, &c.—void.
3. Divorce when and for what causes decreed.
4. Collusion of parties prevents a decree.
5. Divorced for affinity, &c., the wife shall have her lands, &c., restored—for adultery of wife, husband to hold the estate, &c.

**SECTION**

6. For adultery of husband, wife's estate to be restored—and alimony allowed.
7. Divorce to be decreed by the supreme court.
8. Court may assign separate maintenance.
9. Court may regulate the custody of children.
10. Court may prescribe notice to be given on petitions.
11. Petitioner shall have resided three years in the state.

*It is enacted by the General Assembly, as follows:*

SECTION 1. No man or woman shall intermarry within the degrees herein after named, that is to say :

*No man shall marry his*

Mother,  
Grandmother,  
Daughter,  
Son's daughter,  
Daughter's daughter,  
Stepmother,  
Grandfather's wife,  
Son's wife,  
Son's son's wife,  
Daughter's son's wife,  
Wife's mother,  
Wife's grandmother,  
Wife's daughter,  
Wife's son's daughter,  
Wife's daughter's daughter,  
Sister,  
Brother's daughter,  
Sister's daughter,  
Father's sister,  
Mother's sister.

*No woman shall marry her*

Father,  
Grandfather,  
Son,  
Son's son,  
Daughter's son,  
Stepfather,  
Grandmother's husband,  
Daughter's husband,  
Son's daughter's husband,  
Daughter's daughter's husband,  
Husband's father,  
Husband's grandfather,  
Husband's son,  
Husband's son's son,  
Husband's daughter's son,  
Brother,  
Brother's son,  
Sister's son,  
Father's brother,  
Mother's brother.

And if any man or woman shall intermarry within the degrees aforesaid, every such marriage shall be null and void ; and the issue of any such marriage hereafter to be had and solemnized shall be deemed and adjudged illegitimate, and be subject to all the disabilities of such issue: *provided, always,* that nothing herein contained shall be construed to extend to or in any way affect any marriage which shall be solemnized among the Jews, within the degrees of affinity or consanguinity allowed by their religion.

SEC. 2. All marriages when either of the parties have a former wife or husband living at the time of such marriage, or where either of them shall be an idiot or lunatic at the time of such marriage, shall be absolutely void ; and no dower shall be assigned any widow in consequence of such marriage, and the issue shall be deemed, taken and adjudged illegitimate, and be subject to all the disabilities of such issue.

SEC. 3. Divorces from the bond of matrimony shall be decreed in case any marriage shall be hereafter had or solemnized, which is declared void as above said ; divorces from the bond of matrimony shall also be decreed for impotency, adultery, extreme cruelty, wilful desertion for five years of either of the parties, continued drunkenness, and also for neglect or refusal on the part of the husband, being of sufficient ability, to provide necessaries for the subsistence of his wife ; and also for any other gross misbehaviour and wickedness in either of the parties, repugnant to and in violation of the marriage covenant.

SEC. 4. When it shall appear that the adultery, cruelty, desertion or other cause of complaint as aforesaid, was committed or occasioned by the collusion of the parties, and done or contrived with an intention to procure a divorce, in such case no divorce shall be decreed.

SEC. 5. When a divorce shall be had for the causes of affinity, consanguinity, impotency, idiocy or lunacy of either of the parties, the wife shall have restored to her all her lands, tenements and hereditaments ; and a judgment may be passed for a restoration to her of all or such part of the personal estate specifically, or the value thereof, which has come to the husband's hands by virtue of the marriage, as the court from the circumstances of the case shall deem equitable ; and when the divorce shall be occasioned by adultery, or other of the causes aforesaid done or committed on the part of the wife, the husband shall hold the personal estate forever, and her real estate during his natural life, in case they have had issue born alive of her body during the marriage, otherwise during

her natural life only, if he shall survive her : *provided, nevertheless*, that the court may allow her for her subsistence so much of such personal or real estate as they shall judge necessary.

SEC. 6. When a divorce shall be had for the cause of adultery or any other of the aforesaid causes, done or committed on the part of the husband, the wife, if there be no issue living at the time of the divorce, shall be restored to all her lands, tenements and hereditaments; and be allowed out of his real or personal estate, or both, such alimony as the court shall think reasonable, not exceeding the use of one moiety of his real estate during the life of the wife, and the property of one half of his personal estate, having regard to the personal property which came to the husband by the marriage, and his ability; but if there be issue living at the time of the divorce, the court, with regard to ordering restoration or granting alimony as aforesaid, may do as they shall judge the circumstances of the case may require; and upon the application of either party may, from time to time, make such alteration therein as may be necessary.

SEC. 7. All questions of divorce and alimony shall be heard and tried by the supreme court, in the county in which the petitioner shall reside.

SEC. 8. Said court shall also have power, upon the application of any married person to them, in the county in which such person shall reside, and for the causes for which by law a divorce may be decreed, or for such other causes as may seem to them to require it, to assign to such person a separate maintenance out of the estate or property of the husband or wife of such person, in such manner as they may deem best; and any justice of said court may, in vacation, upon reasonable notice and proof, make such interlocutory decrees or grant temporary injunctions as may be necessary, until a hearing can be had before the court.

SEC. 9. Said court shall also have power to regulate the custody and provide for the education, maintenance and support of the children of all persons by them divorced or petitioning for a divorce, and of all persons to whom a separate maintenance may be granted or who may petition for the same; and to make all necessary orders and decrees concerning the same, and the same at any time to alter, amend and annul for sufficient cause, after notice to the parties interested therein.

SEC. 10. Said court may, by general rule or otherwise, prescribe the notice to be given on petitions for divorce, ali-

mony, separate maintenance and custody of children, and may issue such process as may be necessary to carry into effect the powers conferred on them by this act.

SEC. 11. Said court shall have no cognizance of or jurisdiction over any petition for divorce, alimony, separate maintenance or custody of children, unless the petitioner shall, at the time of preferring such petition, have been a resident in this state for the space of three years next preceding the preferring such petition.

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*An Act to secure the fulfilment of certain Contracts, and for the relief of Married Women in certain cases.*

SECTION

1. Married woman coming into this state without her husband may, after two years, contract and be liable as if unmarried.
2. Arrival of husband, how to affect her contracts.

SECTION

3. Divorce obtained by either party, how to affect the rights of the other.
4. Supreme court may appoint guardian of the children.

*It is enacted by the General Assembly, as follows :*

SECTION 1. When any married woman shall or shall have come from any other state or country into this state without her husband, he never having lived with her in this state, and she shall continue or shall have continued to reside in this state, without her said husband, for the space of two years continuously, she may afterwards, during her separate residence therein, transact business, make contracts, prosecute and defend suits in her own name, and dispose of such of her property which she may acquire by her own industry or otherwise ; and may have the exclusive care, custody and guardianship of her minor children, if any living with her, in like manner and in all respects as if she was unmarried ; and she shall be liable to be sued as if she were unmarried, upon all contracts, and for all other acts made or done by her after the expiration of said term of two years ; and she may make and execute any deeds and other instruments in her own name, and do all other lawful acts that may be necessary or proper to carry into effect the power so granted to her.

SEC. 2. If the husband of any such woman shall afterwards come into this state and claim his marital rights, his arrival here shall have the same effect with regard to any suit then pending in which she is a party, except to abate the same, and to any contract or business transacted by her under the power granted in the foregoing section, as if they had



been first married at the time of his arrival here, and shall have no other effect.

SEC. 3. If during her separate residence such married woman shall have obtained a decree of divorce against her said husband, under the laws of this state, or if her said husband previous to his coming into this state shall have caused the marriage contract to be dissolved by an act or decree of divorce obtained against her in any state or country in any suit or proceeding to which she is not a voluntary party nor present thereat, so as to have like opportunity of defence as she would have if such suit were brought against her in this state, she shall not thereafter be liable in this state, provided, that she shall have resided therein for the space of six months, to be deprived by her said late husband of her separate earnings therein, nor of any property not derived from him, which she may have lawfully acquired or possess, nor of the custody of any infant child; unless upon petition of her said late husband to the supreme court, in the county where she resides, served upon her by copy, thirty days at least before the sitting of the court, and setting forth substantially the whole subject matter of complaint against her, it shall be made to appear by evidence that she is not a person of good moral character, suitable to have charge of her children, or unless the court thereupon in its discretion, having due regard to the well being of the infant, order its custody to be changed.

SEC. 4. The supreme court upon application of any such woman, either before or after said divorce, on her giving satisfactory evidence of her having resided two years in this state next before said application separate from her husband, and without being supported by him, may appoint a guardian of the person and estate of said children, in the same manner that courts of probate are now authorized to appoint guardians of minors.

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*An Act to prevent Clandestine Marriages.*

## SECTION

1. Intention of marriage to be published.
2. Form and manner of publication.
3. Parties living in same town—in different towns.
4. Penalty for defacing publication.
5. Who may join persons in marriage—witnesses present.
6. Parties to produce certificate of publication, in case.
7. Also, if coming from another state.
8. Objections to marriage how made.

## SECTION

9. Penalty for joining persons in marriage without publication, &c.
10. Penalty for joining, &c.; husband or wife living.
11. Penalty for being married contrary to this act.
12. Friends, &c., may be married according to their rites.
13. Penalty for marrying a white person to a black—marriage void.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** All persons who are desirous of being joined in the estate of matrimony shall cause their intention of marriage to be published, either by a justice of the supreme court or court of common pleas, or by some ordained minister or elder of any religious denomination, who shall be domiciled in this state, or by the town clerk of the town in which the publication is made.

**SEC. 2.** Such publication, if made by a justice of the supreme court or court of common pleas or town clerk, shall be in writing under his hand, in the following form :

Know all men by these presents, that                      of  
and                      of                      have declared unto me their intention of marriage : I do hereby make public the said intention ; if any person knows any just cause or impediment why these two persons should not be joined together in marriage, they may declare the same as the law directs. Given under my hand at                      this                      day of

Which shall be posted up in some public place by said justice or town clerk, for the space of fifteen days. If made by any such minister or elder, it shall be by him openly announced three several Sundays, holydays or other days of public worship, in the public meeting for worship.

**SEC. 3.** If both parties reside in the same town, such publication may be in such town only ; if they reside in different towns, such publication shall be in the towns in which they reside.

**SEC. 4.** If any person shall deface or pull down any publication posted up as before directed, he shall forfeit and pay the sum of two dollars ; to be recovered by action of debt, one half to and for the use of the state, and the other to and for the use of the person who shall sue for the same.

**SEC. 5.** Any minister or elder domiciled in this state, and any justice of the supreme court, may join persons in marriage in any town in this state, and any justice of the court of common pleas shall have like authority within his county : *provided*, such persons applying to be so joined in marriage may lawfully be joined in marriage, and have been lawfully published. The solemnization of marriage shall be in the presence of two witnesses at least, besides the officer or minister officiating.

**SEC. 6.** When any persons belonging to this state shall apply to any officer or minister, any other than him who pub-

lished the intention of such marriage, to be married by him, they shall produce an authenticated certificate or certificates of being duly published according to law.

SEC. 7. If any person or persons shall come from another state into any town in this state to be married, they shall produce a certificate under the hand of lawful authority, where such person or persons dwell, that they have been duly published according to the laws of such state.

SEC. 8. If any person shall have any lawful objection against the solemnization of marriage between any two parties, who shall have caused publication of their intention to be made, he may in writing and under his hand state the same to the officer or to the minister making such publication or about to solemnize such marriage; whereupon such officer or minister shall proceed no further in relation to such marriage, until such lawful objection shall be removed.

SEC. 9. Every person authorized by law to join persons in marriage, who shall be convicted of joining persons together without due and lawful publication, or when the solemnization of such marriage has been lawfully objected to and the impediment not removed, shall be imprisoned not exceeding six months, or fined not exceeding one thousand dollars.

SEC. 10. Every person authorized by law to join persons in marriage, who shall be convicted of marrying any man or woman whom he knows to have a husband or wife living, or who he knows has had a husband or wife, and does not know that such husband or wife is dead in fact or in law, or that the person offering to be married has been lawfully divorced, shall be imprisoned not exceeding six months, or fined not exceeding one thousand dollars.

SEC. 11. Whosoever shall be married without duly proceeding, as by this act is required, shall be fined not exceeding fifty dollars.

SEC. 12. Any marriage which may be had and solemnized amongst the people called Quakers or Friends, in the manner and form used or practised in their societies, or amongst persons professing the Jewish religion according to their rites and ceremonies, shall be good and valid in law, any thing in this act to the contrary notwithstanding.

SEC. 13. No person by this act authorized to join persons in marriage shall join in marriage any white person with any negro, indian or mulatto, on the penalty of two hundred dollars; to be recovered by action of debt, one moiety thereof to be paid to and for the use of the state, and the other moiety

to and for the use of him who shall prosecute for the same ; and all such marriages shall be absolutely null and void.

*An Act for registering Marriages, Births and Burials.*

<p><b>SECTION</b>                  1. Clergyman, &amp;c., shall lodge certificate of marriage with town clerk.                  2. Parent shall lodge certificate of birth.                  3. Executor, &amp;c., certificate of decease.</p>	<p><b>SECTION</b>                  4. Town clerk shall record all such certificates.                  5. Penalties how recovered.</p>
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*It is enacted by the General Assembly, as follows :*

**SECTION 1.** Every person authorized by law to join persons in marriage shall, within sixty days after the solemnization of any marriage, lodge with the town clerk of the town in which such marriage was solemnized, a certificate of such marriage, in the following form, to wit :

“ I hereby certify that            of            son of            and of            daughter of            were lawfully united in marriage on the            day of            by me :” and pay him for recording the same the sum of ten cents, upon the penalty of five dollars for every neglect.

**SEC. 2.** Every parent shall lodge with the town clerk of the town in which he resides, a certificate signed by himself of the birth of each of his children, within two months after birth, upon the penalty of one dollar for every neglect.

**SEC. 3.** The executor or administrator of every deceased person shall, within two months after the granting of letters testamentary or of administration, and if the deceased be a minor, then the parent or guardian of the deceased shall, within two months from the death of said minor, lodge with the town clerk of the town in which the deceased last dwelt, a certificate in writing under his hand of the time of the death of the deceased, upon the penalty of one dollar.

**SEC. 4.** The town clerk of each town shall record the certificates of marriages, births and deaths, so lodged with him for record, in a proper book or books, to be kept for such purpose only, upon the penalty of ten dollars for each neglect.

**SEC. 5.** All penalties under this act may be sued for and recovered by action of debt, before any justice of the peace in the town where they are incurred, by the treasurer of said town, to and for the use of the said town : *provided, always,* that such suit be brought within two years after the right of action accrued.

*An Act concerning the Property of Married Women.***SECTION**

1. Certain property possessed by a woman before marriage, &c., secured to her sole use.
2. Furniture, stocks, mortgages, &c., possessed by wife, shall not be sold, &c., unless by joint deed, except, &c.
3. Married woman may dispose of her personal property by will.
4. Husband tenant by the curtesy, &c.

**SECTION**

5. Property liable for debts of wife contracted before marriage.
6. Actions to be joint; amount recovered may be invested in name of wife.
7. Supreme court may appoint trustees of the property, &c.
8. Property owned by married woman before this act takes effect, not affected by it.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** The real estate, chattels real, household furniture, plate, jewels, stock or shares in the capital stock of any incorporated company of this state, or debts secured by mortgage on property within this state, which are the property of any woman before marriage, or which may become the property of any woman after marriage, shall be and are hereby so far secured to her sole and separate use, that the same, and the rents, profits and income thereof, shall not be liable to be attached, or in any way taken for the debts of the husband, either before or after his death ; and upon the death of the husband in the life time of the wife shall be and remain her sole and separate property. In case of the sale of any such property the proceeds of such sale, or any part of the same, may be invested in the name of the wife in any of the kinds of the property aforesaid, and to be secured to and holden by the wife in the same manner and with the same rights and effect as the property sold. The receipt or discharge of the husband for the rents and profits of such property, shall be a sufficient receipt and discharge therefor, unless previous notice in writing shall be given by the wife to the lessee, debtor or incorporated company, from whom such rents or profits are payable ; in which case the sole and separate receipt or discharge of the wife shall alone be a sufficient receipt and discharge therefor.

**SEC. 2.** The chattels real, household furniture, plate, jewels, stock or shares in the capital stock of any incorporated company in this state, or debts secured by mortgage on property within this state, which are the property of any woman before marriage, or which may become the property of any woman after marriage, shall not be sold, leased or conveyed by the husband, unless by deed, in which the wife shall join as grantor ; which deed shall be acknowledged in the manner by law provided in case of the real estate of married women : *provided, however,* that whenever the household furniture,

plate or jewels belonging to any married woman shall be sold by her husband as his own property, to one who shall purchase the same bona fide, and without notice, actual or constructive, of the right of the wife thereto, such sale shall vest in such purchaser a good and valid title thereto.

SEC. 3. Any married woman, being upwards of eighteen years of age may dispose of her personal estate secured to her by this act, or any portion of the same, by last will and testament, executed in the manner in which other wills are by law required to be executed.

SEC. 4. Nothing in this act contained shall be construed to impair the rights of the husband upon the death of the wife as tenant by the curtesy; or in case of no last will and testament, as herein before provided, to deprive the husband of his right to administer upon the estate of his wife, with the same effect as by law provided; or to authorize any husband to give unto or settle upon his wife any of his property in any other manner or with any other effect than if this act had not been passed.

SEC. 5. The property secured to any married woman by this act shall be liable to attachment or levy for her debts, contracted before marriage, under the same circumstances, and with the same effect, as if she had continued sole and unmarried; and nothing in this act contained shall be construed to impair any lien or right of lien thereon, or any remedy by law provided for the enforcement thereof.

SEC. 6. In all actions relating to the property of any married woman, secured to her by this act, the husband and wife shall jointly sue and be sued, except in case a trustee of the same be appointed as herein after provided; and in case of recovery, by any husband and wife in any such action, the amount by them recovered may be invested in the name of the wife, in any of the kinds of property herein before described, with the same rights and effect as if the same had remained in the possession of the wife, whether the right of action accrued before or after marriage; and all such actions and rights of action shall survive the death of either husband or wife.

SEC. 7. The supreme court may, upon petition in equity to them by any married woman, filed by her through her next friend, appoint a trustee or trustees of her property, secured to her by this act, who shall be empowered, in his or their own name or names, as trustee or trustees, to sue for, recover and hold such property, to the uses by law provided; said trust to continue during the coverture of such married woman, unless by order of said court sooner determined. And said

court shall have full power to remove such trustee or trustees, and to appoint others in their stead, as in case of other trusts.

SEC. 8. Nothing in this act contained shall in any manner affect any property owned by any married woman before this act goes into effect.

### *An Act respecting Guardians.*

#### SECTION

1. Minor fourteen years of age may choose his guardian—court of probate may approve—in certain case appoint another.
2. Court may appoint guardian to minor under fourteen years of age.
3. Also, of lunatics, idiots, &c.
4. Guardian to be citizen of the state.
5. To give bond for faithful discharge of trust, &c.
6. Court may require additional bond—may remove guardian—may accept his resignation.
7. Application for appointment, &c., to be in writing.
8. Court, before proceeding to act, shall give notice to parties.
9. Who are the only parties in certain cases.
10. In what cases contracts of wards are void.
11. Duties of guardian—apply income to

#### SECTION

- support of ward, &c.—sell real estate, wood, timber, &c., in certain cases.
12. Guardian to give notice of his appointment—exhibit inventory—pay debts, &c.—liable for neglects, by a suit on bond.
13. Creditor omitting to file his claim, barred, unless surplus property.
14. No action to be sustained against guardian within one year, unless, &c.
15. Guardian may submit claim to referees—demand not due may be filed, &c.
16. Court of probate to allow reasonable compensation to guardian.
17. Guardians of minors to take special charge of their education—guardians of lunatics, &c., to educate their children.
18. Property of minor not liable in hands of guardian for certain debts.
19. Guardian may be appointed by will.

*It is enacted by the General Assembly, as follows :*

SECTION 1. When any minor, being of the age of fourteen years or upwards shall reside or have a legal settlement in any town, the court of probate of such town shall have the right to approve of any guardian chosen by such minor. If any such minor shall neglect to choose a guardian, being cited by such court so to do, or shall choose one of whom such court shall not approve, or one who shall neglect to give bond as is herein after required, within the time appointed by such court, in each of such cases said court may appoint a guardian for such minor, as if he was under the age of fourteen years.

SEC. 2. When any minor under the age of fourteen years shall reside or have a legal settlement in any town, the court of probate of such town shall have the right to appoint a guardian of the person and estate, or of the person or estate, of such minor.

SEC. 3. Whenever any idiot or lunatic, or person non compos mentis, or any person who for want of discretion in

managing his estate, shall be likely to bring himself and family to want, and thereby to render himself and family chargeable, shall reside or have a legal settlement in any town, the court of probate of such town shall have the right to appoint a guardian of the person and estate of such person.

SEC. 4. No person shall be capable of being appointed or approved of as guardian, by any court of probate, who is not at the time of his appointment a citizen of and resident in this state.

SEC. 5. Every guardian appointed pursuant to this act shall, before he proceed to act as such, give bond to the court of probate appointing him, in such sum as they shall require, and with sureties satisfactory to them; conditioned faithfully and duly to discharge his trust according to law, and to render a just and true account of his doings therein to such court annually, or whenever he shall be by said court thereunto required, or to his ward whenever he shall arrive at the age of twenty-one years, or whenever said guardianship shall be removed.

SEC. 6. Any court of probate may require additional bond or sureties of any guardian appointed or approved of by them, whenever they shall think proper, and in case of neglect or refusal to give the same may remove such guardian from his trust. They may also remove, in the manner prescribed by law, any guardian who, by reason of absence, sickness, insanity or other cause, shall become incapable of executing his trust, or who shall neglect or refuse to do the duties thereof, or who shall waste the estate of his ward; and they shall accept the resignation of any guardian, after he shall have accounted with said court for the estate of his ward in his hands.

SEC. 7. Every application to any court of probate for the approval, appointment or removal of a guardian, and every resignation of the trust of a guardian, shall be in writing.

SEC. 8. When any such application or resignation shall be made to any court of probate, such court, before they proceed to act thereon, shall cause a copy of such application, with a copy of their order of notice thereon, to be set up in some conspicuous place in the office of the town clerk of the town; and shall cause all known parties interested in the matter, according to this act, who shall reside in this state, to be notified by a sheriff, deputy sheriff, town sergeant, constable, or disinterested person, by the reading of a certified copy of such application and order, signed by the clerk of the court, in the presence and hearing of such interested party; or by



leaving a copy thereof, certified by the officer or person charged with the service thereof, at the last and usual place of abode of such party.

SEC. 9. When application shall be made for the appointment, approval or removal of a guardian of a minor, the said minor and his parents shall be deemed the only parties interested therein; and when application shall be made for the appointment or removal of a guardian of a person of full age, such person shall be deemed an interested party, together with such others as the court of probate in any case shall adjudge to be interested.

SEC. 10. After the setting up of the notice in the town clerk's office, mentioned in the eighth section, and notice to the intended ward, all contracts, bargains and conveyances made by such intended ward, until the final action of the court of probate on the application, shall be null and void; and all contracts, bargains and conveyances made by any person under guardianship shall be utterly void.

SEC. 11. It shall be the duty of every guardian approved of or appointed by a court of probate, to take suitable charge of the person over whom he shall be appointed guardian, and to improve his estate frugally and without waste, and to apply the income and profits thereof to the support and maintenance of the person to whom they shall belong, and his household or family, if any such there be. In case the personal estate and the income of the real estate of any person who shall be under guardianship as aforesaid shall not be sufficient to support him and his household or family, the said guardian shall petition the court of probate for liberty to make sale of so much of the real estate of such person, or of the wood or timber thereon standing and growing, or of the stone in the quarry, or of peat and coal, as may be necessary therefor.

SEC. 12. Upon the appointment or approval of any guardian as aforesaid, he shall give immediate notice thereof by advertisement, six successive weeks, in some newspaper printed in this state; and shall also, at the same time, notify the creditors of his ward to exhibit their claims within six months from the date of said notice; within three months after his appointment, he shall exhibit to the court of probate an inventory of all the real and personal estate of his ward, to be taken by three suitable persons appointed by the court of probate, and sworn before said court or any magistrate to the faithful discharge of that trust. And he shall also, before making payment to any one, exhibit to said court a list of all the claims presented against his ward, noting thereon such as are allow-

ed by him, and such as are rejected in whole or in part ; and it shall be the duty of the guardian to collect all the personal property of his ward, and sell and appropriate the same, or so much thereof as shall be necessary, at such time and in such manner as the court of probate shall direct, to the payment of all the debts of such ward, in equal proportions as aforesaid ; except that debts due to the United States, debts due to this state, and for state and town taxes, shall be first paid, and in the order in which they are named ; and when it shall appear that the personal property is insufficient for the purposes aforesaid, he shall apply for liberty to sell so much of the real estate, or of the wood or timber thereon standing and growing, or of stone in the quarry, or of coal or peat thereon, as may be necessary to make up the deficiency with incidental expenses ; and if any guardian as aforesaid shall neglect to exhibit a true inventory of his ward's estate, or a list of the claims presented against his ward as above required, or shall neglect to apply the real and personal estate of his ward as aforesaid, to the payment of his debts as aforesaid, it shall be deemed a forfeiture of his bond given as aforesaid, and he shall be liable for an action thereon, by any creditor who may be damnified thereby, and judgment shall be entered as on administration bonds sued : *provided*, that no action shall be brought upon any such bond, for the benefit of any creditor, unless such creditor shall give security for costs, by endorsing the writ, or procuring some sufficient person to endorse the same if he be not an inhabitant of the state, who shall be liable in case the defendant recovers ; and the court shall issue execution, as in other cases.

SEC. 13. Each creditor who neglects to exhibit his claim to the guardian, within the term of six months as aforesaid, shall be forever barred of all claim therefor against the guardian, unless there shall be surplus property in his hands, after paying all debts, and expenses and allowances, made by the court of probate, as in this act provided.

SEC. 14. No action shall be sustained against any guardian within twelve months after his appointment and notice thereof, unless the claim exhibited is wholly or in part rejected by the guardian ; in which case the creditor may bring his suit forthwith, and shall be entitled to the whole, or a dividend if the estate should prove insolvent upon such sums as he may recover in such suit.

SEC. 15. Such guardian is hereby authorized to submit any disputed claim, whether in favor of or against his ward, to referees, whose decision shall be final between the parties ;

and all legal demands against the ward, although the same may not be then due, may be filed, and shall be entitled to a dividend, allowing interest for the anticipated payment, in the same manner as other demands actually due.

SEC. 16. Courts of probate are authorized in the settlement of the accounts of any guardian by them appointed, to make all reasonable allowances for such sums as the guardian from time to time shall have paid for the comfortable support of his ward, and family if any there be, and also a reasonable compensation to the guardian aforesaid for his services under this act.

SEC. 17. It shall be the duty of guardians of minors to take special charge of their education; and it shall also be the duty of the guardians of idiots, lunatics, persons non compos, and persons adjudged to be incapable of managing their own estates, to take the like charge of the education of the children of such persons, unless guardians shall be especially appointed for such children; and the estates of such persons, and also the estates of minors, shall be liable for the education of such minors and children aforesaid, in the same manner as for their support and maintenance, and may be disposed of accordingly.

SEC. 18. In case where a guardian of the property only is appointed, the property of the minor in the hands of the guardian shall not be chargeable with any debt against such minor contracted during the life of his father, if such father shall, in the opinion of the court of probate, be of sufficient ability to maintain such minor; and in case any part of the property of such minor is deemed necessary as aforesaid for his support or education, the same shall be paid out by the guardian for that purpose, under the advice and direction of the court of probate.

SEC. 19. Every person authorized by law to make a will, shall have a right to appoint by his will a guardian or guardians for his children during their minority; and every guardian so appointed shall, before he proceed to act as such, give bond with sufficient sureties, and be accountable in the same manner as if he had been appointed by the court of probate, unless the testator shall otherwise specially provide in his will.

*An Act to secure to Masters and Apprentices and Minor Servants, bounden by deed, their mutual privileges.*

## SECTION

1. Minors may be bound as apprentices or servants—females to the age of eighteen years or marriage, and males to the age of twenty-one years, by father, and in certain cases by mother, by guardian, or by themselves.
2. Binding to be by indenture, and all considerations allowed by the master to be for sole use of the minor.
3. Parents and others binding out minors, to protect them from ill usage—court of common pleas may discharge minors bound, in case of ill usage.

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4. Apprentice absconding or neglecting his duty, to be apprehended on a justice's warrant and returned to his master, or committed to jail.
5. Master may complain to court of common pleas against an apprentice guilty of gross misbehaviour, and be discharged from his contract, after notice to the apprentice and others covenanting in his behalf.
6. Indenture of apprenticeship void on the death of the master.

*It is enacted by the General Assembly, as follows :*

SECTION 1. Every minor, within the age of twenty-one years, may be bounden by deed, as a servant and apprentice, by his father, and in case of his decease, by his mother, when sole, or being within the age of fourteen years, by his guardian legally appointed; and if fourteen years of age and having no such parent, may of his voluntary accord, with the approbation of his guardian, or in case of no such guardian, by and with the approbation of the town council of the town where such minor belongs or resides, bind himself by deed, as an apprentice or servant; females to the age of eighteen years or to the time of their marriage within that age, and males to the age of twenty-one years.

SEC. 2. In every case there shall be two deeds of the same form and tenor executed by both parties, one to be kept by each; and all considerations which shall be allowed by the master in any contract of service or apprenticeship shall be secured to the sole use of the minor thereby engaged; and all contracts that shall be made by any parent or guardian, or by any for him pursuant to this act, shall be good and effectual in law against all parties, and the minor thereby engaged, according to the tenor thereof.

SEC. 3. It shall be the right and duty of all parents and guardians, and of town councils for the time being, where the town council shall give their approbation as aforesaid, binding minors as aforesaid, to enquire into the usage of apprentices and servants, bounden as aforesaid, and to defend them from the cruelty, neglect or breach of covenant of their masters; and such parents, guardians or town councils for the time being, may complain to the court of common pleas in the county where such master is an inhabitant, against him,

for any personal cruelty, neglect or breach of covenant, and the court, after having duly notified the party complained against, shall proceed to hear and determine such complaint; and if the said complaint shall be supported, the court may render judgment, that the said minor be discharged from his apprenticeship or service, with costs against the master, and award execution accordingly; in which case the deed of service or apprenticeship shall be deemed void, from the time of rendering judgment, and the minor may be bounden out anew; but if such complaint shall not be supported, the court shall award costs to the respondent, against the parent, guardian or town council, where the complaint of the town council shall be without probable cause, and issue execution accordingly.

SEC. 4. If any servant or apprentice, bounden as aforesaid, shall depart from the service of his master, or otherwise neglect his duty, it shall be lawful for any justice of the peace of the county where such servant or apprentice may be found, on complaint made to him in writing by the master, or by any one in his behalf, on oath, to issue his warrant to the sheriff, his deputy, or to any town sergeant or constable within the county, directing him to apprehend such servant or apprentice and bring him before the said justice; who upon hearing shall endeavor to reconcile the difference, if he can, and order the said servant or apprentice to be returned to the place of his duty, or to commit him to the state's jail in the county, there to remain for a term not exceeding twenty days, unless sooner discharged by his master; and the justice's warrant for returning such servant or apprentice to the place of his duty, directed to any officer or other person by name, shall authorize him to convey any such servant or apprentice to such place, notwithstanding it may be in any other county in this state; and the costs of the process and commitment by said justice shall be paid by the master, to be recovered by him of the parent or guardian, and the same with all further costs he may be holden to pay shall be a proper article of charge in such guardian's account.

SEC. 5. If any servant or apprentice, bounden as aforesaid, shall be guilty of any gross misbehaviour, wilful neglect or refusal of his duty, the master may complain thereof to the court of common pleas in the county whereof he is a resident; and the said court, after having duly notified such servant or apprentice, and all persons covenanting on his behalf, and the town council for the time being of the town when they shall approve as aforesaid, shall proceed to hear and decide upon

such complaint; and if the said complaint shall be supported, the court may render judgment, that the master be discharged from the contract of service or apprenticeship, and every article thereof obligatory on him, with costs; and award execution for costs accordingly, against the parent, guardian or minor, where the minor shall engage as aforesaid for himself; and any servant or apprentice whose master shall be discharged as aforesaid may be bounden out anew.

SEC. 6. No covenant of apprenticeship, entered into by any minor, his parent or guardian, for the purpose of such minor's becoming or being instructed in any trade or mystery and made to any master, the wife of such master, or to the executors, administrators or assigns of such master, shall be binding on such minor, parent or guardian after the decease of the master; but on the death of such master the said contract shall be deemed void from that time; and in any such case any minor may be bounden out anew, in manner as is herein before directed.

### *An Act relating to Principals and Agents or Factors.*

#### SECTION

1. Person in whose name merchandize is shipped, deemed the owner, &c.—consignee to have lien thereon for advances, unless notified who is the true owner.
2. Person entrusted with goods for sale, &c., deemed the owner—may sell or pledge them in case, &c.
3. Person accepting such merchandize in deposit, &c., shall acquire no other right than the agent had therein.
4. Any person may purchase of an

#### SECTION

- agent—sale and purchase valid, unless notified that agent is not authorized to sell.
5. Owner of goods may recover them from his agent before sold, &c.—may demand of purchaser sum agreed to be paid for them—recover them if pledged, &c.
6. Common carrier, &c., prohibited from selling or pledging.
7. Penalty on agent for fraud.

*It is enacted by the General Assembly, as follows:*

SECTION 1. Every person in whose name any merchandize shall be shipped, shall be deemed the true owner thereof, so far as to entitle the consignee of such merchandize to a lien thereon for any money advanced, or negociable security given by such consignee to and for the use of the person in whose name such shipment shall be made; and for any money or negociable security received by the person in whose name such shipment shall have been made, to or for the use of such consignee: *provided*, that such consignee shall not have notice by the bill of lading or otherwise, at or before the advancing of any money or security by him, or at

or before the receiving such money or security, by the person in whose name the shipment shall have been made, that such person is not the actual and bona fide owner thereof.

SEC. 2. Any person entrusted with and in possession of any goods delivered to him for the purpose of sale, and any person entrusted with and in possession of any bill of lading, receipt or certificate of a warehouse keeper or inspector, or any warrant or order for the delivery of goods, shall be deemed and taken to be the true owner of such goods, or of the goods mentioned and described in such documents respectively, so far as to give the same validity, force and effect, to any contracts thereafter entered into by him with any person for the sale or disposition of the same, or for the deposit or pledge thereof, as a security for any money or other property advanced, or any negotiable instrument or other obligation in writing given, upon the faith of such goods, or of such several documents, or either of them, as if the same contract had been so made by the bona fide owner of such goods: *provided*, that the person so contracted with shall not have notice, by such document or otherwise, that the person so entrusted as aforesaid is not the actual and bona fide owner.

SEC. 3. Any person who shall hereafter accept or take any such merchandize, goods or document, in deposit or pledge from any such agent as a security for any antecedent debt or demand, shall not acquire thereby or enforce any right or interest in or to such goods, merchandize or document, other than was possessed or might have been enforced by such agent, at the time of such deposit or pledge.

SEC. 4. It shall be lawful for any person to contract with any agent entrusted with goods, or to whom the same may be consigned, for the purchase of such goods, and receive the same and pay for them to such agent; and such contract and payment shall be binding and good against the owner of such goods, notwithstanding the purchaser shall have notice that the person making such contract or in whose behalf the same is made is an agent: *provided*, that such contract and payment be made in the usual and ordinary course of business, and that such purchaser shall not, when such contract is entered into or such payment made, have notice that such agent is not authorized to sell the said goods or to receive the said purchase money.

SEC. 5. Nothing contained in this act shall be deemed or construed to prevent the true owner of any such goods shipped, entrusted or deposited as aforesaid, from demanding and recovering the same from his factor or agent before the same

shall have been so sold, deposited or pledged, nor to prevent such owner from demanding and receiving from any such purchaser the sum agreed to be paid for the purchase of such goods, subject to any right of set-off on the part of such purchaser against such agent or factor; nor to prevent any such owner from demanding and recovering such goods from any person with whom the same may have been so deposited or pledged as a security for any money or other property advanced, or any negotiable security or obligation in writing given as aforesaid, upon repayment of such money or restoration of such other property, and satisfaction of such security or obligation in writing so advanced, together with such further sum as shall, with the amount so advanced by such depository or pawnee, be equal to the money or other property and security or obligation in writing, if any, advanced by such agent or factor to such owner, or to the amount for which such agent or factor has a lien on the same goods; nor to prevent such owner from recovering from such depository or pawnee any balance or sum of money remaining in his hands as the produce of the sale of such goods, after deducting thereout the amount of the money or other property or security in writing so advanced; and the amount so set off and retained by such purchaser or paid by such owner on redeeming such goods, or in any manner allowed by him on recovering the same or the produce of the sale thereof, shall be deemed and taken as so much paid by him to and for the use of such agent or factor.

SEC. 6. Nothing in this act shall authorize a common carrier, warehouse keeper or other person to whom merchandize or other property may be committed for transportation or storage only, to sell or pledge the same.

SEC. 7. If any such agent or factor shall deposite or pledge any goods, wares or merchandize, or any such document as is herein before mentioned, which shall have been entrusted or consigned as aforesaid to his care or management, with any person as a security for any money or other property borrowed or received by such agent or factor, and shall apply or dispose of the proceeds thereof to his own use, in violation of good faith and with intent to defraud any such owner of such goods, every person so offending shall be deemed and taken to be guilty of a misdemeanor; and on conviction thereof on indictment shall be fined not exceeding one thousand dollars, or be imprisoned not exceeding five years.



*An Act authorizing Limited Partnerships.***SECTION**

1. For what purposes limited partnerships may be formed.
2. What shall constitute general and what special partners—liability of each.
3. Certificate of firm, names of partners, capital, nature of business, duration of, &c., to be signed.
4. Certificate to be acknowledged and recorded—all the partners liable as general partners, if certificate false.
5. Certificate to be published.
6. If partnership renewed, certificate to be published.
7. Business to be done exclusively by and in name of general partners.

**SECTION**

8. Capital not to be withdrawn or profits divided so as to reduce capital.
9. Assignment of property for payment of debts, void, unless, &c.
10. Special partner not to claim as creditor, until, &c.
11. Suits to be brought by and against general partners only, except.
12. Partnership not to be dissolved, except by operation of law, unless notice published and recorded.
13. In other respects, rights and liabilities same as general partners.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** Limited partnerships for the transaction of mercantile, mechanical or manufacturing business within this state, may be formed by two or more persons upon the terms and subject to the conditions and liabilities herein prescribed; but nothing contained in this act shall authorize any such partnership for the purpose of banking or insurance.

**SEC. 2.** Such partnerships may consist of one or more persons who shall be called general partners, and shall be jointly and severally responsible as general partners now are by law; and of one or more persons who shall contribute to the common stock a specific sum in actual cash payment as capital, and who shall be called special partners, and shall not be personally liable for any debts of the partnership, except in the cases herein after mentioned.

**SEC. 3.** The persons forming any such partnership shall make and severally sign a certificate which shall set forth:

1. The name or firm under which the partnership is to be conducted.
2. The names and respective places of residence of all the general and special partners, distinguishing who are general and who are special partners.
3. The amount of capital which each special partner has contributed to the common stock.
4. The general nature of the business to be transacted.
5. The time when the partnership is to commence, and when it is to terminate.

**SEC. 4.** No such partnership shall be deemed to have been formed until a certificate so made and signed shall be acknowledged by all the parties before some justice of the

peace or public notary, and filed in the office of the clerk of the town in which the principal place of business of the partnership is situated, and recorded by such clerk in a book to be kept for that purpose. If the partnership shall have places of business situated in different towns, the certificate shall be filed and recorded in like manner in the office of the clerk of every such town. And if any false statement be made in any such certificate, all the persons interested in the partnership shall be liable as general partners for all the engagements thereof.

SEC. 5. The partners shall publish a copy of the certificate for six successive weeks, immediately after the registry thereof, in at least two newspapers printed within this state; and in case such publication be not made, the partnership shall be deemed general.

SEC. 6. Upon any renewal or continuation of a limited partnership, beyond the time originally fixed for its duration, a certificate thereof shall be made, acknowledged, filed, recorded and published in the like manner as is herein provided for its original formation; otherwise the renewal or continued partnership shall be deemed a general partnership.

SEC. 7. The business of the partnership shall be conducted under a firm in which the names of the general partners only shall be inserted, without the addition of the word "company," or any other general term, and the general partners only shall transact the business; and if the name of any special partner shall be used in the firm with his consent or privity, or if he shall personally make any contract respecting the concerns of the partnership with any person except the general partners, he shall be deemed and treated as a general partner.

SEC. 8. During the continuance of any partnership under the provisions of this act, no part of the capital stock thereof shall be withdrawn, nor any division of the interest or profits be made, so as to reduce such capital stock below the sum stated in the certificate before mentioned; and if at any time during the continuance or at the termination of the partnership, the property or assets shall not be sufficient to pay the partnership debts, then the special partners shall severally be held responsible for all sums by them in any way received, withdrawn or divided, with interest thereon from the time when they were so withdrawn respectively.

SEC. 9. No general assignment by any limited partnership in case of insolvency, or where the goods and estate of the partnership are insufficient for the payment of all the debts thereof, shall be valid, unless it shall provide for a dis-

tribution of the partnership property among all the creditors, in proportion to the amount of their several legal claims, excepting the claims of the government of the United States, arising from bonds for duties, which are first to be paid or secured.

SEC. 10. In case of the insolvency of any limited partnership, no special partner shall, under any circumstances, be allowed to claim as a creditor until the legal claims of all the other creditors of the partnership shall be satisfied.

SEC. 11. All suits respecting the business of such partnership shall be prosecuted by and against the general partners only; except in those cases in which provision is herein made that the special partners shall be deemed general partners, and special partnerships shall be deemed general partnerships, in which cases all the partners deemed general partners may join or be joined in such suits; and excepting also those cases where special partners shall be held severally responsible on account of any sums by them received or withdrawn from the common stock, as before provided.

SEC. 12. No dissolution of a limited partnership shall take place, except by operation of law, before the time specified in the certificate before mentioned, unless a notice of such dissolution shall be recorded in the clerk's office wherein the original certificate or the certificate of renewal or continuation of the partnership was recorded, and in every other clerk's office where a copy of such certificate was recorded; and unless such notice shall also be published for six successive weeks in at least two newspapers printed within this state.

SEC. 13. In all cases not otherwise provided for herein, the members of limited partnerships shall be subject to all the liabilities and entitled to all the rights of general partners.

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*An Act for the relief of Partners and Joint Debtors.*

**SECTION**

1. After dissolution of a partnership one partner may make separate compromise with his creditors, which shall discharge him, and in reference to his partner shall be taken as payment of his full proportion of the debt, if less than his proportion, and if more then for amount paid.
2. Such compromise to be in writing, and may be given in evidence under general issue in suit with creditor.

**SECTION**

3. Such compromise to enure to benefit only of person making it, and not to prejudice claim of creditor on other partners.
4. Such compromise not to affect rights of other partners against person making it.
5. The foregoing provisions extended to joint debtors.

*It is enacted by the General Assembly, as follows :*

SECTION 1. Whenever any copartnership shall be dissolved, it shall and may be lawful for any individual who was embraced in such copartnership, to make a separate composition or compromise with any one or all of the creditors of such copartnership; and such composition or compromise shall be a full and effectual discharge to the debtor making the same, of the whole of said debt, and be taken and considered in reference to the other copartners as actual payment of such debtor's proportion of the debt, whether the full amount of his proportion of said debt be actually paid or not. And in case an amount exceeding his proportion be actually paid, it shall be taken and considered as payment of the amount of debt actually paid.

SEC. 2. Every such debtor making such composition or compromise shall take from the creditor with whom he may make the same, a note or memorandum in writing, exonerating him from all individual liability, incurred by reason of such connection with such copartnership; which note or memorandum may be given in evidence by such debtor under the general issue in bar of such creditor's right of recovery against him.

SEC. 3. Such composition or compromise shall not be so construed as to discharge the other copartners, except as provided in the first section of this act; nor shall it impair the right of the creditor to proceed at law or in equity against the members of such copartnership who have not been discharged; and the members of such copartnership so proceeded against shall be permitted to set off any demand against said creditor which could have been set off, had said suit been against all the individuals composing said firm; nor shall said compromise or discharge of an individual of a firm, prevent the other members of such firm availing themselves of any defence in law or equity that would have been available had not this act been passed; except that they shall not set up the discharge of one individual as a discharge of all the other copartners, unless it shall appear that all were intended to be discharged.

SEC. 4. Such composition or compromise shall in no wise affect the right of the other copartners, or any of them, to call on the individual making such compromise for any sum beyond said individual's original proportion of said debt, if in consequence of the insolvency, inability to pay, or absconding of any one of said copartners, such individual so

compromising should become liable to pay more than his proportion of said debt, either in law or equity.

SEC. 5. The above provision in reference to copartners shall extend to joint debtors, who are hereby authorized, individually, to compound or compromise for their joint indebtedness, with the like effect to creditors and to joint debtors of the individual so compromising, as is above provided in reference to copartners.

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*An Act fixing the rate of Legal Interest.*

## SECTION

1. Rate of interest established.
2. Usury being pleaded the court may admit the parties as witnesses—judg-

## SECTION

ment how entered—provisions of act not extended to certain usages amongst farmers and merchants.

*It is enacted by the General Assembly, as follows :*

SECTION 1. No person shall, directly or indirectly, contract for or receive for the loan of any money, goods, wares, or other commodities whatsoever, above the value of six dollars for the forbearance or giving day of payment of one hundred dollars for one year ; and so after that rate for a greater or less sum, or for a longer or shorter time, or according to that rate or proportion for the loan of any money, goods, wares or other commodities.

SEC. 2. If any action or suit shall hereafter be commenced upon any bond, mortgage, specialty, agreement, contract, promise or assurance whatever, which shall be made within this state after the passing of this act, and the defendant shall allege by special plea that a higher or greater interest than the rate aforesaid was taken, or was therein or thereby secured or agreed for, the court shall and may admit the defendant as a legal witness, upon the issue joined in such action or suit, to testify relative to the nature and circumstances of such agreement, and shall also, on motion of the plaintiff, admit such plaintiff as a legal witness in like manner ; and if on the whole evidence, such agreement shall be found usurious, the plaintiff shall have judgment for the principal sum of money, or real value of the goods, wares or other commodity as aforesaid, with legal interest thereon with costs : *provided, always,* that nothing in this act shall extend to the letting of cattle, or other usages of the like nature in practice amongst farmers, or to maritime contracts amongst merchants, as bottomry, insurance, or course of exchange, as hath been heretofore accustomed.

*An Act in relation to Bills of Exchange and Promissory Notes.*

## SECTION

1. Damages and interest on foreign bills.
2. Action against drawer and endorser may be joint or several.
3. Damages and interest on inland bills.

## SECTION

4. Actions by or against corporations on promissory note.
5. Promissory note payable to order or bearer—action on how brought.

*It is enacted by the General Assembly, as follows :*

SECTION 1. When any foreign bill of exchange is or shall be drawn or endorsed within this state for the payment of any sum of money, and such bill is or shall be returned from any place or country without the limits of the United States protested for non-acceptance or non-payment, the drawer or endorser shall be subject to the payment of ten per cent. damages thereon and charges of protest, and the bill shall carry an interest of six per cent. per annum from the date of the protest.

SEC. 2. It shall be lawful for any person having a right to demand any sum of money upon a foreign protested bill of exchange as aforesaid, to commence and prosecute an action for principal, damages, interest and charges of protest against the drawers or endorsers, jointly or severally, or against either of them separately; and judgment shall and may be given for such principal, damages and charges, and interest upon such principal after the rate aforesaid, to the time of such judgment, together with costs of suit.

SEC. 3. When any inland bill of exchange shall be drawn or endorsed within this state, for the payment of any sum of money without the same, and such bill shall be protested for non-acceptance or non-payment, the drawer or endorser shall be subject to the payment of five per cent. damages thereon and charges of protest, and the bill shall carry an interest of six per cent. per annum from the date of the protest.

SEC. 4. When any persons or body corporate, by themselves or by any person by them lawfully authorized for the purpose, shall hereafter make or sign any promissory note, whereby such persons or body corporate shall promise to pay to any other person or body corporate any sum of money or specific article mentioned in such note, the same shall be taken and construed to be by virtue thereof due and payable to such person or body corporate; and such person or body corporate may maintain an action for the same against the person or body corporate who shall have made the same.

SEC. 5. A note made as aforesaid containing a promise for the payment of money only, made payable to order or

bearer, shall be assignable or endorsable over in the same manner as bills of exchange are or may be, according to the custom of merchants; and the assignee or endorsee of such negotiable note may maintain an action against the maker of such note, or any prior endorser, for the recovery of the money due thereon.

*An Act in relation to Banks.*

## SECTION

1. Banks to make semi-annual returns to general assembly; time to be prescribed by the secretary of state.
2. Penalty on president and cashier for neglect in making returns.
3. Secretary to cause an abstract of bank returns to be printed in schedules.
4. Form of bank returns.
5. General assembly or governor may appoint commissioners to examine any bank; duties of such commissioners.
6. Penalty for refusing information to any commissioner.
7. Proceedings against banks, on complaint of commissioners to supreme court.
8. Same subject.
9. Same subject.
10. Capital stock of no bank to be reduced by division of any part thereof, without leave of the general assembly. If reduced by losses, to be filled up within one year.
11. No bank to be removed from town where located, or to establish any branch.
12. No person to be a director in any bank in which he is not a stockholder.
13. Secretary of state a director in all banks in which state owns stock.

## SECTION

14. No person, except secretary of state, a director in more than one bank.
15. Cashier to publish names of directors.
16. Three directors necessary to make a discount.
17. Penalty for not permitting a stockholder to examine books of the bank.
18. Penalty for taking more than six per cent. interest.
19. Amount of debts of a bank not to exceed capital paid in. Penalty for exceeding.
20. Penalty for issuing bills payable except at own banking room.
21. Penalty for issuing bills of less amount than one dollar.
22. Penalty for issuing bills not payable in gold or silver.
23. Penalty for passing bills not payable in gold or silver.
24. Penalty for fraudulently managing any bank.
25. Penalty for not paying out deposits.
26. Debts due any bank on 5th June, 1836, to be sued for and collected by process then in force.
27. Stockholders' meetings may be called by one-third in interest of the stockholders of any bank.
28. Penalties how recovered.

*It is enacted by the General Assembly, as follows:*

SECTION 1. Each incorporated bank shall hereafter make to the general assembly semi-annually, at the May and October sessions, and on or before the first Thursday of said sessions respectively, a return of the situation of the said bank, on some one day certain, in the months of April and September of each year; said day to be designated by the secretary of state, subsequent to the day so designated for the returns to be made by the banks; notice of said day to be given to the cashiers of the banks by the secretary of state; which return shall be in form herein after prescribed; and the president and cashier, or in case of their inability from sickness or

otherwise, two of the directors of the bank shall be engaged to the truth thereof, which engagement shall be certified upon the return.

SEC. 2. If the president and cashier, or in case of their inability the directors of any bank, shall neglect or refuse to make return as aforesaid, such bank shall forfeit and pay to the state the sum of twenty dollars for every day such bank shall neglect or refuse to make return to the general assembly, or to the secretary of state, after the rising of the general assembly.

SEC. 3. The secretary of state shall cause an abstract of the returns to be published in the schedules.

SEC. 4. The bank returns hereby required shall be substantially in the following form :

Situation of the bank of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_

Capital actually paid in.

Amount of bills in circulation.

Amount of deposits on interest.

Amount of deposits not on interest.

Amount of debts due from the bank.

Amount of dividends unpaid.

Amount of net profits on hand.

Amount of liabilities.

Amount of debts due from directors.

Amount of debts due from other stockholders.

Amount of debts due from all others.

Amount of specie actually in bank.

Amount of bills of other banks.

Amount of deposits in other banks.

Amount of stock in the bank.

Amount of stock in other banks and other stocks.

Amount of real estate.

Amount of other property.

Amount of resources.

In addition to the above, the following particulars in relation to the state of the banks shall be returned :

Increase of capital since last return ; par value of shares in the bank ; last dividend when declared, rate per cent. and amount of dividend ; amount of suspended paper ; reserved profits at the time of the last dividend ; amount loaned on pledges of stock in the bank ; amount of debts due and not paid ; largest amount of indebtedness of any one person or firm.

SEC. 5. The general assembly at any session thereof and the governor at any time when the assembly is not in session,



when it shall be deemed expedient, may institute a special commission to visit and examine any one or more of the banks; to inquire whether they have been and are managed according to law, and to ascertain their state and condition, with such power and authority as shall be deemed necessary; including the power to send for persons and papers, to examine persons under oath touching the matters committed to them, but excluding the right in such commissioners to inspect the private account of any individual with any bank. Any commissioner so appointed shall report his doings to the general assembly at each subsequent session thereof.

SEC. 6. If any cashier or president of any bank or any other person shall refuse to any commissioner or commissioners, appointed in pursuance of the fifth section of this act, such information, aid, or assistance, as shall be required in the discharge of his duty as commissioner, he shall forfeit for each offence a sum not exceeding ten thousand dollars, and the bank may also be proceeded against, as is herein after provided.

SEC. 7. The supreme court in term time, in any county, or any justice thereof in vacation, is hereby authorized and directed, upon complaint in writing from any bank commissioner under oath, setting forth that in his opinion any bank has forfeited its charter at law, or is so managing its concerns that the public are in danger of being defrauded thereby, forthwith to issue citation to such bank, directed to and to be served upon the president, directors and cashier thereof, by leaving an attested copy at their banking room, or usual place of business, commanding such president, directors and cashier personally to appear before said court if in term time, or before said justice if in vacation, on a day and at a place to be mentioned in the citation, within the county in which said bank is located, then and there under oath to show cause, if any they have, why a writ of injunction should not issue, enjoining such bank from further exercising the powers and franchises conferred by its charter. And if upon the examination of the president, directors or cashier, and of such other witnesses and evidence as may be produced by the commissioners and defendants, and the court in term time, or said justice in vacation, shall be of opinion that the charter of said bank is forfeited at law, or that such bank is so managed as that the public are in danger of being defrauded thereby, they are hereby authorized and required to issue an injunction to the president, directors, cashier and other officers of such bank, enjoining them from proceeding further in trans-

acting the business thereof; and to appoint some discreet and proper person to be receiver of all the evidences of debt, goods, effects and property of every description belonging to such bank; which receiver is hereby empowered to take the same into his possession, and collecting the debts and disposing of the property, to pay out of the proceeds thereof, if the same shall be sufficient, first reserving for himself a reasonable compensation for his services, all the debts of the corporation, giving the bill holders a preference over other creditors, or rateably if they shall not be sufficient to pay the whole. In case there shall be any surplus after paying such receiver for his services, and after paying the debts of the corporation, with incidental expenses, such receiver shall distribute the same in due proportion among the stockholders of such bank. Such receiver shall be clothed with all the powers and rights in respect to the collection of debts due to such bank which the corporation possessed in virtue of its charter or otherwise, before such injunction issued; and may be removed by the supreme court and another appointed in his stead; and the supreme court shall have the same power and authority over such receiver, his acts, proceedings and accounts, as is exercised by courts of equity in like cases; so long as any such injunction shall be in force against any bank all suits and legal process against such bank for the collection of debts shall be stayed; said court is also empowered to issue a limited or temporary injunction, staying proceedings in such particulars and for such length of time, as in the opinion of the court may be necessary for the safety of the public and the proper management of the affairs of the bank, without their proceeding to the appointment of a receiver. And the said court at any term thereof, subsequent to the issuing of said injunction, shall, upon the hearing of all the parties upon said complaint, if they see cause, declare the charter of said bank null and void; and it shall be the duty of said court to make return of their proceedings in the premises to the general assembly.

Sec. 8. Such citation, whether issued by said court or by a single justice, may also contain a temporary injunction on said bank and all its officers, restraining them from proceeding in any business of said bank, which may diminish or jeopardize the assets of such bank; which injunction, unless removed, shall continue until such complaint is finally disposed of.

Sec. 9. If the president, directors, cashier, agents or servants of any bank which shall be enjoined as before mentioned, or any other person upon being required thereto, shall

neglect or refuse to deliver to the receiver or receivers of such bank, who may be appointed by virtue of this act, such evidences of debt, goods, effects and property of every description, and evidences of and titles to property belonging to such bank as may be in their possession or under their control, each person so offending shall, upon indictment for and conviction of such offence, be fined not exceeding ten thousand dollars, or be imprisoned not exceeding three years; or be both fined and imprisoned within the limits last aforesaid, at the discretion of the court.

SEC. 10. The capital stock of any bank shall not be reduced by a division of any part of the same without the consent of the general assembly. And if by reason of losses the capital stock of any bank shall be diminished one fourth part or more of the sum fixed by the charter of such bank, the same shall be filled up to its original amount within one year after such loss shall have been incurred. Any violation of the provisions of this section shall work a forfeiture of the charter of the offending bank.

SEC. 11. No bank shall be removed from the town wherein it is located by its charter. Nor shall any bank establish any branch, office or agency thereof, for discount, in any other place than that in which such bank is located, unless by permission of the general assembly. If any bank shall violate the provisions of this section its charter shall be forfeited.

SEC. 12. No person shall be director of any bank unless he is a stockholder therein, and a citizen of and resident in this state, unless in cases where it is otherwise specially provided for.

SEC. 13. The secretary of state shall, ex-officio, be a director in every bank in which the state is a stockholder.

SEC. 14. No person except the secretary of state in his official capacity, shall be a director in more than one bank, other than a savings bank, at the same time.

SEC. 15. The cashier of each bank shall cause the names of all the directors and of the president of such bank, within twenty days after their election, to be published in one of the newspapers printed in this state, nearest to the place where such bank is located. If any cashier shall neglect or refuse so to do, he shall forfeit and pay the sum of one hundred dollars.

SEC. 16. The presence and consent of at least three directors shall be necessary for the discounting of notes or bills of exchange by any bank.

SEC. 17. If any cashier or other officer of any bank shall refuse to permit any stockholder of such bank to inspect the

books, papers and accounts thereof, excepting the private accounts of individuals, the person so offending shall forfeit and pay the sum of fifty dollars.

SEC. 18. If any bank or any officer of any bank, or other person in behalf thereof, shall directly or indirectly knowingly demand or receive from the maker, endorser or holder of any promissory note or bill of exchange, or obligation of any description, for the payment of money at a future day, upon the discount thereof, by or on account of such bank, any greater interest or discount, under any form or pretence whatever, than at the rate of six per cent. per annum, the officer or other person knowingly demanding or receiving in behalf of such bank such excessive interest or discount, shall forfeit and pay for each offence the sum of five hundred dollars, to and for the use of the state; to be recovered by action of debt in the name of the general treasurer, before any court proper to try the same: *provided, however*, that it shall not be construed to be any violation hereof to demand or receive interest or discount for periods less than one year, at the rate of six per cent. for three hundred and sixty days; and *provided further*, that nothing in this act contained shall be deemed or construed to prohibit any bank from demanding or receiving, at any time, the existing rate of exchange on drafts, bills of exchange or promissory notes, payable at other places than the town wherein the bank discounting the same shall be located.

SEC. 19. The total amount of the debts which any bank shall at any time owe, exclusive of money actually deposited in said bank, shall not exceed the capital stock actually paid into said bank; and in case of excess, the directors under whose administration it shall happen shall be liable for the same in their private capacities; and in such case an action may be brought against them or any of them, their heirs, executors or administrators, in any court proper to try the same, by any creditor of such corporation, and be prosecuted to final judgment and execution; and this shall not be construed to exempt the said corporation or their lands, tenements, goods or chattels from being also liable for and chargeable with the said excess; but such of said directors as may have been absent when the said excess was contracted or created, or who may have dissented from the act or resolution whereby the same was contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact of their absence or dissent to the stockholders, at a general meeting, which they are hereby empowered to call for that purpose. If any bank shall at any time have

bills or notes of said bank in circulation exceeding its capital stock actually paid in, the directors for the time being shall forfeit and pay the sum of one thousand dollars each, and the charter of such bank shall thereupon be null and void.

SEC. 20. If any bank shall make and issue any bank bill payable at any place other than its own banking room or place of business, the president or cashier, or other person who shall sign such bank bill shall each forfeit the sum of fifty dollars.

SEC. 21. If any bank shall issue or pass any note, bill, order or check for a less sum than one dollar, with intent that the same shall be circulated as a currency, the president or cashier, or other person who shall sign such note, bill, order or check, shall forfeit and pay for every such offence the sum of one hundred dollars.

SEC. 22. If any bank shall hereafter issue, pay out or pass any bill or note payable in any thing but gold or silver, the president or cashier who shall sign such bill or note shall respectively forfeit four-fold the amount of such bill or note.

SEC. 23. If any person shall pass or tender in payment any bank bill payable in any thing but gold or silver, he shall forfeit and pay four-fold the amount of such bank bill.

SEC. 24. If any officer of any bank shall fraudulently manage or conduct the affairs or business of such bank, whereby any person shall be defrauded, such officer shall and may be prosecuted in the supreme court by indictment; and on conviction shall and may be fined to and for the use of the state, at the discretion of the court, not exceeding five thousand dollars.

SEC. 25. When any incorporated bank shall for the space of five days after demand in writing left with the cashier of said bank, refuse or neglect upon application therefor to pay any money deposited therein, or which has been collected on any security deposited in said bank for collection, to the person having legal right to demand and receive the same; or shall refuse, upon demand and application as aforesaid, to deliver out to any person having legal right as aforesaid, any security or money deposited in such bank for safe keeping, or for collection and not collected, or any specific article deposited therein for safe keeping; such bank shall be liable to pay in damages to the party aggrieved, the value of the article or the amount of the money or security so detained, with interest from the demand, and such additional damages as the court or jury before which the same may be tried shall think reasonable.

**SEC. 26.** Every debt contracted with or actually owing to any bank on the twenty-fifth day of June, eighteen hundred and thirty-six, and all the renewals thereof, shall and may be sued for and recovered by the bank owning the same, in the manner and by the form of process and before the court pointed out in the ninth section of the act entitled "an act to regulate process against banks and for other purposes therein mentioned," passed in the year 1822; and said section, so far as relates to such debts and the renewals thereof, is not repealed by this act.

**SEC. 27.** One third of the stockholders in interest in any bank are hereby authorized to call meetings of the stockholders, at their banking room, for the transaction of business, with the same legal effect as if the meeting had been called by the directors of the bank; first giving such notice of the time and place of meeting as may be prescribed in their charter.

**SEC. 28.** All penalties incurred under this act where special provision is not made to the contrary, may be sued for and recovered by action of debt; one half to and for the use of the person who shall sue for the same, and the other half to and for the use of the state.

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*An Act to prevent the Circulation of Private Securities as a Currency.*

**SECTION**

1. Penalty for passing private notes, &c., as currency.

**SECTION**

2. All such notes, &c., to be void.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** If any person shall issue or pass any note, bill, order or check, other than the notes or bills of some bank incorporated by this state, or the United States, or some one of them, with intent that the same shall be circulated as a currency, he shall be fined for every such offence the sum of one hundred dollars.

**SEC. 2.** All notes, bills, orders or checks, which shall be issued or passed as aforesaid, other than the notes or bills of any bank incorporated as aforesaid, and checks drawn on any such bank, shall be utterly void, and no action shall be thereon sustained in any court in this state.

*An Act declaring Towns to be Bodies Corporate, and prescribing the manner of recovering debts due from Towns.*

**SECTION**

1. Towns, bodies corporate.
2. Towns may make by-laws, inflict fines, &c.
3. Moderator to preside at all town meetings; if absent, a moderator pro tempore to be appointed.
4. Disorderly behavior in town meeting how punished.
5. Moderator to put all questions to vote.
6. Moderator to receive all votes.
7. Quorum of town meetings.
8. Towns may assess and collect taxes.
9. No tax to be ordered unless named in warrant for town meeting, nor town's land sold—town clerk to issue warrant for town meetings.
10. Town treasurer to issue warrant for town meetings if town clerk be dead.
11. Town clerks to cause town meetings

**SECTION**

- to be notified—mode of notifying—towns may adopt any other mode.
12. Penalty on town clerk and town sergeant for neglect in calling town meetings.
  13. Debts due from towns how recovered.
  14. Powers and privileges of city of Providence established.
  15. Powers and privileges of each town established.
  16. Powers and privileges of each village district established.
  17. Powers and duties conferred on any officers of any towns, districts and villages, established.
  18. Towns may regulate the building of chimnies and placing of stoves and stove pipes.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** The inhabitants of each town are hereby declared to be a body corporate, and as such may commence and prosecute any suit or action, in any court proper to try the same, and may also defend any suit or action commenced against them.

**SEC. 2.** Each town shall be and is hereby fully empowered to make and ordain all such acts, laws and orders for the well ordering, managing and directing of all the prudential affairs of such town as shall seem most conducive to the welfare and good order thereof; and to inflict fines and penalties for the non-observance of the same, not exceeding ten dollars, or more than one month's imprisonment, for any offence: *provided*, that all such acts, laws and orders are not repugnant to the constitution or laws of this state.

**SEC. 3.** In all meetings of the electors of each town, the moderator of the town shall preside, if present; when he shall be necessarily absent, the town may elect a moderator pro tempore; the town clerk, and in his absence the town treasurer, presiding in such election. Moderators shall have power and authority to manage and regulate the business of each meeting, and to maintain peace and good order therein.

**SEC. 4.** If any person shall conduct himself in a disorderly manner in any town meeting, the moderator may order him to withdraw from the meeting, and on his refusal may order the town sergeant or any constable present, or any other persons, to take him from the meeting, and to confine him in

some convenient place until the meeting shall be adjourned ; and the person so refusing to withdraw shall for each offence forfeit a sum not exceeding twenty dollars, to the use of the town.

SEC. 5. The moderator of every town meeting shall, on a motion being made and seconded relative to any business regularly before such meeting, after having heard all the electors entitled to vote thereon who shall be desirous of being heard, cause the votes of such electors present to be taken thereon.

SEC. 6. In all town elections and on all questions to be decided by ballot, the votes shall be received by the moderators or wardens, and by no other person ; and like proceedings shall be had in such cases and in all town meetings, as far as may be, as are prescribed in the twenty-third and thirtieth sections of the act entitled " an act to regulate the election of civil officers."

SEC. 7. When the inhabitants of any town do not exceed three thousand by the last preceding census, seven electors at least shall be necessary to constitute a legal town meeting ; and where the inhabitants of any town shall exceed that number, fifteen electors at least shall be necessary to constitute such meeting ; and all doings relating to town affairs shall be decided by a majority of the votes of the electors present entitled to vote on the question.

SEC. 8. The electors of each and every town who are entitled to vote on any proposition to impose a tax shall have power and authority, when legally convened, to make such acts and laws in their towns for the raising such sums of money only as shall be by them thought needful for the defraying the necessary incidental charges and expenses thereof, or paying the town debts, by a tax on real or personal estate or both ; but no poll tax shall be levied or collected for any purpose whatever ; and any town may include the said town's proportion of any state tax which may be assessed, in the assessment of such town tax, and pay the same out of the town treasury, provided the same shall be voted at a legal meeting of the said electors of such town.

SEC. 9. No vote shall be passed in any town meeting concerning the disposing of the town's land or making a tax, unless mention be made, and notice thereof given in the warrant given out for the warning of such meeting ; and the town clerk of each town shall grant such warrant, unless in cases where the law otherwise directs ; which warrant shall be di-



rected to the town sergeant or to either of the constables of the town.

SEC. 10. Whenever any town clerk shall be removed by death or otherwise, the town treasurer of such town shall issue his warrant to warn the electors to assemble in town meeting, to choose a town clerk in the room of him so removed, which warrant shall be directed as aforesaid.

SEC. 11. It shall be the duty of each town clerk to cause the electors of their respective towns to be notified of any town meeting which shall be prescribed by law, and also of all other town meetings which shall be legally called: whenever seven of the electors of any town consisting of less than three thousand inhabitants, or whenever fifteen of the electors of any town consisting of more than that number, shall make a request in writing for the calling of a town meeting, to transact any business relating to such town, in respect to which they shall have a right to vote, and direct the same to the town clerk, it shall be the duty of such town clerk to cause the electors to be notified of the time and place when and where the same is to be holden, and of the business proposed to be transacted therein: the notice to the electors to meet in town meeting, when prescribed by law, shall be given by the said town clerk issuing his warrant, directed to the town sergeant or one of the constables of such town, requiring him to post up written notifications in three or more public places in such town, of the day for said meeting to be holden, and of the business required by law in such meeting to be transacted; the notice of meetings when called by request as aforesaid, shall be given by the town clerk issuing his warrant, directed to the town sergeant or constable, requiring them to give personal notice to the individual electors of such town entitled to vote on the business to be then transacted, of the time when and the place where said meeting is to be holden, and of the business therein to be transacted: *provided, always,* that it shall and may be lawful for any town to prescribe by law any other mode for warning the electors of their respective towns, to convene in town meeting, any thing herein to the contrary notwithstanding.

SEC. 12. Any town clerk who shall neglect or refuse to issue a warrant as directed by this act, and each town sergeant or constable who shall neglect or refuse to serve the same, as herein required, shall severally forfeit for each neglect, fifty dollars; to be recovered by an action of debt, one half to the use of the town and the other half to the use of the person who shall sue for the same.

SEC. 13. Every person who shall have any money due to him from any town, or any demand against any town for any matter, cause or thing whatever, shall take the following method to obtain the same, to wit: such person shall present to the electors of such town who are entitled to vote on any proposition to impose a tax, when legally assembled in town meeting, a particular account of his debt or demand, and how contracted; which being done, in case just and due satisfaction is not made him by the town treasurer of such town, within one month after the presentment of such debt or demand aforesaid, it shall be lawful for such person to commence his action against such town treasurer for the recovery of the same; and upon judgment obtained for such debt or demand, in case the town treasurer shall not have sufficient of the town's money in his hands to satisfy and pay the judgment obtained against him, and the charges expended in defending such suit, upon application made by such town treasurer to any justice of the peace of such town, such justice shall grant a warrant to the town sergeant of such town, requiring him to warn the said electors of such town to hold a town meeting, at such time and place as shall be appointed, for the speedy ordering and making a tax, to be collected for the reimbursement of such town treasurer; and in case such town, upon due warning given them, shall not take due and effectual care to reimburse, pay or satisfy such town treasurer, such money, costs and charges by him expended or recovered against him, upon information or complaint thereof by him made to the next general assembly, such order shall be given therein for the said treasurer's reimbursement, with allowance for all incidental costs, charges and trouble occasioned thereby; and such town shall be fined, at the discretion of the general assembly.

SEC. 14. The city of Providence shall continue to have and exercise all the powers and privileges, except the power of passing by-laws or regulations in relation to the going at large in said city of horses, neat-cattle, sheep, hogs, goats and geese, and to be subject to all the duties and privileges, mentioned in the act entitled "an act to incorporate the city of Providence," and in the several acts specially relating to said city.

SEC. 15. Each town shall continue to have and exercise all the powers and privileges, except the power of passing by-laws or regulations in relation to the going at large within said town of horses, neat-cattle, sheep, hogs, goats and geese, and be subject to all the duties and liabilities, conferred, or im-

posed upon it by the several acts of the general assembly specially relating to it, until the same shall expire by their own limitation, or shall be repealed.

SEC. 16. All the powers and privileges which have been conferred by the general assembly on any district or village situated in any town or towns, except the power of passing by-laws or regulations relative to the going at large within said district or village of any horses, neat-cattle, sheep, hogs, goats or geese, and all duties and liabilities imposed on such village or district, shall be had or exercised by such district or village, until the same shall be repealed or shall expire by their own limitation.

SEC. 17. All the powers, privileges and duties which have been conferred or imposed by the general assembly on any officers appointed by said city of Providence, or by any town, or by the town council of any town, or by any village or district, shall be held and exercised and performed by such officers and by their successors duly appointed, during their continuance in office, so long as the acts of the assembly conferring or imposing them shall be in force.

SEC. 18. Each and every town may authorize and empower any person appointed by them to superintend the erection of chimneys and the placing of stoves and stove pipes, to take and use such measures as the said towns shall respectively deem effectual for the removal or for the prevention of the erection of any chimneys, or the placing of any stoves or stove pipe, so as to endanger any building being set on fire by means thereof.

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*An Act in relation to the Election and Duties of Town Officers.*

## SECTION

1. What officers shall be elected annually.
2. When justices of the peace may be chosen—for what term, &c.
3. Proceedings in case a ballot is demanded—order in which certain officers shall be elected.
4. Names to be numbered in certain cases.
5. Town meeting may be adjourned for election of town clerk, &c.—town council may elect certain officers in case, &c.
6. Term of office—vacancies how filled.
7. Quorum of town council.
8. Powers of council.
9. Same subject.
10. Ordinances of council to be published or notified.

## SECTION

11. Assize of bread may be regulated by council.
12. Bonds to council in what form to be given.
13. Town clerk to be clerk of council—council may appoint pro tem.
14. Town clerk may appoint a deputy.
15. Same subject.
16. Town council may appoint a town clerk pro tem. in certain case.
17. Penalty on surveyor of highways for refusing to serve.
18. Penalty on town sergeant—overseers—assessors.
19. Town sergeant, &c., to give bond.
20. In case of death, &c., of collector, successor to have same power.

## SECTION

21. Town treasurer to give bond.  
 22. Town officers to be engaged.  
 23. Town meeting, Jamestown and Coventry, when holden.

## SECTION

24. Wardens, &c., in Providence, when to be elected.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The electors in each town shall annually, on their town election days, choose and elect so many town officers as by the laws of this state are or shall be required ; that is to say, a moderator to preside in all the meetings of the town, and a town clerk, a town treasurer, a town council, to consist of not less than three nor more than seven members, a town sergeant, a town sealer of weights and measures, one or more auctioneers, such a number of assessors of rates and taxes as may be deemed necessary, provided that the number be not less than three nor more than seven, one or more collectors of taxes, one or more packers of fish, a pound keeper, a sealer of leather, and so many constables, overseers of the poor, surveyors of highways, viewers of fences, gaugers of casks, and all such other officers as each or any town shall have occasion for, including persons to superintend the building of chimneys and placing of stoves and stove pipes.

SEC. 2. Justices of the peace chosen by any town shall be chosen at the time of electing town officers, and shall hold their offices for one year. The town clerk shall forthwith make a return of the justices so chosen to the governor ; if not re-elected, they may continue to officiate for twenty-four days after the time for electing such officers in any town, and no longer ; and if re-elected, may continue to officiate for the same number of days, without taking any new oath of office.

SEC. 3. If a vote by ballot be demanded in the election of a moderator or town clerk, a separate vote shall be taken in each case. Before the election of members of the town council or justices of the peace is begun, at the annual town meeting, the electors shall first determine the number of such officers to be elected. The members of the council shall be chosen next in order after the election of town clerk ; and in choosing them, the vote, whether by ballot or otherwise, shall be taken for the whole number at the same time ; and if by ballot, the names of all the persons voted for by any one elector shall be placed upon one piece of paper. The justices of the peace shall be next chosen, and in the same manner ; but the ballots for the members of the town council, justices of the peace, and for any other officers, may be delivered to the moderator at the same time, if so ordered by the town. In the city of Providence, the number of justices of the peace to

be elected shall be fixed by the city council ; and the voting therefor shall be conducted in all respects as is prescribed by law for the voting for senators and representatives in said city.

SEC. 4. In case of a ballot for members of council, or justices of the peace, the names shall be numbered upon the ballots, and in counting them the places numbered shall be considered as separate places.

SEC. 5. If on the day of annual election of town officers any town shall fail to make an election of town clerk, council, justices of the peace, or treasurer, the meeting may be adjourned for the purpose of completing the election of those officers, but of no others, from day to day, not exceeding three days beyond the first day of meeting. In case any town shall on the day of any such annual election fail to elect any of the officers which they may lawfully choose, except town clerk, council, justices of the peace, and treasurer, the said officers shall be elected by the town council of the town at their next meeting ; and the several towns shall have full power to delegate to their respective councils the election of any of the officers which such town may lawfully choose, except town clerk, council, justices of the peace, and treasurer.

SEC. 6. All town officers shall hold their offices until the next annual election of town officers, and thereafter until their successors shall be qualified by law to act ; unless in cases in which it is herein expressly provided to the contrary. When a vacancy shall occur in any office by death, removal out of the town, or resignation, the town council may fill the same until the next town meeting.

SEC. 7. The major part of the persons elected members of any town council shall be a quorum ; and a majority of the members present at any legal meeting may determine any matter legally before them.

SEC. 8. The council of each town shall have full power to manage the affairs and interests of such town ; to determine all such matters and things as shall by law come within their jurisdiction, and to administer all necessary oaths.

SEC. 9. Every town council is hereby authorized and empowered to make and publish such ordinances and by-laws relative to the breaches of the Sabbath day, and relative to drunkenness in their respective towns, as they may think proper ; and to inflict penalties for the breach thereof : *provided*, that such penalty shall in no case for any one offence exceed the sum of twenty dollars : such penalties shall be forfeited to the use of the said towns respectively ; and shall and may be

recovered by action of debt, in any court of competent jurisdiction : *provided, however,* that such ordinances or by-laws shall not be contrary to the laws of the state.

SEC. 10. Every ordinance and by-law passed by a town council in pursuance of the provisions of the section next preceding, shall be immediately published in some newspaper printed in such town, if there be one ; if not, then the town clerk shall set up in at least three public places certified copies thereof.

SEC. 11. Each town council is hereby authorized to make laws and regulations for the settling the assize of baker's bread in its respective town ; provided the same be not repugnant to the laws of the state ; and the penalty for any breach of the same shall not exceed five dollars, or the forfeiture of the bread not made conformable thereto.

SEC. 12. In every case where bonds are required by law to be given to any town council, they may be given to the said town council by name as such, without naming the individuals at the time constituting such council, and be sued in like manner. And no person shall be held disqualified as a witness in any such suit by reason of his being a member of the town council to whom the bond was given.

SEC. 13. The town clerk shall be clerk of the council ; but whenever any town clerk shall not appear at the time and place appointed for the meeting of the town council, such town council may appoint a clerk, pro tempore, who, after being duly engaged, shall do and perform all the duties enjoined by law on the town clerk as clerk of the council.

SEC. 14. The town clerk of any town, by and with the approbation of the town council, may appoint a deputy whenever such appointment shall be rendered necessary by the sickness of the town clerk, or when he is otherwise compelled to be absent from his office ; such deputy, so appointed, shall perform all the duties which are incumbent on the town clerk ; being thereunto qualified by taking the oath of office, as required by law.

SEC. 15. Any town clerk appointing a deputy as aforesaid shall be responsible for the good conduct of the deputy ; and shall have good right to take bond with surety in such penalty as he may require, conditioned for the faithful discharge of the duties of the office during the time which he shall exercise the same ; and such clerk may revoke such appointment and cancel such bond at his discretion.

SEC. 16. The town council of any town, whenever it shall satisfactorily appear to them that the town clerk is disquali-

fied, from any cause whatsoever, to exercise and perform the several duties of said office, may and shall appoint a clerk, pro tempore, who shall be duly qualified as aforesaid, and shall be authorized to perform all the duties of town clerk, until such disability of the town clerk is, in the opinion of the town council, removed, or until a town clerk may be legally appointed by the town.

SEC. 17. Whosoever shall be legally chosen to the office of surveyor of highways, and shall refuse to serve therein, shall forfeit and pay the sum of five dollars, to and for the use of the town; to be levied and collected upon conviction, by a warrant of distress from any justice of the peace of such town, directed to the sheriff of the county or his deputy; and no person shall be obliged to serve in said office oftener than once in four years. And if any surveyor of highways shall not signify his acceptance of his said appointment to the town clerk of said town within twenty days after his election, the town council shall appoint another surveyor in said district.

SEC. 18. Whosoever shall be legally chosen to the office of town sergeant, overseer of the poor or assessor of taxes, and shall refuse to serve therein, shall forfeit and pay seven dollars, to and for the use of such town; to be levied and collected upon conviction, as provided in the section next preceding; and no person shall be obliged to serve in either of said offices oftener than once in seven years.

SEC. 19. Each town sergeant shall be obliged, at the time of his being sworn into office, to give bond with sufficient surety or sureties, to the town treasurer of the town in which he belongs, in the sum of seven hundred dollars; and each and every constable at the time of his being sworn into office, shall in like manner be obliged to give bond with sufficient surety or sureties, in the sum of three hundred dollars; which bonds shall be conditioned for the faithful performance of their respective offices; each and every collector of taxes shall give bond with sufficient surety, to the town treasurer of the town for which he is chosen, in such sum as the said town or the town council of said town may appoint, not exceeding double the amount of the tax with the collection of which he shall be charged, for the faithful performance of such trust.

SEC. 20. In case of the death, resignation or removal of any collector of taxes, the collector who may be appointed to complete the collection thereof shall have the same power and right to collect the same as are by law given to the collector first appointed.

SEC. 21. Each town treasurer shall be obliged before he

shall proceed to discharge the duties of said office, to give bond with sufficient surety or sureties, to the town for which he is appointed, for the faithful discharge of the duties of said office, in such sum as shall be ordered by the town or town council of such town; and all actions on such bond shall be brought in the name of the town in its corporate capacity.

SEC. 22. Every person elected to any town office shall take the following engagement before he shall act therein: You do solemnly swear, (or affirm,) that you will be true and faithful unto this state, and support the laws and constitution thereof, and the constitution of the United States; and that you will well and truly execute the office of for the ensuing year, or until another be engaged in your room, or until you be legally discharged therefrom: so help you God; (or this affirmation you make and give upon peril of the penalty of perjury.)

SEC. 23. The town meeting of Jamestown, for choosing town officers, shall be holden on the same day, in the month of April annually, on which by law they shall meet to vote for general officers; and the town meeting of the town of Coventry for the purpose aforesaid, shall and may be holden on the first Monday of June annually.

SEC. 24. Wardens and ward clerks in the city of Providence shall be elected on the second Wednesday in May in each year, and shall hold their offices until others shall be elected and qualified by law to act in their places. They shall be sworn as other town officers are required to be.

*An Act establishing Auctioneers.*

**SECTION**

1. Town council may appoint additional auctioneers.
2. Auctioneers to be sworn and give bond.
3. Town treasurer to transmit to general treasurer the names of auctioneers and copy of bond.
4. Bond may be sued—judgment on, how rendered.
5. Conditions of sale to be in writing and publicly read.
6. Commission allowed on sales—Newport, &c., may make regulations respecting.
7. Property real and personal sold, subject to duty, except, &c.

**SECTION**

8. Rate of duty on goods imported from without United States.
9. Same subject.
10. Same subject.
11. Duties how calculated and collected.
12. Auctioneer to make semi-annual return to general treasurer under oath—pay over duties.
13. Penalty for neglect in transmitting account, &c.
14. Penalty for exercising the office with out being chosen or qualified.

*It is enacted by the General Assembly, as follows:*

SECTION 1. In addition to the auctioneers appointed by the electors of any town in town meeting, the town council



of every town are authorized, from time to time, to appoint so many more for their respective towns as they may deem expedient; to hold their offices until the next annual election of town officers in such town.

SEC. 2. Each auctioneer, whether appointed by the town or town council, shall be sworn as other town officers are required to be sworn; and shall give bond to the town treasurer with sufficient sureties, in a sum not exceeding ten thousand dollars, nor less than two thousand dollars, at the discretion of the said town treasurer, conditioned faithfully to execute the duties of his office according to law—to pay over all monies received by him for goods sold at auction, to the owners thereof, and to pay over all duties to the state and to the town, which shall accrue on goods so sold by him.

SEC. 3. The town treasurer of each town shall transmit to the general treasurer the name of every auctioneer appointed as aforesaid, and a copy of the bond of such auctioneer, within twenty days from the time every such bond shall be given; and if any town treasurer shall neglect to transmit the name of any auctioneer, or the copy of the bond by him given, to the general treasurer as aforesaid, he shall forfeit and pay the sum of one hundred dollars; to be sued for and recovered by the general treasurer, by action of debt, to and for the use of the state, in any court competent to try the same.

SEC. 4. The bond aforesaid may be sued in the name of the town treasurer, by any person claiming a forfeiture thereon: *provided*, such person shall give security for costs by endorsing the writ, or by procuring some sufficient citizen of this state to endorse the same, who shall be liable to costs in case the defendant recover; and execution shall issue against him therefor, and judgment shall be rendered, in case of forfeiture, for the penalty of the bond, and execution shall issue for the sum ascertained to be due the plaintiff; and the like security for costs shall be given, and proceedings had, when scire facias is sued out upon said judgment for an additional breach of said bond: *provided, however*, that when any suit shall be commenced on it by the general treasurer, notice of such fact shall be endorsed on the writ, but no security for costs shall be given, nor shall the defendant in such case recover cost, in any event.

SEC. 5. Every auctioneer, before exposing any real or personal estate to public sale, shall make out in writing and sign and publicly read the conditions of sale.

SEC. 6. When the whole amount of sales at any public

auction shall not exceed four hundred dollars, the auctioneer shall have two and one-half per cent. commissions ; but if the amount exceed that sum he shall have only one and one-half per cent. : *provided*, that the towns of Newport, Providence, Bristol and Warren, shall have power to establish such regulations for the conducting of sales and auctioneer's commissions in their respective towns, as they may think necessary ; any thing herein to the contrary notwithstanding.

SEC. 7. All real and personal estate which shall be sold at auction shall be sold by an auctioneer, and shall be subject to duty, as is herein provided ; excepting only such as shall be sold by the marshal of the district or his deputy, by any sheriff, deputy sheriff or other officer, or by any executor, administrator or guardian, by virtue of their respective offices.

SEC. 8. All goods, wares, merchandize and effects, except distilled spirits, imported from any place without the jurisdiction of the United States, and exposed at auction in packages, bales, trunks or casks, as imported, shall be subject to the following rate of duty on every hundred dollars, viz : fifty cents to the use of the state, and twelve and a half cents to the use of the town where sold.

SEC. 9. All other goods, wares, merchandise and effects, except distilled spirits, imported from any place without the jurisdiction of the United States, that shall be exposed at auction, shall be subject to the following rate of duty on every hundred dollars, viz : eighty-seven and a half cents to the use of the state, and twelve and a half cents to the use of the town where sold.

SEC. 10. All distilled spirits, whether foreign or domestic, exposed at auction, shall be subject to the following rate of duty on every hundred dollars : two dollars to the use of the state, and twenty-five cents to the use of the town where sold.

SEC. 11. The duties aforesaid shall be calculated on the sums for which the goods so exposed to sale shall be respectively struck off, and shall be by the auctioneer selling the same retained out of his said sales, and paid over to the proper officer.

SEC. 12. Every auctioneer shall, within twenty days after the expiration of every six months, the first six months to be computed from the date of his bond, transmit or render a just and true account in writing, subscribed by him, to the general treasurer, of all goods, wares and merchandise, subject to duty, by him sold as aforesaid, from the time of his appointment, and giving bond as aforesaid, or the time that

the last account by him was transmitted or rendered as aforesaid, the amount of each day's sale, and the date thereof; and shall take, before any magistrate authorized to administer oaths, the following oath, to be endorsed and certified on the account so transmitted or rendered, to wit: " I do solemnly swear, (or affirm,) that this account, to which I have subscribed my name, contains a just and true account of all the goods, wares, merchandise and effects, sold or struck off by me, subject to duty by law, within the time mentioned in the said account; and of the days upon which the same were respectively sold; and that I have attended such sales personally, and have examined the entries of such sales in the book kept by me for that purpose, and know this account to be in all respects correct:" to which oath or affirmation the said auctioneer shall subscribe his name; and every such auctioneer shall, within ten days after rendering such account, and taking the said oath, pay the amount of duty upon such account of sales to the general treasurer, for the use of this state as aforesaid; and the amount of duty due the town to the town treasurer; and in case no sales on which duties are payable shall have been made, it shall be the duty of the auctioneer to make an affidavit thereof, at the time and in the manner above directed, and to transmit such affidavit to the general treasurer.

SEC. 13. In case any auctioneer shall fail to transmit or render his account or affidavit to the general treasurer as aforesaid, or shall fail to pay the duty as aforesaid due the state or town at the time and in the manner aforesaid, he shall forfeit and pay for every such neglect, the sum of five hundred dollars, to be sued for and recovered in an action of debt by the general treasurer; unless the neglect be in not paying the duty due the town, and then by the town treasurer, in any court competent to try the same.

SEC. 14. If any person shall hereafter assume or exercise the office of an auctioneer in any town, except as above excepted, without being legally chosen thereto, and without being duly qualified, he shall pay as a fine the sum of five hundred dollars, to be recovered by the town treasurer, to and for the use of such town, by action of debt.

*An Act constituting the several Town Councils ex officio Boards of Health.*

## SECTION

1. Town councils ex officio boards of health—their powers defined.
2. May make quarantine regulations, appoint places where vessels shall anchor, and appoint sentinel.
3. Vessels to anchor at places appointed—penalty for neglect.
4. Penalty for leaving vessels at quarantine.
5. Penalty for entering Providence or Pawtuxet from vessels bound to Providence and subject to quarantine.

## SECTION

6. Health officer may be appointed by town or town councils.
7. Penalties in this act, how recoverable.
8. Sheriffs, &c., required to carry rules and regulations of quarantine into effect.
9. Quarantine regulations to be published.
10. Town council of Newport may appoint a board of health.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The several town councils are hereby constituted ex officio boards of health in their respective towns ; and are empowered, when in their opinion the inhabitants of such town, or of any particular part thereof, are in danger from any contagious or infectious disease, to order and enact such rules and regulations, not repugnant to the laws of this state or of the United States, for preventing the same, as to them shall appear to be proper, either by removing the inhabitants or otherwise ; and shall affix such penalties for the breach of said rules and regulations as to them shall seem necessary, not exceeding the sum of three hundred dollars fine or six months imprisonment, for any one offence.

SEC. 2. The town councils of the sea-port towns are hereby empowered to make and carry into effect, such rules and regulations respecting quarantine, as to them may appear necessary, to prevent the introduction of contagious or infectious diseases from other places. Such town councils shall respectively prescribe from time to time the several ports, places or countries from which vessels arriving shall be subject to examination or quarantine ; and shall likewise appoint the particular place in their harbor, bay or river, adjacent to such town, where all ships or vessels arriving, subject to examination or quarantine, shall come to anchor ; and shall define the limits of such quarantine ground, and assign the time which such ships or vessels shall be detained, and where and how unladen ; and such councils may respectively appoint a sentinel, who shall be paid by said town and be stationed in some convenient place on shore, or in some boat or vessel properly situated, to hail all ships or vessels which may arrive in such river, bay or harbor ; and if he finds any ship or vessel is subject to quarantine, to direct the commander thereof

to come to anchor within the limits of said quarantine ground as aforesaid, and there remain until visited by the health officer, and to place a signal in said vessel's shrouds in such manner as to be seen at a proper distance.

SEC. 3. Any commander of a ship or vessel who shall, upon being hailed and directed by the sentinel as aforesaid, refuse or neglect to bring his ship or vessel to anchor within the limits described as aforesaid, shall pay as a fine, to and for the use of said town, a sum not exceeding five hundred dollars, nor less than twenty dollars; and the town council may order such ship or vessel to be anchored on said quarantine ground, at the expense of the owners, master or commanding officer thereof, there to remain until therefrom discharged in manner herein after provided.

SEC. 4. Any person, either officer, seaman or passenger, who shall leave any ship or vessel under order of quarantine as aforesaid, without permission from the health officer or the town council of such town, shall pay to and for the use of said town, a fine not exceeding the sum of twenty dollars; and said town council may order such person to be returned on board of such vessel, there to remain until said council order him to be dismissed.

SEC. 5. If any vessel shall arrive in the waters of this state, and bound to the port of Providence, at any time while the quarantine regulations of said city are in force, no person on board said vessel, either master, officer, seaman or passenger, shall enter into the city of Providence or village of Pawtuxet, until such vessel shall have been visited and examined by the health officer of said city, and permission shall have been given by such health officer, or by the board of aldermen of said city, to such person to enter therein; and every such person so entering into said city or village, without such permission first had and obtained as aforesaid, shall pay as a fine a sum not exceeding twenty dollars; and said board of aldermen may also cause such person to be returned to such vessel in case she is under quarantine, there to remain until permitted to depart therefrom.

SEC. 6. The several towns or town councils are hereby empowered to appoint a health officer for such town; whose duty it shall be to visit all vessels which shall be subject to examination or quarantine as aforesaid, and carry into execution all regulations established by the said council; which said health officer shall be at all times accountable to said town council, and shall receive for his services such compensation as said council may allow, to be paid by the owners,

agents or commanders of such vessels as may be subjected to quarantine or examination.

SEC. 7. All penalties accruing under this act shall be recovered by action of the case, to be brought in the name of the town treasurer of the town where said offence is committed, before any justice of the peace of such town, if the penalty does not exceed twenty dollars; but if more than twenty dollars, said action shall be brought before the court of common pleas in the county where such offence is committed.

SEC. 8. All sheriffs, deputy sheriffs, town sergeants and constables, are hereby required in their several capacities, to carry the rules and regulations of the several town councils in their several counties into effect.

SEC. 9. Any town council establishing rules and regulations respecting quarantine as herein before expressed, shall cause the same to be published in one or more newspapers printed within this state, within or nearest the town wherein such rules and regulations shall be adopted, as aforesaid, and at the proper cost and expense of said town.

SEC. 10. The town council of Newport is hereby authorized and empowered to appoint such persons as the said town council may deem suitable, as a board of health; whose duties, powers and authority shall be the same as said town council have a right to exercise by law, during the period for which they shall by the said town council be appointed, for the preservation of the health of the inhabitants.

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*An Act to prevent the spreading of Contagious or Infectious Sickness in this State.*

## SECTION

1. No infected vessel to anchor within one mile of any ferry or landing place; to wear colors in her shrouds.
2. Persons leaving any such vessel without permit, to be sent back and be fined.
3. Physician to be sent on board to examine state of vessel, and proper persons to prevent communication with shore.
4. Persons on board to be kept on board or sent to hospital.
5. Goods on board to be cleansed at owners expense; same proceedings with goods imported by land.
6. Goods clandestinely landed or imported by land to be forfeited.
7. Town councils to audit accounts for

## SECTION

- cleansing goods and nursing sick from on board vessels.
8. Mariners' wages to be stopped till such accounts be paid.
9. Penalty for coming from any infected town by land.
10. Town councils empowered to make rules to prevent persons entering their towns by land, when coming from infected places.
11. Tavern keepers, &c., to give notice of infected lodgers; who may be removed.
12. Expenses of guarding and cleansing house where infection has been, by whom paid.
13. Town councils may remove infected persons to hospital.

## SECTION

14. Houses infected, not to be entered without license.
15. Flag to be placed near front door of house in which is any person sick with the small pox.
16. Penalty for wilfully spreading an infectious distemper.
17. Penalty for physician, &c., neglecting his duty.
18. Town councils may permit inoculation.
19. Town councils may make regulations

## SECTION

- in relation to health, with penalties; may remove nuisances.
20. Town councils may order inhabitants to remove from infected districts.
21. Town councils shall once in five years provide for the gratuitous vaccination of inhabitants.
22. Proceedings in relation to public vaccinations.
23. Same subject.
24. Same subject.

*It is enacted by the General Assembly, as follows :*

SECTION 1. Every commander of any vessel which shall come into any port or harbor of this state, and shall have any person on board sick of the small pox or any other contagious or infectious distemper, or which has had any person sick of such distemper in the passage, or which shall come from any port or place usually infected with the small pox, or where any other contagious or infectious distemper is prevalent, who shall bring such vessel to anchor in any of the ports of this state within the distance of one mile of any public ferry, pier or landing place, or permit or suffer any person on board such vessel to be landed, or any person to come on board such vessel without a license first had and obtained from the town council of such town where such vessel shall arrive, shall pay as a fine to and for the use of the state the sum of four hundred dollars; and it shall be the duty of such commander on his first arrival in any port in this state, to hoist and keep his colors in the shrouds of such vessel, as a signal of having come from any such infected place, or having infection or contagion on board.

SEC. 2. If any person whosoever shall come on shore from on board such vessel, without license first had and obtained as aforesaid, it shall be lawful for the town council to send back such offender immediately on board such vessel, or confine him on shore in such convenient place as to them shall appear most effectual to prevent the spreading of any infection; and the person so offending shall satisfy and pay all charges that shall arise thereon, and shall also pay as a fine the sum of forty dollars, to and for the use of the state.

SEC. 3. The town council of the town where such vessel shall arrive are hereby empowered and directed to send a physician, or other suitable person, to examine into and make report to them of the true state of such vessel and the people on board, at the charge of the master or owner of such vessel; and they shall forthwith put on board such vessel some

suitable person or persons to secure said vessel, and effectually prevent any communication therewith, at the like charge of the master or owners thereof.

SEC. 4. The town council of such town are hereby empowered and directed to confine on board such vessel, or send to some hospital or other suitable place, all persons, mariners or passengers, or others who came in said vessel, for a convenient time, until such of them as have or are liable to have the small-pox or other infectious or contagious distemper are perfectly recovered and cleansed from said distemper, or have passed a suitable quarantine ; and also all persons who have gone on board said vessel without license as aforesaid, at the charge and expense of such persons respectively.

SEC. 5. The town council of such town are hereby empowered and directed to appoint suitable persons to take effectual care that all goods, wares and merchandise imported in such vessel, which they think liable to hold and communicate the infection or contagion, be landed in some suitable place to be appointed by such town council, and cleansed in the manner by them directed, before they are permitted to be brought into any house, shop or warehouse other than where they are cleansed as aforesaid ; and when such goods are sufficiently aired and cleansed, said persons shall give the owners or possessors thereof a certificate ; and the town council shall allow and order said goods, wares and merchandise to be delivered to the owners thereof ; and the charge and expense of airing, landing and cleansing such goods, wares and merchandise shall be borne by the respective owners ; and such charge shall be a lien on such goods, wares and merchandise. And all goods that are judged by the town council not to be infected shall be delivered to the owners without delay and expense of airing, and as soon as may be consistent with the safety of the town in regard to other parts of the cargo ; and all goods, wares and merchandise imported into any town by land from any place infected with the small-pox or other contagious or infectious distemper, shall be aired and cleansed at the discretion of the town council of such town, and at the expense of the owners thereof as aforesaid.

SEC. 6. All goods imported in such vessel as aforesaid that shall be clandestinely landed or brought into any house, shop or warehouse without a certificate and allowance as aforesaid, or that shall be imported by land as aforesaid, and not cleansed or aired by order of the town council as aforesaid, shall be forfeited ; one-third to and for the use of the state, and the other two-thirds to him who shall sue for the



same in the court of common pleas in the county where such offence shall be committed; and all justices are hereby empowered and required upon information given them, to seize and secure all such goods, wares and merchandise in their respective jurisdictions until legal trial.

SEC. 7. The town councils of the respective towns are hereby empowered and directed to fix, settle and adjust all wages and charges demanded by persons employed by them, to secure such vessel, or to air and cleanse such goods, or to attend upon and nurse such persons as aforesaid; and if any owner, freighter, mariner or passenger as aforesaid, shall refuse to pay such wages and charges so settled, adjusted and fixed, then the town treasurer of such town is hereby empowered and required to sue for and recover such wages and charges, if above twenty dollars, in the court of common pleas in the county where such charges shall be adjusted and settled; and if twenty dollars or under, then before any one justice, as in the case of other actions; and the court where such action is brought are hereby empowered to tax double costs for the plaintiff if he recover in his said action.

SEC. 8. For the better securing of the payment of what charges may arise on the nursing or attending upon any sailor or mariner belonging to such vessel as aforesaid, the master thereof is hereby required to stop payment of the wages due to such mariner, until certified from the town council that such charges are fully satisfied and paid, on penalty of paying the same so far as the amount of the wages so paid by him; and no court shall make up judgment for any such wages until satisfaction be made as aforesaid.

SEC. 9. When the small-pox or any other infectious or contagious distemper shall be prevalent in any place or town, all persons who shall come from any such infected place or town into this state by land, before the expiration of ten days after they shall have left such infected place or town, shall forfeit and pay as a fine a sum not exceeding one hundred dollars, nor less than ten dollars, to and for the use of the state: and the town council in any town are hereby empowered to appoint proper persons at all ferries or places that to them may seem necessary, to examine on oath all persons suspected to transgress this law, and on reasonable cause of suspicion, to bring such offenders before some justice of the peace, that they may be dealt with according to law.

SEC. 10. The several boards of health in this state shall have power to order and enact such rules and regulations as they may deem expedient to prevent any person who shall

have come from any town or place out of this state in which any infectious or contagious disease shall be prevalent, and who shall have come on shore or entered this state by land in any other town in this state, from entering the town where such rules and regulations shall be made before the expiration of such time after such person shall have left such infected town or place, as by such rules and regulations may be prescribed; and shall affix such penalties for the breach of such rules and regulations as to them shall seem necessary, not exceeding the sum of one hundred dollars; which shall be recovered by action of the case to be brought in the name of the town treasurer of the town where the offence shall be committed, in any court of competent jurisdiction.

SEC. 11. All persons who keep public houses or boarders in their houses shall immediately acquaint the town council of the town wherein they dwell, when any person boarding or lodging in their house is taken sick of the small-pox or any other contagious or infectious distemper, or suspected to be so, on the penalty of forfeiting twenty dollars to and for the use of the town; to be recovered by the town treasurer before any justice of the peace of said town; and the town council so notified are hereby empowered and directed to make proper examination by some physician or other skilful person; and if it be the small-pox or other contagious or infectious distemper wherewith such sick person is visited, then immediately to set a proper guard to prevent the spreading of the contagion or infection, and to remove said person to any such place in said town as they shall think the most proper to prevent the spreading of the infection or contagion, or to continue the said guard as aforesaid, according as to them shall seem necessary; and likewise to confine all such persons as may be by them suspected to have taken the distemper, in some proper place, until they are recovered and cleansed from the said distemper, or have performed a suitable quarantine.

SEC. 12. When the small-pox or other contagious or infectious distemper shall break out in any house, and the infected persons be confined to such house, the town shall be at the expense of guarding the same, and the owner at the charge of cleansing the same, to be settled by the town council, which charges of cleansing, upon refusal to pay the same, shall be recovered by the town treasurer.

SEC. 13. In case the small-pox or other contagious or infectious distemper shall break out in any house or family in any town, the town council thereof are fully empowered to

remove any inhabitants of said town visited with the small-pox or other contagious or infectious distemper, to the hospital in said town or other convenient place, in order to prevent the spreading of the infection; or otherwise at their discretion to place a guard round the dwelling-house of the infected person, as to them shall seem necessary.

SEC. 14. So long as the town council of any town shall endeavor to prevent the spreading of the small-pox, no persons whatsoever shall visit any person suspected to have the small-pox, or to go into the house where suspected persons are confined, without a license first had from the town council of the town or of the attending physician, on the penalty of forfeiting for every such offence twenty dollars; one half to and for the use of the town where such offence is committed, and the other half to him who shall inform and sue for the same, to be recovered before any court of competent jurisdiction; and such persons, on information of their offence shall be liable to be confined until they are suitably aired and cleansed or have performed suitable quarantine, at the discretion of the town council to whom complaint of the same shall be made.

SEC. 15. When any person shall be found to be infected with the small-pox, it shall be the duty of the householder in whose house such infected person may be or reside, within twenty-four hours thereafter, to place a white flag not less than three feet in length and two in breadth, with the words "small-pox," in large black letters on both sides thereof, and so suspended as to be easily read, at or near the front door or principal entrance to such house on the outside thereof, and to keep said flag up so long as there shall be any danger of taking the infection from said house.

SEC. 16. Any person who shall be convicted of wilfully and purposely spreading the small-pox or other contagious or infectious distemper within this state, shall be imprisoned for one year; and if any person shall die in consequence of spreading of the small-pox or other contagious or infectious distemper as aforesaid, the person who shall be convicted of wilfully and purposely spreading the same as aforesaid, shall be fined a sum not exceeding five thousand dollars and be imprisoned not more than five years nor less than one year: *provided*, nothing in this section shall be construed or understood to extend to such practitioners in physic as shall be allowed by the town council to inoculate for the small-pox, after the said town council have thought fit to desist from their endeavors to prevent the further spreading of the same.

**SEC. 17.** If any physician, surgeon or any other person lawfully required by any town council to do any duty relating to the preventing of the spreading of the small-pox, or executing any part of this act, shall refuse or neglect to perform the same, the performance whereof being in his power, such physician, surgeon and other person, shall for every offence pay as a fine to and for the use of the state the sum of forty dollars.

**SEC. 18.** The town councils are hereby fully authorized and empowered to grant permission for inoculation for the small-pox in their respective towns, under such conditions and regulations as they shall direct.

**SEC. 19.** The town councils of the respective towns are hereby fully authorized to make and prescribe such orders and regulations as they may deem prudent and advisable for the preservation of the health of the inhabitants, by the prevention and removal of nuisances injurious thereto, or any other causes which in their judgment may originate or conduce to the spreading of any infectious or contagious disease; they are authorized to annex such pecuniary penalties for the breach of the orders and regulations which they shall make and prescribe relative to the object aforesaid as they shall judge adequate and necessary to effect the same; said penalties may be prosecuted for and recovered by action of debt before any court proper to try the same; one moiety whereof shall be for the use of the town wherein the offence shall be committed, and the other moiety for the use of him who shall sue for the same; and if such nuisances or other causes injurious to the health of the inhabitants as aforesaid shall not be removed by the person permitting or erecting the same, pursuant to any order or regulation of the town council for the town, it shall be the duty of the town council thereupon to adopt such measures as they shall deem effectual for the removal of such nuisances, or other causes injurious to the health of the inhabitants as aforesaid, at the proper charge and expense of the person erecting or permitting the same; and the sheriff, his deputies and the town sergeants and constables of the several towns, shall execute all such precepts and orders as shall be to them directed by said town councils for carrying this act into execution.

**SEC. 20.** In case any person shall hereafter be sick of any malignant, pestilential or infectious disease in any town, so as to endanger his life by being removed, or in case it shall appear that the disease be so spread that the atmosphere in the judgment of the town council has become so contamina-

ted as to endanger the lives of those persons who reside or go into the neighborhood of the sick, then and in such case it shall be lawful for the town council of such town to cause all such persons within such neighborhood to be notified to remove and go therefrom within three days; and if after that time any person shall remain there, the said town council is hereby authorized to cause him to be forthwith removed at his own expense: *provided, nevertheless*, that the expense of the removal of the poor or such as are unable, in the judgment of the town council, to remove themselves, shall be paid out of the town treasury.

SEC. 21. The town councils in the several towns shall, in the month of June one thousand eight hundred and forty-five, or before that time, and once in five years thereafter, provide for the gratuitous vaccination of the inhabitants thereof.

SEC. 22. The said councils shall contract with and provide a suitable number of vaccinators to vaccinate as aforesaid; and order the treasurer of the several towns respectively to pay them such compensation as may be previously agreed upon; and the said vaccinators shall give due and reasonable notice of the time and place of meeting for the purpose of vaccination.

SEC. 23. The said vaccinators shall place in the several town clerks' offices a blank book, and shall severally record in a fair and legible hand therein, the name and age of every patient by them vaccinated as aforesaid; and also such other remarks and observations as they may deem useful, and as soon after fulfilling said contract as may be convenient.

SEC. 24. The said clerks shall safely keep said books for the accommodation of said vaccinators and others without any compensation, and deliver the same over to their successors. But they may charge lawful fees for searching the same or for any copies.

### *An Act for laying out Highways.*

**SECTION**

1. Proprietors shall lay out highways.
2. Town council may lay out highways—manner of proceeding therein—parties interested to be notified.
3. Town council may lay out driftways—proceedings therein.
4. Persons aggrieved may appeal to court of common pleas—proceedings on appeal—jury may affirm or reverse proceedings.
5. Damages allowed, to be paid by town treasurer.

**SECTION**

6. Town council may lay out new highways in lieu of any which they shall judge useless.
7. Land used as public highway, &c., for twenty years shall be deemed such.
8. Town council to give notice to all persons interested, before proceeding under foregoing section—appeal allowed.
9. If owner of land deeds it for a highway, it may be opened and repaired by the town.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The proprietors of lands in each and every town shall lay out suitable, necessary and convenient highways within their respective proprietries, from town to town, and to mills and markets, and generally wherever they may be wanted. And all highways duly laid out and approved by such proprietors and recorded in their records shall be good, binding and valid, as though laid out and established in any other manner whatsoever.

SEC. 2. If it be found necessary that other highways be laid out in any town besides such as have been or shall be laid out by the proprietors as aforesaid, in every such case it shall be lawful for the town council of such town to order a highway to be laid out so far and through such part of the same town as they may judge necessary ; and for the due marking out such highway, the town council shall appoint three suitable and indifferent men, not interested or concerned in the land through which such highway is to pass, who shall be sworn by the town council, or by the justice of the peace who shall be named to accompany them, for the faithful discharge of that trust ; which three men, being accompanied by one justice of the peace and one constable, or the town sergeant of the town, to be named by the said town council for that purpose, shall go to the place where such highway is ordered to begin, and from thence proceed to survey, bound and mark out a highway conformable to the direction of the town council ; always taking care to lay it in such manner as may be most advantageous to the public, and as little as may be to the injury of the owners of the land through which it passes ; and they shall also agree with the owners for the damage they shall sustain, if any, by means of such highway passing through their lands ; and in case they cannot agree with the owners, then the town council shall value and appraise the damage, if any ; and having thus proceeded and finished laying out such highway, they shall cause an exact draught or plan thereof to be made, which together with the proper return of their whole doings in writing, under their hands and seals, shall be by them presented to such town council ; who thereupon shall cause notice to be given to all parties to appear before them if they shall see cause, and be heard for or against receiving such report ; notice to parties living without this state shall be given by advertisement three weeks successively, in some newspaper printed within this state ; and after such hearing the council shall proceed to receive or reject such report, as to them shall ap-

pear just and right; and if the report be approved and received, then they shall cause the same to be recorded, and such highway to be established and laid open, by removing all buikdings, fences and other impediments therein, which shall be done by the town sergeant or constable of the town, under a warrant from the town council to him directed for that purpose.

SEC. 3. The several town councils are hereby empowered to lay out driftways in their respective towns, in such places and of such widths as they shall think necessary, as fully as by law they are empowered to lay out highways; such driftways shall be laid out in the same manner and under the same regulations in every respect as highways are; the damage shall be ascertained in the same manner as in laying out highways. It shall be in the power of the town council to order and direct who shall be at the charge of maintaining gates and bars where any such driftway shall be laid out, and also whether the same shall be furnished with gates or bars.

SEC. 4. If any person through whose land such highway or driftway is laid, shall be aggrieved by the doings of such committee or town council, he shall have liberty to appeal to the next court of common pleas to be holden for the county; giving bond to prosecute his appeal and producing an attested copy of the whole proceedings to such court, and filing his reasons of appeal with the clerk of such court ten days before the sitting thereof: whereupon an order shall be made requiring the sheriff of the county or his deputy to empannel a jury of twelve good men, not being inhabitants of or having interest in the town where such highway or driftway is laid; which jury being duly sworn for that purpose, shall go and re-examine the laying of the highway or driftway and damages given and allowed to the owners of the land through which it passes, and make such alteration in either or both as shall seem just and right; or totally annul and reverse all such proceedings if they shall see cause; and shall under their hands make return of their doings to said court, which being accepted by said court shall be recorded and be final: and the said court shall tax such costs as shall accrue by the proceedings aforesaid, against the appellant, in case the jurors shall make no alteration in the doings of the committee or town council respecting said highway, or shall not increase the damages allowed; but if the jury shall increase the damages allowed or shall reverse and annul such doings of the said committee or council, then costs shall be taxed against the town where such highway shall have been laid.

SEC. 5. The charges for laying out any highway or driftway, and all such damages as shall be agreed for or adjudged to any person through whose land such highway or driftway is laid, either by the committee, town council or jurors, shall be paid by the town treasurer of the town in which the highway or driftway is laid; and if he shall refuse or neglect to pay the same, an action may be brought and maintained for such money, by the person to whom the same is due and payable.

SEC. 6. The town council of each town shall have full power and authority in manner as aforesaid to lay out new highways instead of any which they shall judge to be inconvenient or useless. And whenever any road shall cease to be useful to the public, the town council of such town shall be authorized so to declare it; and the said road shall revert to its owner; and the said town shall not be liable any longer to repair the same; but no town council shall have power to alter or change any highway which has been or hereafter shall be laid out by the general assembly.

SEC. 7. All lands which have or shall be quietly, peaceably and actually used and improved and considered as public highways or streets, for the space of twenty years, and which shall be declared by the town council of the town wherein they lie to be public highways, shall be taken and considered as public highways to all intents and purposes, as fully and effectually as if the same had been regularly laid out, recorded and opened by the town council of the town where such lands may lie.

SEC. 8. It shall be the duty of every town council, before they proceed to act under the provisions of the next preceding section, to give personal notice of their intention to all persons interested, or who may have any claim to the land over which such highway passes, as described in said section, if known to reside in this state; and if not known, or if known to reside without this state, then by an advertisement to be inserted in one or more public newspapers printed within this state, for the space of three weeks successively, to the intent that all persons interested may have an opportunity to show cause why such proceedings as are authorized as aforesaid should not be had; and in all cases, any person who shall be aggrieved by such proceedings shall have liberty to appeal therefrom to the next court of common pleas within the county in which such highway lies; first giving bond and filing reasons of appeal in the same manner as is provided and required by the fourth section of this act; whereupon an or-



der shall be made for such appellant's appearing to prosecute his appeal, and requiring the sheriff of the county to empanel a jury of twelve good men, not being inhabitants of or having any interest in the town where such highway lies; which jury being duly sworn for that purpose, after hearing all parties, shall have power to reverse or affirm the doings of said town council, under the preceding section.

SEC. 9. Whenever the owner of any land shall make a deed thereof to the town wherein such land lies, for the special purpose of being used and improved as a public highway, and the said deed shall have been duly acknowledged and recorded, the said land shall be thenceforward a public highway to all intents and purposes; and be liable to be opened by the town council of the town wherein the same shall lie, in the same way and manner as highways which are laid out by said town council; but no town shall be liable to repair such highway until the town council thereof shall decree and order that the same shall be repaired at the expense of such town.

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*An Act for the Mending of Highways and Bridges.*

## SECTION

1. Towns to keep highways and bridges in repair; surveyors of highways, powers and duties.
2. Powers of surveyors in relation to water courses.
3. Town councils to appoint surveyors' districts.
4. Towns to raise money to repair highways.
5. Town councils to determine the amount to be expended on highways in each district and make a tax list for each.
6. Surveyor to give notice to each person in his district of the sum he is assessed, and the time when he is to work the same out or pay the amount.
7. Surveyor to return a list of delinquents to assessors.
8. If surveyor make no return, he to be personally liable for the amount of his tax bill, to be included in his next town tax.
9. Surveyors to have same power to collect taxes as collectors.
10. If sum appropriated be insufficient, surveyor to employ inhabitants to make repairs on highways in his district.
11. If town neglect to provide for repairs, surveyor shall assign each person in his district his proportion, and give notice thereof.

## SECTION

12. Penalty on surveyor for neglect of duties.
13. Towns neglecting to repair highways or bridges may be indicted.
14. Towns to provide for removing snow from highways so that they may be passable.
15. Penalty for having highways obstructed by snow.
16. Bridges on dividing lines of towns and on the lines of the state, by whom to be supported.
17. Town refusing to repair bridges on dividing lines to be indicted.
18. Who to maintain bridges over artificial water courses.
19. Same subject.
20. Who to maintain bridges on turnpike roads.
21. The laying out a highway over land used as a highway not to affect liability of any town or person to maintain the old highway.
22. Persons owning land adjoining highways may build bridges over the ditches.
23. No surveyor to undermine wall or fence on highway.
24. Towns may defray expenses of repairs of highways out of treasuries.
25. Islands of Hope, Prudence, Patience, exempted from this act.

*It is enacted by the General Assembly, as follows :*

SECTION 1. All highways, townways and causeways, and all bridges, excepting only those referred to in the twentieth section of this act, lying and being within the bounds of any town, shall be kept in repair and amended, from time to time, so that the same may be safe and convenient for travellers with their teams, carts and carriages, at all seasons of the year, at the proper charge and expense of such town, under the care and direction of the surveyor or surveyors of highways appointed by law; and the surveyor or surveyors aforesaid shall have full power and authority to cut down, lop off, dig up and remove all sorts of trees, bushes, stones, fences, rails, gates, bars, enclosures or other matter or thing that shall any way straighten, hurt, hinder or incommode any highway or townway; and also to dig for stone, gravel, clay, marle, sand or earth, in any land adjoining said highway; and the materials thus dug up to remove to such place or places in the highways for the repair and amendment thereof as they shall deem necessary, making compensation therefor; and when the highways are blocked up or encumbered with snow, the surveyor or surveyors shall cause so much thereof to be removed or trod down as will render the road passable.

SEC. 2. No surveyor of highways shall cause any water course in any highway to be so conveyed as to incommode any person's land, house, store, shop or other building, or to obstruct any person in the prosecution of his business, or occupation, without the consent or approbation of the town council of such town, signified in writing to such surveyor; and any person who may consider himself aggrieved by such water course may complain to the said town council; and said council on receiving said complaint and examining into the circumstances of the same shall, if they think reasonable, direct such surveyor or surveyors to alter the said water course in such way and manner as they shall think fit and proper.

SEC. 3. The town council of each town are hereby empowered and directed to assign and appoint, in writing annually, to the surveyors, their several limits and divisions of the highways for repair and amendments, unto which assignments the said surveyors are directed to conform themselves.

SEC. 4. Each town at some public meeting of the electors thereof who are entitled to vote upon any proposition to impose a tax, regularly notified and warned, shall vote and raise such sum of money, to be expended in labor and materials on the highways aforesaid, as they may deem necessary for that

purpose ; and either the assessors or the town council, as the town may direct, shall assess the same on the rateable estate of the inhabitants thereof, and all others owning rateable property therein, as other town taxes are by law assessed.

SEC. 5. The town councils shall determine the sum to be expended within the limits of each surveyor, and the persons assessed as aforesaid who shall pay the same, and shall cause to be delivered to each surveyor a list of the said persons whose taxes may be so appropriated for his limits, and the sums at which they are severally assessed.

SEC. 6. Upon the receipt of his bill each surveyor shall give reasonable notice in writing, if desired, to each person in his list of the sum he is assessed to the highways aforesaid, and also to the inhabitants within his district assessed as aforesaid, two days notice, extraordinary casualty excepted, of the times and places he shall appoint for providing materials and laboring ; to the end that each person may have opportunity to work on the highways in person or by substitute, or with his oxen, horses, cart and plough, at the rates and prices the town or town council shall affix to such labor, to the full amount of the sum at which he is assessed ; or he may pay the surveyor in money the sum he is assessed ; in which case the surveyor shall carefully expend the the sums thus paid in labor and materials for repairing the highways in his limits, according to his best discretion. In case of any dispute, the surveyor shall be a competent witness of the notice given.

SEC. 7. Immediately after the expiration of one year from the assessment of any such tax, each surveyor shall render to the assessors for the time being a list of such persons as shall have been deficient, if any there be, in working out their highway rate or otherwise paying him the sum assessed therefor, together with the amount of each person's deficiency ; which deficient sums shall, by the assessors, be put in a distinct column in the next assessment for the town tax, and be collected by the collector thereof as other town taxes are collected, and paid into the town treasury for the use of the town, to be specially appropriated in the district wherein the same was collected.

SEC. 8. If any surveyor, at the expiration of the term aforesaid or whenever required by the said town, shall neglect to make to the assessors or unto the office of the town clerk for their use, the returns required by the preceding section, he shall be held accountable for the whole amount of the tax assigned him to be collected ; which shall be by the assessors included in the next town tax against him, and col-

lected as other town taxes, to be appropriated when collected for the repair of the highways in such surveyor's district: *provided*, that any town in lieu hereof may impose any other penalty which they may deem sufficient to ensure the making of such returns.

SEC. 9. Whenever any such tax shall remain unpaid for the space of thirty days after notice given by the surveyor to work out or pay the same, the surveyors shall have the same power to collect said taxes as collectors of taxes in ordinary cases; and they may be collected in the same manner as other taxes, and when collected, they shall be expended in the district of the surveyor collecting them.

SEC. 10. When the sum appropriated and assessed for the repair of the highways in the limits of any particular surveyor shall be insufficient for that purpose, it shall be lawful for the surveyor, with the consent of the town council, to employ such of the inhabitants of the town upon the repair of such highway in his limits, as shall make up such deficiency; and the persons thus employed shall be equitably paid out of the town treasury therefor.

SEC. 11. If the authorized electors in any town shall neglect to vote or agree upon a sum to be assessed for the express purpose of repairing and amending the highways aforesaid, or shall not otherwise provide for effectually mending and repairing the same, each surveyor shall assign to the several persons in his limits, liable to the same, their rateable proportion of day's work, and of cart, team and plough, according to his taxable property, as near as he can; and shall assign certain days for mending and repairing the ways aforesaid, and give notice thereof to the persons aforesaid, in his limits, liable by law to be taxed, in writing; to be left at the usual place of abode of each person liable, two days at least before the assignment, except in extraordinary cases when they may be warned to appear forthwith, to attend to the purpose aforesaid, with suitable tools and with carts and teams, if any they have; and if any person being thus notified shall make default of attending and working, by himself or other sufficient person in his stead, or with his cart and team, as he shall be appointed and assigned, he shall forfeit and pay for each day's neglect one dollar, and for default of his cart and team with a driver, for each day three dollars, and in that proportion for a longer or shorter space of time, to the use of the town; to be recovered in an action of debt, in the name of the town treasurer, before any justice of the peace in said town.

SEC. 12. Each surveyor of highways who shall neglect the duties of his trust, shall forfeit and pay to and for the use of the town the sum of twenty dollars for each neglect, to be recovered as aforesaid.

SEC. 13. Any town which shall neglect to keep in good repair its highways and bridges, shall be liable to be indicted therefor; and on conviction before the court of common pleas, within and for the same county, shall be fined to the use of the state, in a sum not less than fifty dollars, nor more than five hundred dollars; and execution shall issue therefor, against the town treasurer of such town. And said town shall also be liable to all persons who may in any wise suffer injury to their persons or property by reason of any such neglect; to be recovered in an action of the case to be brought against the town treasurer of the town or towns who are bound to keep said road and bridges in repair as aforesaid.

SEC. 14. It shall be the duty of the several towns to provide by law, in such manner and under such penalties as they may deem expedient, for removing snow from the public highways, so as to render the same passable with teams, sleds and sleighs.

SEC. 15. If the snow be suffered to remain in any public highway in any town, so as to obstruct any person in passing along such highway with his team, sled or sleigh, for twenty-four hours after such highway shall become obstructed, such town shall be liable to be indicted therefor; and on conviction before the court of common pleas within and for the county, shall be fined to the use of the state in a sum not less than ten dollars, nor more than one hundred dollars: *provided, however,* that nothing herein contained shall be construed to subject any town to the penalty aforesaid, if the surveyor of highways or some other person duly authorized for that purpose by such town, with the power vested in him by the laws of the state, shall have commenced the removal of such obstructions within the time aforesaid, and shall within three days remove the same.

SEC. 16. All public bridges on the dividing lines between towns ought of right to be, and hereafter shall be, established and kept in repair at the expense of the towns adjoining said bridges; and every public bridge on the dividing line between this state and the adjoining states ought of right to be, and hereafter shall be, established and kept in repair on the part of this state, at the expense of the town adjoining such bridge.

SEC. 17. If any town adjoining any such bridge shall refuse or neglect to keep in good repair the part of such bridge

within and next adjoining the line of such town, the town so neglecting or refusing shall and may be proceeded against by indictment in the court of common pleas within and for the same county; and on conviction shall be fined to the use of the state, in a sum not less than twenty dollars nor more than one thousand dollars; and execution shall issue for the amount of said fine and costs against the town treasurer of such town: *provided, nevertheless*, that nothing in this act contained shall be construed to impair any agreement or agreements heretofore made between any towns, relative to the supporting and repairing of bridges.

SEC. 18. Whenever any artificial watercourse has been or shall be made under, through or by the side of any highway previously existing, the proprietors or occupants of such watercourse ought to and shall make and maintain all necessary bridges over such watercourse, and all fences which may be necessary along the side of the same.

SEC. 19. Whenever any highway has been or shall be laid out over or by the side of any artificial watercourse made previous to such laying out, the town laying out such highway ought and shall make and maintain the necessary bridges over such watercourse, and such fences along the side of the same as may be needed for the safety of travellers.

SEC. 20. Whenever any two turnpike roads commence or terminate at the same bridge, the said roads shall be deemed and taken as commencing or terminating at the middle of said bridge; and the said bridge shall be kept in repair and amended from time to time, so that the same may be safe and convenient for travellers, with their horses, teams, carts and carriages, at all seasons of the year, at the joint charge and expense of the turnpike corporations whose roads commence or terminate at said bridge in manner aforesaid; and the said bridge shall, to all intents and purposes, be deemed and taken as a part of said turnpike road, and not as a bridge for the repairing or amending of which the town in which the same may be situated shall be by law liable.

SEC. 21. Whenever any highway has been or shall be laid out over any tract or parcel of land used at the time of such laying out as a highway, such laying out shall not be deemed or construed to affect or in any wise alter the rights or duties of the town, or any individual, as to the maintenance of bridges over any parts of said new highway which so nearly coincide with the old highway as not to require the removal of such bridges, or the building of them in a different place from which they previously stood.

SEC. 22. Every person owning land adjoining any public highway or turnpike road may build such bridges or culverts over the ditches which may be made in such highway or road for the passage of water, as may be necessary to render the passage from such land to such highway or road safe and convenient; and no such bridge or culvert shall be altered, removed or disturbed by any person, except under the direction of the town council of the town where the same may be situated, or of some person by them appointed.

SEC. 23. No surveyor of highways or officer, agent or servant of any turnpike company, shall remove the earth so near to any wall or fence erected upon or without the limits of such highway or company's road, as to undermine or overthrow the same, unless the same shall be absolutely necessary for the security or convenience of the public; and in that case the repairs shall be made under the supervision of the town council or of some person by them appointed; and the town or turnpike company shall be at the expense of repairing or resetting the wall or fence removed.

SEC. 24. Instead of the mode herein prescribed for mending highways and bridges by taxes as aforesaid, each and every town may defray the expenses of repairing and keeping the same open out of the town treasury of such town or otherwise, as they may find expedient, any thing herein to the contrary notwithstanding; and may appoint surveyors thereof at any town meeting legally convened in such town.

SEC. 25. The islands of Hope, Prudence and Patience, and Hogg Island, are hereby exempted from the operation of all the provisions of this act.

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*An Act for the Erection and Support of Guide-Posts upon Public Roads.*

SECTION

1. Towns to erect guide-posts and keep them in repair.
2. Town councils to fix the places; keep record thereof.
3. Guide-posts, how constructed.

SECTION

4. Penalty for neglect in erecting, &c. Penalty for not fixing place where, &c.
5. Penalty for injuring or defacing.

*It is enacted by the General Assembly, as follows:*

SECTION 1. It shall be the duty of the several towns, except New-Shoreham and Jamestown, at all times to keep erected and in good repair, such guide-posts upon all public roads, at such places and in such manner, as is herein after provided.

SEC. 2. The town councils of the several towns, except as before excepted, are hereby authorized and required from time to time to determine the corners and angles of all roads, in the several towns aforesaid, at which the said guide-posts shall be erected and kept; and shall cause a fair record thereof to be entered and kept among the records of their proceedings.

SEC. 3. The guide-posts to be erected and kept in pursuance of this act shall be constructed in manner following, that is to say; there shall be erected at the several corners or angles of the roads, which shall be ordered by the town councils aforesaid, a substantial post, not less than eight feet high; upon the upper end of which shall be placed a board, upon which shall be plainly and legibly painted the name of the next town, with such other noted town or place as may be judged most expedient for the direction of travellers, to which each of the roads may lead, together with the number of miles to the same; and also the figure of a hand with the forefinger thereof pointing toward the town or place to which the said road may lead: *provided, however*, that the inhabitants of any town may agree upon some suitable substitute in the room of said guide-posts, and appoint any proper person to superintend the erection and support of the same.

SEC. 4. If any town aforesaid shall neglect or refuse to keep at all times erected and maintained said guide-posts, in such places and in such manner as is herein provided, such town so neglecting or refusing shall forfeit and pay to the use of the state, three dollars for every month which it shall so neglect or refuse; and if any town council of any town as aforesaid shall neglect or refuse to fix and determine upon proper places in such town, at which the said guide-posts shall be erected and kept, the said town council shall forfeit and pay to the use of the state, five dollars for every month which they shall so neglect or refuse; said forfeitures to be recovered by indictment in the county where the offence may be committed.

SEC. 5. If any person shall injure, mar, or deface any guide-post, or its substitute agreed upon as aforesaid, or board which shall be set up as is in this act provided, he shall forfeit and pay a sum not exceeding twenty dollars, nor less than two dollars, to be recovered by action of debt; before any justice of the peace in the town in which such guide-post was situated; one half to the use of the complainant, and the other half to the use of said town.



*An Act apportioning the expense of repairing Hunt's Bridge, among the towns of North-Kingstown, Warwick and East-Greenwich.*

North-Kingstown, Warwick, East-Greenwich, to repair or re-build.

Whereas doubts and disputes have arisen respecting the building and repairing of the bridge commonly called Hunt's bridge, which divides the towns of East-Greenwich, Warwick and North-Kingstown, by reason whereof the said bridge is frequently impassable :

*It is enacted by the General Assembly, as follows :*

Whenever the said bridge is not in repair, the same shall be repaired, or a new bridge erected, by the said towns of North-Kingstown, Warwick and East-Greenwich, in the following proportions, to wit : the one half part of all the expense of repairing or re-building the said bridge shall be paid by the said town of North-Kingstown ; one fourth part by the said town of Warwick, and one fourth part by the said town of East-Greenwich.

*An Act to prevent laying Vessels to and lading and unlading Wood or Merchandize upon the Bridge over Apponaug River.*

Penalty for lading wood, &c., at Apponaug Bridge.

*It is enacted by the General Assembly, as follows :*

Whosoever shall lay any sloop or other vessel unto the bridge over Apponaug river, or there lade or unlade wood or other heavy merchandize, shall forfeit and pay the sum of four dollars for every such offence ; to be recovered before any justice of the peace in the town of Warwick ; one half thereof to the use of him who shall sue for the same, and the other half to and for the use of the said town of Warwick.

*An Act to prevent Canoes and Boats being made fast to the abutments, or any part of the Bridge at Pawtuxet Falls.*

SECTION

1. Penalty for fastening boat to bridge at Pawtuxet Falls.

SECTION

2. Warwick and Cranston to appoint superintendent of bridge.

*It is enacted by the General Assembly, as follows :*

SECTION 1. Whosoever shall make fast any canoe or boat to either of the abutments, or any part of the bridge at Paw-

tuxet Falls, or throw any stones off from the same, shall forfeit and pay the sum of five dollars; to be recovered by an action of debt, before any justice of the peace of either of the towns of Warwick or Cranston; one half thereof to and for the use of the complainant, and the other half to and for the use of the town where such complaint shall be made.

SEC. 2. The towns of Warwick and Cranston respectively shall be empowered to appoint each, one suitable person to take care of said bridge, and to prevent damage or injury being done thereto; each of the said persons so appointed shall have power, and it shall be his special duty, to prosecute for any penalties incurred under this act.

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*An Act to prevent Damage being done to Weybosset Bridge, in Providence.*

Penalty for fastening vessel to Weybosset Bridge.

*It is enacted by the General Assembly, as follows:*

Whosoever shall fasten any vessel to any part of Weybosset bridge shall forfeit and pay the sum of twenty dollars for every offence; to be recovered by the city treasurer of Providence, for the time being, in an action of debt before any justice of the peace in said city, to and for the use of said city.

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*An Act relative to the passing of Teams and Carriages in Public Highways.*

SECTION

1. Wheel carriages meeting, to give half the way, &c.; penalty for wilful neglect.

SECTION

2. Penalty for leaving carriage, &c., standing in highway.

*It is enacted by the General Assembly, as follows:*

SECTION 1. Every person driving or conducting any wheel carriage of any kind, or any sled or sleigh with any kind of team, in any public highway, when meeting another with any wheel carriage, sled or sleigh, or team, shall, if it be practicable, conduct or keep such as shall be under his care on the right hand side, so that the person met may pass on his left hand, and have, as near as conveniently may be, one half of the way; and every person intentionally and wilfully failing to do so shall forfeit and pay as a fine, to and for the use of

the state, the sum of five dollars ; and he shall also be liable to pay all special damages accruing from unnecessary delay or otherwise to any person, by a neglect or refusal to comply with the requisitions of this act ; to be recovered by special action on the case by the person so injured : *provided, however,* that it shall be optional with the driver of any loaded team, when met or overtaken by any empty team or pleasure carriage, either to stop his team until the team or carriage by which he shall be met or overtaken shall have passed, if there be sufficient room, or to give half the way as aforesaid.

SEC. 2. Every person having charge of any wheel carriage of any kind, or sled or sleigh with any kind of team, who shall negligently or wilfully leave the same to go at large in any such highway, shall pay a like fine of five dollars.

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*An Act to prevent Excessive Riding in any of the places therein mentioned.*

SECTION

1. Penalty for excessive riding in certain towns.

SECTION

2. Parts of East-Greenwich and Warwick included, defined.

*It is enacted by the General Assembly, as follows :*

SECTION 1. If any person shall ride faster than a common travelling pace, in any of the streets of the town of Newport or Providence, or in such parts of the towns of Warwick and East-Greenwich as are herein after described ; or in the compact part of the towns of Bristol or Warren ; or in that part of North-Providence called Pawtucket ; or in that part of South-Kingstown called Kingston ; or in that part of Warwick called Apponaug ; or in that part of North-Kingstown called Wickford ; or in that part of Warwick and Cranston called Pawtuxet ; such person shall pay as a fine the sum of two dollars for every offence ; one half thereof to the informer, and the other half to and for the use of the town where such offence shall be committed ; to be recovered upon complaint thereof made before any one justice of the peace in the town where the offence shall be committed, with costs, unless justifiable cause for such riding shall be made to appear before such justice of the peace who shall try the same ; which trial and judgment thereon shall be final.

SEC. 2. The part of the towns of East-Greenwich and Warwick, first mentioned, where such excessive riding is by this act prohibited, hereby is declared to extend from the

house of the late Rufus Greene, in said East-Greenwich, unto the house of the late Gideon Casey, in Warwick.

*An Act regulating Ferries.*

## SECTION

1. Exclusive right vested in the proprietors.
2. Boats to be kept in readiness.
3. Times of passing at Bristol ferry.
4. Times of passing at all others.
5. When double ferriage may be demanded—physicians, &c., to pay single ferriage.
6. Penalty for neglect in ferryman.
7. Boat when to be put off.
8. Penalty for permitting boat to be absent.

## SECTION

9. Wharves to be kept in repair so that freight may be received, &c.
10. Penalty for neglect—committee appointed annually, to inspect ferries.
11. None but proprietors to convey passengers, &c.
12. Rates of ferriage.
13. Laws regulating ferries and ferriage to be posted up.
14. Town treasurer to sue for penalties—liable for neglect.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The respective proprietors on each side of the two ferries kept between Newport and Jamestown, of that between Jamestown and South Kingstown, called the South Ferry, and of that between Bristol and Portsmouth, shall continue to be vested with the exclusive right and privilege of conveying and transporting passengers, horses, neat cattle, and all other freight across their respective ferries, for the several rates of ferriage herein after prescribed, and subject to the regulations and penalties which are by this act or may be hereafter provided.

SEC. 2. The said proprietors respectively, shall constantly keep and maintain at each of their said ferries, and on each side thereof, one good boat, with proper and sufficient tackle and apparel, together with two good oars and one boat hook, which shall at all times be kept afloat and in constant readiness; and shall, on the application of any person or persons whomsoever for the conveyance or transportation of themselves or freight across said ferries, and on paying or tendering the lawful ferriage therefor, be put off, and shall proceed across said ferries, wind and weather permitting.

SEC. 3. Passengers and freight at Bristol ferry shall and may, on payment or tender of single ferriage, be conveyed across said ferry at all times between sunrising and eight o'clock in the evening, at all seasons of the year.

SEC. 4. At the said other ferries passengers and freight shall and may, on payment of single ferriage, be conveyed across said ferries at all times between sunrising and sun-setting.

SEC. 5. At all times other than as before provided, and on Sundays, thanksgiving days and fast days, passengers and freight shall and may, on payment or tender of double ferriage, be conveyed across said ferries ; except that at Bristol ferry they shall be conveyed across between sunrise and eight o'clock, P. M. upon payment of single ferriage, except from the first day of December to the first day of March, when from sunrise until six o'clock, P. M. they shall be conveyed for single ferriage ; and before and after those hours, upon the tender or payment of double ferriage : *provided, however,* that all physicians, surgeons and midwives on their professional duties, and persons going for them, shall at all times be conveyed for single ferriage.

SEC. 6. If any ferryman shall refuse or neglect to keep his boat afloat and in readiness as aforesaid, or shall refuse or neglect to convey or transport any persons applying for passage, or conveyance of freight, and tendering or paying lawful ferriage therefor according to the provisions aforesaid, the proprietor of such ferry where such refusal or neglect shall happen, shall forfeit and pay for each neglect or refusal, the sum of ten dollars ; one moiety thereof to the state and the other moiety to the person who shall sue for the same.

SEC. 7. It shall be the duty of the ferryman at each of the said ferries, to put off the boat whenever it shall appear that the boat from the other side is on her passage or nearly arriving at that side where the boat is at the wharf, under the penalty of one dollar ; to be recovered by an action of debt in any court proper to try the same.

SEC. 8. No proprietor or keeper of said ferries shall cause or suffer his ferry-boat to be absent from the said ferry on any pretence whatever, excepting for necessary repairs, under the penalty of thirty dollars for every three hours absence therefrom ; to be recovered in an action of debt in any court of record proper to try the same ; one half thereof to the use of the state, and the other half to the use of him who shall sue for the same.

SEC. 9. The proprietors of each of said ferries shall keep their respective ferry-wharves in good repair, so that at common low water their respective boats can receive on board freight and passengers afloat, and come to, sail and proceed across said ferries, weather permitting.

SEC. 10. If the said proprietors or either of them shall neglect to keep their respective wharves in suitable repair, the proprietor or proprietors so neglecting shall forfeit and pay, to and for the use of the state, the sum of ten dollars for each

and every month's neglect ; such neglect to be ascertained by a committee, to be annually appointed in May, as other state officers are, whose duty it shall be to report at the May and October sessions of the general assembly ; and all such penalties as they shall report forfeited as aforesaid, shall be sued for and recovered in an action of debt by the general treasurer.

SEC. 11. No person shall transport passengers or freight across either of said ferries, except the proprietors thereof or their agents, or take off or land the same at or from either of the said ferry wharves, except as before provided, under the penalty of fifty dollars ; one half thereof to the use of the person who shall prosecute and sue for the same, and the other half to the use of the state ; to be recovered in an action of debt in any court proper to try the same.

SEC. 12. The proprietors of the said ferries are and shall be entitled to receive the following rates of ferriage and no more, to wit :

	Newport and South Ferry. Cents.	Bristol Ferry. Cents.
For each and every footman,	10	8
For ditto, who puts off a boat,	20	16
For a man and horse,	25	16
For each and every draft horse,	18	12½
For each neat beast, two years old and upwards,	20	16
For each yearling beast,	13	8
For each calf,	5	4
For each hog,	6	3
For each sheep or lamb,	3	2
But no ferriage shall be charged at Bristol ferry for a lamb with the ewe.		
For all heavy goods per hundred weight,	6	5
For every horse and carriage with the persons in it, at Newport and South ferry,	85	
At Bristol ferry the following rates for the following persons and things and no more :		
For every coach, barouche, wagon or other four wheel carriage drawn by two horses, with the persons in the same,		75
For every additional horse with such coach, barouche, wagon or other four wheeled carriage,		16
For every chaise or sulkey, and for every carryall or pleasure carriage, and for every wagon hung on or supported by springs of iron and		

steel or either, drawn by one horse, with the persons therein, not exceeding two over twelve years of age, and the horse,	50
For every additional person in such last mentioned chaise, sulkey, carryall, pleasure carriage or wagon,	8
For every horse and wagon not hung on or supported by springs of iron and steel or either, and drawn by one horse with one person therein,	35
For every additional person in such last mentioned wagon,	8
For every ox wagon or cart and team, without a load or with a load not exceeding a ton, and the person or persons with the same, not exceeding two,	50
For every hundred weight over one ton in such ox wagon or cart, per hundred weight,	4

SEC. 13. The proprietors of the several ferries shall keep constantly posted up in their respective ferry houses in some public room or place, a printed abstract of the several laws regulating said ferries, and a schedule of the legal rates of ferriage, the condition in which the boats and wharves are to be kept, and generally the duties of said proprietors and of the ferryman, and of the penalties for a breach thereof. And every proprietor or occupier of a ferry who shall neglect to comply with the foregoing provisions, shall forfeit and pay the sum of five dollars for every such offence, to and for the use of the town within which his ferry is located: *provided*, that the space of five days after any complaint, shall be allowed to such proprietors or occupiers within which to comply with the laws, before he shall be again made liable for the same offence.

SEC. 14. It shall be the duty of the town treasurers of the several towns in which ferries are established, to sue for and recover all penalties incurred by breaches of any of the laws relating to ferries, except where provision is herein made to the contrary; and if any such town treasurer shall refuse or neglect to prosecute therefor, upon information given to him in writing, by any person competent to prove the breach complained of, or who shall name to him competent witnesses to prove the same, such town treasurer shall for every such offence forfeit and pay the sum of fifteen dollars, to be recovered by the person by whom the information was

given to said town treasurer ; and it shall further be the duty of said town treasurers to make report to the general assembly, when in session, of all complaints laid before them, and of their proceedings thereon.

*An Act in relation to Turnpike Roads and Toll Bridges, and Keepers of Toll Gates.*

## SECTION

1. Gates on turnpikes and bridges may be opened if road or bridge be not in suitable repair.
2. Penalty on keeper for taking unlawful toll.

## SECTION

3. Corporation shall keep account of tolls.
4. Corporation prohibited from holding land, unless such as authorized by its charter—exception

*It is enacted by the General Assembly, as follows :*

SECTION 1. If at any time any turnpike road or toll bridge shall not be in suitable and proper repair, any justice of the supreme court, or any justice of the court of common pleas in the same county with said road, upon complaint to him made for that purpose, is authorized and empowered to cause the gate or gates on said road or bridge to be opened ; and to remain open until, in the opinion of the said justice, the said road or bridge shall be put in proper and suitable repair ; and the cost of said complaint shall be paid by the company owning said road or bridge, if in the opinion of the said justice the same shall be well founded ; otherwise by the complainant.

SEC. 2. The keeper of every toll gate on any turnpike road or toll bridge, who shall hereafter demand and receive any greater toll for passing through the gate whereof he is keeper than is by law allowed, shall forfeit and pay for the first offence a sum not less than two dollars, nor more than five dollars ; and for each and every subsequent offence the sum of twenty dollars ; to be recovered by action of debt before any justice of the peace in the town where said gate is, to and for the use of the complainant : *provided, however*, the action shall in all cases be commenced within three months from the time of the commission of the offence.

SEC. 3. Each turnpike road and toll bridge corporation shall keep an accurate account of the toll actually received at its gate or gates, and have such account at all times in readiness for the examination of the general assembly.

SEC. 4. No turnpike corporation or bridge corporation shall be capable in law to take or hold any land in this state



in fee, or for life or lives, or for term of years, or by any other title or tenure, for any other use than such as is expressly provided in the charter of such corporation; and all deeds and instruments of whatever description, made to any such corporation, contrary to the true intent and meaning of this act, shall be null and void: *provided*, that nothing in this act shall be construed to affect any title already acquired by any such corporation, in conformity to power expressly contained in its charter.

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*An Act in relation to Rail Roads.*

**SECTION**

1. Bell to be placed on engine and rung at crossings.
2. Painted sign-board to be placed at crossings.
3. Penalty on company for neglecting provisions of this act.
4. Account of toll, &c., to be kept—subject to examination.

**SECTION**

5. Prohibited holding real estate other than provided in charter.
6. Board of commissioners.
7. Duty of board.
8. May send for persons, &c.; examine under oath.
9. Report to the general assembly semi-annually.
10. Compensation.

*It is enacted by the General Assembly, as follows:*

**SECTION 1.** Every rail road company incorporated under the authority of this state shall cause a bell of at least thirty-two pounds in weight to be placed on each locomotive engine passing upon their road; and the said bell shall be rung at the distance of at least eighty rods from the place where said rail road crosses any turnpike, highway or public way upon the same level with the rail road, and shall be kept ringing until the engine has crossed such turnpike or road.

**SEC. 2.** Every such rail road company shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained, across each turnpike, highway or public way, where it is crossed by the rail road upon the same level therewith; the said posts and boards to be of such height as shall be easily seen by travellers, without obstructing the travel; and on each side of said boards the following inscription shall be painted in capital letters, of at least the size of nine inches each, "Rail Road Crossing—Look out for the Engine while the Bell rings."

**SEC. 3.** If any rail road company shall unreasonably neglect or refuse to comply with the requisitions contained in this act, they shall forfeit for every such neglect or refusal a sum not exceeding one thousand dollars; to be recovered in an action of debt before any court proper to try the same;

one half thereof to and for the use of the state, and the other half to and for the use of the person who shall sue for the same. And the said rail road company shall also be liable for all damages sustained by any person by reason of such neglect or refusal on the part of the company.

SEC. 4. Every rail road corporation shall keep an account of the toll, freight and passage money actually received at their depots and offices of receipt, and keep the same at all times in readiness for the examination of the general assembly, or any committee or board of commissioners that may be appointed by said assembly.

SEC. 5. No rail road corporation shall be capable in law to take or hold any land in this state, in fee or for life or lives, for term of years, or by any other title or tenure, for any other use than such as is expressly provided in the charter of such corporation; and all deeds or instruments of whatever description, made to any such corporation, contrary to the true intent and meaning of this act, so far as the same shall be contrary hereto, shall be null and void: *provided*, that nothing in this act shall be construed to affect any title already acquired by any such corporation, in conformity to power expressly contained in its charter.

SEC. 6. There shall hereafter be annually appointed by the general assembly at its May session, in the same manner as other state officers are appointed, a board of rail road commissioners; to consist of a number not less than three, who shall be commissioned and engaged as other state officers are.

SEC. 7. It shall be the duty of said board of commissioners whenever a majority of them shall deem it expedient, personally to examine into the transactions and proceedings of any rail road corporation that now is, or hereafter may be, authorized and established in this state, in order to secure to all the inhabitants the same and equal privileges of transportation of persons and property at all times, that may be granted, either directly or indirectly by any such corporation, to the inhabitants of any other state; and rateably in proportion to the distance any such persons or property may be so transported; and to inquire into any contract, understanding or agreement, by which any rail road company shall attempt to transfer or give to any steam boat company or to any steam boat any preference over any other steam boat company or boat, either as to freight or passage, contrary to the true intent and meaning of this act; and into all the other acts and doings of any such company whereby the rights and privileges of this state or any of its citizens may be affected.

SEC. 8. It shall be competent for the said board of commissioners, or a majority of them, in the discharge of their duty under this act, whenever they shall deem it proper, to send for persons and papers, and to examine witnesses under oath, which oaths the said commissioners are hereby authorized to administer, and to issue all necessary and proper process for the purpose aforesaid.

SEC. 9. It shall be the duty of said commissioners as often as twice every year, and oftener if they deem it necessary, to report to the general assembly the state, condition and proceedings of the several rail road companies, so far as the public interest may require the same.

SEC. 10. The said commissioners shall be allowed as a compensation for their services from time to time, upon the presentation of their accounts to the general assembly, such sum as the general assembly may think proper to allow.

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*An Act ascertaining what shall constitute a Legal Settlement.*

**SECTION**

1. Settlement how gained.
  - First.* Husband and wife; where settled.
  - Second.* Legitimate children.
  - Third.* Illegitimate children.

**SECTION**

- Fourth.* Apprentices.
- Fifth.* How gained by real estate.
- Sixth.* Same subject.
2. Settlement continues until a new one gained.

*It is enacted by the General Assembly, as follows :*

SECTION 1. A legal settlement in any town shall be hereafter gained, so as to oblige such town to relieve and support the person gaining the same, in case he becomes poor and stands in need of relief, by any of the ways and means following, and not otherwise :

*First.* A married woman shall always follow and have the settlement of her husband, if he hath any settlement in this state, or in any of the United States ; but if he hath no settlement within this state, or in any other of the United States, the wife shall have and retain her settlement at the time of her marriage, and the husband in such case shall follow and have the settlement of his wife.

*Second.* Legitimate children shall follow and have the settlement of their father, until they arrive to the age of twenty-one years, if the father shall before that time have any settlement in this state, or in any other of the United States, and shall retain such settlement until they gain a settlement

of their own ; but if the father before that time shall not have any settlement in this state, or in any other of the United States, the children shall in like manner follow and have the settlement of the mother.

*Third.* Illegitimate children born within this state, shall follow and have the settlement of their mother at the time of their birth ; but neither legitimate nor illegitimate children shall gain a settlement by birth in the places where they may be born, if neither of their parents shall have a settlement there.

*Fourth.* Any minor who shall serve an apprenticeship to any lawful trade for the space of three years in any town, and actually set up the same therein within three years after the expiration of the said term, being then twenty-one years of age, and continue to carry on the same for the space of five years, shall thereby gain a settlement in such town ; but such person being hired as a journeyman shall not be considered as setting up a trade.

*Fifth.* Any person of twenty-one years of age, having an estate of inheritance or freehold in the town where he shall dwell and have his home, of the yearly income of twenty dollars, over and above the interest of any mortgage which shall be thereon, and taking the rents and profits thereof for three years successively, whether he lives thereupon or not, shall thereby gain a settlement therein.

*Sixth.* Any person of twenty-one years of age, having a real estate which shall be of the value of two hundred dollars, over and above any mortgage or incumbrance which may be thereon, and being assessed for the same in the state and town taxes, and actually paying the same for five years successively in the town where he dwells and hath his home, shall thereby gain a settlement therein.

SEC. 2. Every legal settlement when gained shall continue until lost or defeated by gaining a new one ; and upon gaining such new settlement, all former settlements shall be defeated and lost.

*An Act providing for the Relief, Employment and Removal of the Poor.*

## SECTION

1. Towns to support their poor, and to afford temporary relief to other poor persons. Slaves to be supported by their masters. Towns to elect overseers of the poor.
2. Overseers to relieve all poor persons within their towns, either permanently or temporarily.
3. Fathers, &c., liable to maintain children; may be compelled by supreme court; proceedings in such cases.
4. Overseers may bind out poor children in certain cases. Provision to be made for their education.
5. Overseers to protect them from injury.
6. Action for damages may be maintained on the contract of binding.
7. Overseers may bind out to service certain persons of full age.
8. Town councils may remove paupers to the place of their settlement. Proceedings in such cases.
9. Town affected may appeal from order of removal. Proceedings in case of appeal.
10. Order of removal how executed.
11. Town councils may refuse bonds of indemnity.

## SECTION

12. Penalty for paupers returning after being removed. Proceedings in such cases.
13. Town councils may remove persons of bad fame, though not chargeable.
14. Penalty for admitting into one's house to reside there, any person ordered to remove, or to depart, after notice.
15. Penalty for leaving any pauper in any town in which he is not settled, without an order.
16. Penalty for bringing convicts into any town.
17. Masters of vessels to report their passengers to the overseer.
18. Narragansett Indians may be removed as paupers.
19. Town councils may order paupers not settled in the state, and persons of ill-fame, to depart their towns. Proceedings in such cases and penalty for returning.
20. Settlement not gained by persons of bad fame by real estate after removal, or order of removal, or to depart.
21. Town council to notify parties interested, before proceeding under the 13th and 19th sections.

*It is enacted by the General Assembly, as follows:*

SECTION I. Every town shall be holden to relieve and support all poor and indigent persons lawfully settled therein, whenever they shall stand in need thereof: *provided, however,* that all persons who are holden in servitude or slavery, who have not been emancipated according to the provisions of the act entitled "an act relative to slaves and their manumission and support," contained in the digest of 1822, shall be maintained and supported at the cost and charge of their owners, their heirs, executors or administrators, if they shall ever become chargeable to the towns in which they reside; and other persons who were formerly holden in servitude or slavery, but who have been emancipated, shall be supported in the same manner, if they were of the age of thirty years when they were emancipated, or if they were not in sound body and mind as ascertained at the time of such emancipation, by the town councils of the town in which they resided; and to afford temporary relief to other poor and indigent persons; and may vote and raise money therefor and for their employment, and for the temporary relief of other poor and indigent persons, in the same way that monies for other town charges are rais-

ed; and shall also choose any number, not exceeding five, suitable persons dwelling therein, for overseers of the poor.

SEC. 2. Said overseers shall have the care and oversight of all such poor and indigent persons so settled in their respective towns; and shall see that they are suitably relieved, supported and employed, either in the work house, or in other tenements belonging to such towns, or in such other way and manner as the inhabitants of the respective towns at any legal meeting shall direct, or otherwise at the discretion of said overseers; and may also afford temporary relief to other poor and indigent persons, at the cost of such town.

SEC. 3. The kindred of any such poor person, if any he shall have in the line or degree of father or grandfather, mother or grandmother, children or grandchildren, by consanguinity, living within this state, and of sufficient ability, shall be holden to support such pauper in proportion to such ability; and the supreme court at any term thereof, in any county where any such kindred to be charged shall reside, upon complaint made by the overseer or overseers of the poor of any town who shall have been at any expense for the relief and support of any such pauper, may on due hearing, either upon the appearance or default of the kindred, they being summoned as hereafter prescribed, assess and apportion such sum as they shall judge reasonable therefor, upon such of said kindred as they shall judge of sufficient ability, and according thereto, to the time of such assessment with costs, and may enforce payment thereof by warrant of distress; and the overseer or overseers of any town complaining as aforesaid, may file their complaint in the clerk's office of the court to which such complaint shall be made, and may take out a summons thereon under the seal of said court, signed by the clerk thereof, and directed to some proper office to serve an original summons; which being served by leaving an attested copy thereof with the party to be summoned, or at his last and usual place of abode, twenty days before the sitting of the court, shall hold him to answer to such complaint: *provided, nevertheless*, such assessment shall not extend to any expense for any relief afforded more than six months previous to the filing of such complaint: and the said court may further assess and apportion upon such kindred such weekly sum for the future, as they shall judge sufficient for the support of such pauper, to be paid quarterly until further order of said court; and upon application, from time to time, of the overseers of the poor to whom the same shall have been ordered to be paid, the clerk of said court shall issue and may renew

a warrant of distress for the arrears of any preceding quarter; and the said court may further order with whom of such kindred who may desire it, such pauper shall live and be relieved, and for such time with one and for such time with another, as they shall judge proper, having regard to the comfort of the pauper, as well as to the convenience of the kindred; and upon suggestion, other kindred of ability not named in the complaint may be notified, and the process may be continued; and upon due notice, whether they appear or are defaulted, the court may proceed against them in the same manner as if they had been named in the complaint; but if such complaint be not entered, or be discontinued or withdrawn, or be adjudged groundless, the respondents shall recover costs; and said court may take further order from time to time, in the premises, upon application of any party interested, and may alter such assessment and apportionment as circumstances may vary.

SEC. 4. Said overseers hereby are empowered from time to time, with the advice and consent of the town council, to bind out, by deed indented or poll, to any citizen of this state or of Massachusetts, or of Connecticut, as apprentices, to be instructed and employed in any lawful art, trade or mystery, or as servants, to be employed in any lawful work or labor, any male or female children whose parents are lawfully settled in and become chargeable to their town; also those whose parents so settled shall be thought by said overseers to be unable to maintain them, whether they receive alms or are so chargeable or not, provided they be not assessed in any town tax; and also all such who, or whose parents, residing in their town, are supported there at the charge of the state; also those whose parent or parents having no legal settlement in this state are residing in such town and are adjudged by the town council of such town to be unable to maintain his or her children; and also to bind out such male or female children in their respective towns, not having estate sufficient for their maintenance, as have no parents living or residing therein, and have no legal settlement within this state: that is to say, male children until they come to the age of twenty-one years, and females until they come to the age of eighteen years, or are married; which binding shall be as valid and effectual in law as if such children had been of the full age of twenty-one years, and had by a like deed bounden themselves, or their parents had been consenting thereto; and provision shall be made in such deed for the instruction of all children so bounden out, to read, write and cypher, and for such other

instruction, benefit and allowance, either within or at the end of the time, as to the overseers may seem fit and reasonable.

SEC. 5. It shall be the duty of said overseers to inquire into the usage of the children who shall be bounden out by them by force of this act, and to defend them from injuries; and said overseers shall have the same remedy in behalf of the persons so bounden out as is extended to other apprentices by an act entitled "an act to secure to masters and to apprentices and minor servants bounden by deed, their mutual privileges;" and the masters of such apprentices bounden out by overseers as aforesaid, shall have the like remedy against such apprentices, and for the like causes as are prescribed in the aforesaid act.

SEC. 6. All parties as aforesaid shall be entitled to an action for the damages they may sustain for any breach of contract entered into by such deed, and in the same manner as is prescribed in and by the afore mentioned act.

SEC. 7. The said overseers of the poor shall have power to set to work or bind out to service by deed as aforesaid, for a term not exceeding one whole year at a time, all such persons residing and lawfully settled in their respective towns, and those who have no such settlement within this state, married or unmarried, upwards of twenty-one years of age, as are able of body but have no visible means of support, who live idly, and use and exercise no ordinary and daily and lawful trade or business to get their living, upon such terms and conditions as such overseers shall think proper: *provided, always,* that any person thinking himself aggrieved by the doings of said overseers in the premises, may apply by complaint, to the supreme court in the county where they are bounden, or where the overseers who bound them dwelt, for relief; which court, after due notice to the overseers and to the master of such person, shall have power, after due hearing and examination, if they find sufficient cause therefor, to liberate and discharge the party complaining, from his master, and to release him from the care of the overseers; or otherwise to dismiss the complaint, and to give costs to either party or not, as the said court may think reasonable.

SEC. 8. If any person shall reside in any town in this state not being legally settled therein, and shall become or be likely to become chargeable to such town, it shall be lawful for any one of the overseers of the poor of such town to make complaint thereof to the town council; and in case such overseer shall judge it necessary that an order should be made sooner than the town council are likely to meet of course, he shall



give a notification to the town sergeant to notify the town council to meet at a time and place therein named ; who upon such notification are required to meet, and are hereby fully empowered to inquire, either by the oath of such poor person, or otherwise, in what town he was last legally settled ; and upon the best information they can obtain, to adjudge and determine to what town he lawfully belongs within this state, or in which he was last legally settled ; which being done, the town council shall make an order under their seal, to be signed by their clerk, for the removal of such person to such town ; which order being directed and given to the town sergeant or one of the constables of such town, he shall proceed forthwith to remove such person and such of his family, if any he hath, as by law ought to be removed with him, to the town or place to which he is adjudged by such order to belong, and there deliver him to one of the overseers of the poor of such town, and leave an authentic copy of the order with the said overseer ; and if such overseer shall refuse to accept such poor person, he shall forfeit the sum of fifty dollars ; to be recovered by an action of debt by the town treasurer of the town from which such poor person was sent, to and for the use of said town.

SEC. 9. If any overseer of the poor of any town in this state to which such poor person shall be removed as aforesaid, shall think his town aggrieved at the determination and order of the town council for the removal of such person, it shall be lawful for him in behalf of his town, to appeal to the next supreme court to be holden in the county in which the town from which such poor person was removed lies ; and the party appealing shall file reasons of appeal in the clerk's office of the court to which the appeal shall be brought, twenty days before the sitting of said court ; and the clerk of said court shall forthwith send a copy of such reasons of appeal to one of the overseers of the poor of the town from which such poor person was removed, who upon receipt of such copy is hereby fully empowered to appear at the court where the appeal is brought, and to defend and maintain said order of the town council ; which court shall have full power upon hearing the cause, to confirm or reverse such order as to them shall appear agreeable to law, which judgment shall be final ; and in case the said order shall be confirmed, the town which appealed shall pay the whole cost of court, in which shall be included the charges of removing such poor person ; and in case the said order shall be reversed, then the town from which such poor person was removed shall pay the cost of

the court, and also the charges that the town to which he was removed shall have been at for his support between the time of the removal and the determination of the appeal ; and such poor person shall be removed back to said town at the proper cost and charges thereof, which shall be levied by an execution against the town treasurer of such town.

SEC. 10. The town sergeant or constable who shall be charged with an order for the removal of any poor person as aforesaid, shall have power to go into any town for putting such order into execution ; and shall make return upon said order to the town council who granted the same, at their next meeting, which shall be lodged in the clerk's office ; and he shall give copies thereof to any person who shall desire them, and shall take the same fees therefor as in other cases ; and in case any town sergeant or constable shall refuse or neglect to put such order in execution when delivered to him, he shall, for every such refusal or neglect, forfeit the sum of twenty dollars ; to be recovered by the town treasurer, before any justice of the peace in said town, to and for the use of said town ; and the town sergeant or constable who shall remove any poor person as by this act is directed, shall be allowed and paid at the discretion of the town council, for his trouble, out of the treasury of the town from which such poor person shall be removed.

SEC. 11. It shall be in the power and at the discretion of every town council, to refuse any bond or certificate which may be offered for keeping their town indemnified from charge, by any person who shall come into it of bad fame and reputation, or such as the town council shall judge unsuitable persons to become inhabitants thereof ; and upon their refusal to accept the bond or certificate offered, to proceed in manner as aforesaid to remove such person out of such town for whom bond or certificate may have been tendered and not accepted.

SEC. 12. If any person who has been or may hereafter be removed by an order of removal from any town in this state to any other town therein, shall voluntarily return to the town from which he was so removed without leave first obtained of the town council of such town for so doing, and the town council of such town shall subsequently cause such person to be again removed to the same town, the town to which such person shall have been so subsequently removed shall pay to the town the costs of every such subsequent removal, not exceeding twenty cents per mile ; to be recovered in an action of the case, in the name of the town treasurer of the

town to which such person shall have been removed, before any court proper to try the same : *provided, however*, that eight days notice of the intention of such second removal shall be previously given through the post-office by the overseer of the town where such pauper may be, to the overseer or overseers of the poor of the town in which such person shall be legally settled, for the purpose of giving such town an opportunity to remove such person in its own manner at its own proper expense ; or such person may be fined by the town council not exceeding seven dollars, to and for the use of such town.

SEC. 13. The respective town councils shall have power in their discretion to remove, as aforesaid, all persons not settled in their respective towns who are of bad fame and reputation, or such as said town council shall determine to be unsuitable persons to become inhabitants thereof, though such persons shall not at the time of such removal have become or shall not then be likely to become chargeable to such town.

SEC. 14. If any person in any town in this state shall admit into his house or possessions, any person who has been removed or ordered to depart, as in this act is provided, from such town by the town council thereof, or shall wilfully suffer or permit any person to occupy or reside in his house or possessions, after notice of such removal or order of departure given by the town sergeant or any one of the constables of such town by order of the town council thereof, such person shall forfeit and pay the sum of fifty dollars for every such offence ; to be sued for and recovered by the town treasurer of such town in an action of debt, before any court of competent jurisdiction, for the use of such town.

SEC. 15. If any person shall bring and leave any poor and indigent person in any town in this state, wherein such pauper is not lawfully settled, unless by an order of removal made by a town council in this state, knowing him to be poor and indigent, he shall forfeit and pay the sum of one hundred dollars for every such offence ; to be sued for and recovered in an action of debt by the town treasurer, to and for the use of such town.

SEC. 16. If any master or other person having charge of any vessel, shall bring into and land or suffer to be landed in any place within this state, any person before that time convicted in any other state or in any foreign country of any infamous crime, or of any crime for which he hath been sentenced to transportation, knowing of such conviction or having reason to suspect it ; or any person of a notoriously dissolute infamous and abandoned life and character, knowing him

to be such, he shall, for every such offence, pay as a fine the sum of four hundred dollars, to and for the use of the state ; to be recovered by indictment before any court of competent jurisdiction.

SEC. 17. The master or any other person having the charge of any vessel arriving at any place within this state with any passengers on board, from any port in any other of the United States or from any country without the United States, shall, within twenty-four hours after the arrival of such vessel, make report in writing under his hand, of all such passengers, their names, nation, age, character and condition, so far as shall have come to his knowledge, to the overseer or overseers of the poor of the town at which such vessel shall arrive ; and every such master or other person who shall neglect to make such report, or who shall wittingly and wilfully make a false one, shall, for each offence, forfeit the sum of one hundred dollars ; to be sued for and recovered by action of debt by the town treasurer, to and for the use of such town.

SEC. 18. If any Indian of the Narragansett tribe shall reside in any town in this state, and shall become or be likely to become chargeable to such town, it shall be lawful for any one of the overseers of the poor and the town council of such town, to cause such Indian to be removed to the said tribe in the manner provided for the removal of a pauper by the eighth and tenth sections of this act, and there deliver him to a member of the council of said tribe, and leave an authentic copy of the order of removal with such member ; and if such member shall refuse to accept such Indian, he shall forfeit the sum of twenty dollars, to be recovered in like manner and for the same use as is provided in the said eighth section of this act ; and if the council of said tribe shall think the said tribe aggrieved at the determination and order of the town council for the removal of such Indian, it shall be lawful for them in behalf of said tribe, to appeal to the same court and in same manner as is provided in the ninth section of this act ; and the said court shall have the same power in the premises as is there provided ; and if any Indian who shall be sent out of any town agreeably to this act, shall voluntarily return thither again without leave first obtained of the town council for so doing, he shall forfeit the same penalty and be subject to the same punishment as is prescribed in the twelfth section of this act.

SEC. 19. If any person shall reside in any town in this state not being legally settled in that or in any other town in this state, who shall become or be likely to become chargea-

ble to the town where such person shall reside, or who shall in the opinion of the town council of such town be a person of bad fame and reputation, and an unsuitable person to become an inhabitant thereof, it shall and may be lawful for such town council, upon complaint of any one or more of the overseers of the poor of such town, to order such person to depart from and out of such town, within such time as the said town council in their discretion may appoint; and if the person so ordered shall not depart from such town within the time appointed as aforesaid, or having so departed shall voluntarily return thither without leave first obtained from the town council for so doing, such person shall be fined by the town council not exceeding seven dollars, to and for the use of said town; and in default of paying the same at the time appointed by the said town council, shall be committed to the work-house, bridewell or asylum, if any there be in that town, to be there kept in close confinement, or to labor; or the town council may bind out such person to service to any citizen of the United States, for any term of time not exceeding one year.

SEC. 20. Whenever the town council of any town shall adjudge any person residing therein to be of bad fame and reputation, or to be an unsuitable person to become an inhabitant of such town, and shall order him to be removed therefrom, such person shall not by his thereafter acquiring or becoming seized or possessed of any real estate in such town, gain any settlement in such town.

SEC. 21. Before any town council shall make an order of removal or an order to depart under the thirteenth or nineteenth sections of this act, they shall cause the persons against whom such order is to be made, to have notice that the overseer or overseers of the poor of such town have made such complaint against him, with intent to obtain such order; which notice shall be served by the town sergeant or any constable of such town, by reading the same in the presence and hearing of such person, or by leaving a true and attested copy thereof at his usual place of abode; and such person shall have a right to be heard, and to have his allegations and his testimony weighed by such council, before any order be made against him.

*An Act relating to Theatrical Exhibitions and Places of Amusement.*

## SECTION

1. Town councils may license theatrical performances, &c.
2. When licensed, to be subject to regulations of the council.
3. Penalty for allowing exhibition or performing without license.
4. Sum demanded for license.
5. Tax on billiard table—bowling alley.

## SECTION

6. Bowling alley prohibited in compact part of town.
7. Town council may suppress bowling alleys and billiard tables.
8. Owner, &c., of premises where bowling alley, &c., is situated, deemed the keeper.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The town councils of the several towns are hereby authorized and empowered to license, regulate, and as they shall find expedient, prohibit and suppress theatrical performances, rope and wire dancing, and all other shows and performances in their respective towns.

SEC. 2. When any such exhibition shall be licensed by the town council of any town, it shall be subject to such regulations and restrictions as shall be prescribed by said town council; who are hereby authorized to appoint constables or other proper officers, at the expense of the licensed person, whose duty it shall be to prevent riots, and all disorderly behavior, and to execute the orders of said council.

SEC. 3. If any person shall allow any such exhibition without license, in any house or room to him belonging, or under his control, he shall forfeit and pay as a fine the sum of fifty dollars; and every person acting or performing in any such exhibition without license, shall forfeit and pay as a fine for every such offence the sum of two hundred dollars. The fines in this section mentioned, may be recovered by indictment, in any court of competent jurisdiction; the one half thereof to and for the use of the complainant, and the other half, to and for the use of the state.

SEC. 4. It shall be the duty of said town councils to demand and receive of every person licensed by virtue of the preceding sections of this act, a sum not exceeding one hundred dollars, nor less than one dollar, for each license; the one half of the sum so received to be paid into the town treasury of the town in which such exhibition shall be licensed, for the use of the town, and the other half thereof to the general treasurer for the use of the state.

SEC. 5. The town council of each town are authorized and required to assess, levy and collect a tax, not exceeding two hundred dollars, nor less than twenty-five dollars, per an-

num, on any person who shall own or keep a billiard-table in such town, for each billiard-table by him kept ; and a tax not exceeding twenty-five dollars, nor less than five dollars, per annum, on any person who shall own or keep a bowling-alley in such town, for each bowling-alley by him kept ; or on any person who shall own or occupy the house or building in which said billiard-table or bowling-alley shall be kept ; which taxes shall be collected in the manner prescribed for the collection of town taxes ; and appropriated, the one half thereof to and for the use of the town in which such tax shall be collected, and the other half to and for the use of the state.

SEC. 6. No bowling-alley shall hereafter be kept in the compact part of any town, under a penalty of two hundred dollars for the first, and five hundred dollars for the second offence ; to be recovered to and for the use of the state, by indictment in any court proper to try the same. And the town council of each town is hereby authorized and directed to define the limits of the compact part of such town ; which limits shall be taken and deemed, to all intents under this act, to comprehend the compact part of such town.

SEC. 7. The town council of each town are hereby authorized and empowered to regulate, and as they find expedient, prohibit and suppress, bowling-alleys and billiard-tables in their respective towns, and in any place therein ; and the keeper of any bowling-alley or billiard-table who shall refuse or neglect to comply with any order or decree of the town council herein authorized, shall forfeit and pay as a fine for each offence the sum of fifty dollars ; to be recovered by indictment to and for the use of the state, in any court proper to try the same.

SEC. 8. The owner or occupier of the premises on which any bowling-alley or billiard-table is situated, shall be deemed and taken as the keeper of such bowling-alley or billiard-table, within the meaning of the two preceding sections of this act.

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*An Act to prevent Drunkenness.*

**SECTION**

1. Town councils to prohibit the sales of liquor to drunkards, by posting them.
2. Common drunkards may be posted in

**SECTION**

- towns adjoining those where they live.
3. Penalty for selling liquor to persons posted.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The town council of every town, upon complaint unto them made, and satisfactory evidence produced

thereon that any person belonging to and dwelling within the limits of such town doth practice the odious and destructive vice of drunkenness, may order prohibitions to be posted in such and so many places within said town as to them shall seem needful, forbidding all retailers of strong liquors, as well as others, from selling or furnishing any kind of strong liquor, directly or indirectly, to such person.

SEC. 2. Every town council, after they shall have posted any person as a common drunkard, as above provided, may notify the town councils of the adjoining towns, who upon such notification are required to post the same in some convenient place or places in their respective towns.

SEC. 3. Every person who shall sell or furnish any strong liquor to any person posted as aforesaid, within the town in which he shall be so posted, and shall be duly convicted thereof before any justice of the peace of such town, shall pay as a fine, to and for the use of the town in which such offence shall be committed, the sum of four dollars for the first offence, and for every offence afterwards the sum of eight dollars; and the person so convicted shall also pay costs.

*An Act regulating Proceedings in Cases of Bastardy.*

SECTION

1. Upon complaint of overseers, on the examination of an unmarried woman, warrant to issue—how directed and served—proceedings on the same—accused to give recognizance to appear at future time.
2. Recognizance to be certified by the justice taking it to the town clerk to be by him kept. Duty of town clerk in relation to it.
3. On the birth of the child, mother to be examined and warrant to issue against the person charged as the father.
4. Order to be made against such person for the support of child, if mother shall repeat the accusation, and he can offer no reason that he is innocent.
5. Appeal granted from such order to court of common pleas.
6. Trial in court of common pleas to be by jury; judgment final; supreme court may grant a new trial in such cases.

SECTION

7. If defendant be found guilty by the court of common pleas, the court may confirm the order of the justices in whole or in part; if not guilty, to have his costs. Overseers may appeal in certain cases.
8. Accused living out of the county, warrant by whom to be issued, and proceedings on same.
9. Proceedings in case accused does not appear at town clerk's office in pursuance of his recognizance.
10. Form of order for the maintenance of a bastard child.
11. Town council may bind out person committed to jail, for not performing an order for maintenance of bastard child. Wages how applied.
12. Child dying, justices to ascertain expenses; to be collected by their warrant; appeal granted.
13. Form of order where child is still-born.
14. Security to indemnify town, to be accepted.

*It is enacted by the General Assembly, as follows:*

SECTION 1. Upon the examination of any unmarried woman, taken on oath in writing, in consequence of a com-



plaint made under the hand of one or more of the overseers of the poor of the town where such unmarried woman shall reside or belong, that she is with child, it shall be lawful for any justice of the peace of such town to issue a warrant or summons against the person whom she shall charge with being the father of said child; which warrant or summons, in case the person so charged shall be in any town in the county in which such unmarried woman shall reside, shall be directed to the sheriff of said county, his deputy, or to any town sergeant or constable of said county; and when the party accused shall appear before any such justice of the peace, if he can offer no satisfactory reason that he is innocent, he shall enter into a recognizance with one or more sureties, at the discretion of such justice of the peace, to appear before said justice or some other justice of the peace of said town, at the town clerk's office of said town, at some future day, which said justice of the peace issuing said summons or warrant may think proper, and to abide the order of said justice's court thereon; and if the accused person shall refuse to enter into such recognizance, the said justice of the peace shall cause him to be committed to the jail in said county, there to remain until he shall be by due course of law discharged therefrom.

SEC. 2. When the accused person shall enter into a recognizance as aforesaid, to the satisfaction of said justice of the peace, said justice shall certify said recognizance to the town clerk of said town, and said clerk shall file the same with the papers of his said office; and shall procure some justice of the peace of said town to attend at his said office at the time appointed in said recognizance for the appearance of the person accused, to take jurisdiction of said recognizance; and if the woman be not then delivered, said justice of the peace may order a continuance of the recognizance to some further reasonable time, and so on from time to time, until the woman shall be delivered, to the end that an order may be made.

SEC. 3. After any bastard child shall be born, whether such child be born alive or still-born, or being born alive shall die before an order be made, and no examination had before the birth of such child, it shall be the duty of any two or more justices of the peace of the town where such child shall be born, or of the town which shall be liable to support such bastard child, upon the complaint of any overseer of the poor of either of such towns, and upon the examination of the woman by them taken on oath, to issue a warrant against the person whom the mother of the child shall charge on oath with begetting such child; or in case the mother before the

birth of such child shall have charged any person upon oath, as provided in the first section of this act with begetting the same, then upon the birth of such child, a warrant shall be issued in like manner against the person so accused, which warrant shall be directed and served as is herein before directed.

SEC. 4. When the accused person shall appear before the justices' court, if the woman, on being examined anew on oath, shall continue constant in her accusation, and no plea or proof be produced to satisfy the justices of the peace who shall have taken cognizance of the case that he is innocent, they shall judge him to be the putative or reputed father of the child, and make an order for its maintenance, if living, or if dead, for payment of the expenses incurred before and at its death and interment.

SEC. 5. If the person accused shall be dissatisfied with the order, he may appeal therefrom to the court of common pleas at the term thereof next to be holden in the county in which such child shall have been born, upon paying down the costs which shall have accrued, and entering into a recognizance with one or more sureties, at the discretion of such justices of the peace, for his appearance before the court appealed to, and abiding by such order as shall be made by said court in the premises; and in default of such order to be then made and taken by said court of common pleas, to perform the order already made. But if he shall not crave an appeal, the justices who shall have issued the warrant are empowered and directed to cause him to be committed to the jail in their county, there to remain until released by due order of law, if he shall neglect or refuse to give bond with surety or sureties to their satisfaction to perform their order; and the woman mentioned in the complaint of the overseer or overseers of the poor as aforesaid shall be a competent witness in the trial of the cause, either before the justices' court or before the court of common pleas, unless otherwise disqualified as a witness.

SEC. 6. The trial of the cause in the court of common pleas shall be by jury; and the issue to the jury shall be whether the defendant or person accused be guilty or not guilty. The verdict of the jury and the judgment and order of the court thereon shall be final and conclusive. But the supreme court, on the application of the overseer or overseers of the poor of the town in which such complaint originated, or of the person accused, may grant a new trial in such case for such causes and under such rules as new trials are granted in civil cases; and written depositions taken according to

the law regulating the taking of depositions in civil cases, may be used in the trial of any such case before the justices' court or before the court of common pleas.

SEC. 7. If on the trial in the court of common pleas the jury shall find the defendant guilty, or if he before said court shall admit the complaint to be true, said court of common pleas may confirm the order made by the justices of the peace, or may alter or amend the same as they may think just; but shall not quash or reverse it for any defect or want of form. But if the defendant be found not guilty by verdict of the jury or the judgment of the justices' court, he shall be discharged, and recover his costs against the overseer of the poor of the town in which such complaint originated; unless the overseer of the poor of such town shall crave an appeal from the judgment of said justices' court to the next term of the court of common pleas in said county; in which case said overseer shall be entitled to said appeal on filing reasons of appeal as in civil cases; but no further appeal shall be had.

SEC. 8. If the person accused doth not live in the county where complaint shall be made, before or after the birth of said bastard child as aforesaid, or is not there to be found, it shall be lawful for any two justices of the peace of the town where complaint shall be made as aforesaid, having first examined the mother of such child upon oath, to issue a warrant directed to the sheriff or his deputy, or to any town sergeant or constable of the county, in which the accused person resides or may be found, to apprehend the said person and him bring to the town where such complaint shall be made. And when he appears, the justices who shall have granted the warrant as aforesaid shall order him into the custody of the sheriff or his deputy of said county, or any town sergeant or constable of said town. And said justices are hereby fully empowered to take cognizance of the cause, and proceed therein in the manner directed in this act, in case the accused person resides in the county in which the complaint was made; with the same powers and forms, whether on complaint that any unmarried woman shall be with child of a bastard child, or such child be born alive or be still-born, or being born alive shall die before an order be made, and no examination be had before the birth of such child.

SEC. 9. If the accused person shall neglect to appear in pursuance of his recognizance given before the justice of the peace before the birth of the child, the justice of the peace who shall take cognizance of the recognizance after the birth of said child shall default his recognizance and proceed to

make an order against him, in conjunction with some other justice of the peace of said town, with the same effect and in the same manner as though a trial had been had before them and he had been adjudged by them to be the putative or reputed father of said child; and the surety or sureties on such recognizance after such default, as well as the principal, shall be holden to the performance of such order to the amount of such recognizance. And the said justices of the peace shall certify said recognizance and order, with all the other papers in the case, to the next term of the court of common pleas for the county in which such complaint was made; and the court in such case may from time to time issue execution thereon against the principal and his surety or sureties for any sums due on such order, for which they may be liable as aforesaid.

SEC. 10. The order to be made for the maintenance of a bastard child shall be in substance of the following form, to wit:

Whereas due proof has been made before us                      and  
 Esquires, inhabiting in the town of                      in the county  
 of                      upon the oath of                      of                      mother of a  
 bastard child, born the                      day of                      in the town afore-  
 said, that                      of                      did beget the said bastard child,  
 which child is likely to become chargeable to the said town  
 of                      . We the said                      upon examination of the said  
 and the cause and circumstances of the premises, do  
 adjudge the said                      to be the putative father of said bas-  
 tard child; and thereupon do order, as well for the relief of  
 said town of                      as for keeping and maintaining of said  
 child, that the said                      shall forthwith, upon sight of this our  
 order, pay or cause to be paid to the overseers of the poor of  
 the said town for the time being, the sum of                      for the first  
 four weeks from the birth of said child, for defraying the  
 charge of the lying in of the said                      ; and after the expira-  
 tion of the said four weeks the said                      shall likewise pay  
 or cause to be paid to the overseers of the poor of the town  
 aforesaid, weekly and every week, the sum of                      for and  
 towards the maintenance of said bastard child, for so long  
 time as the said child shall be chargeable to the said town;  
 and further, we do hereby order, that the said                      shall,  
 every week, for so long time as the said child shall be charge-  
 able as aforesaid, she not keeping the same, pay or cause to  
 be paid unto the overseers of the poor of the town of  
 aforesaid for the time being, the sum of                      for and towards

the maintenance of said child ; lastly, we order that the said do upon notice of this our order give sufficient security to the overseers of the poor of the town of afore-said, for the performance of this our order. In witness whereof, we have hereunto set our hands and seals this day of

And whereas it sometimes happens that the persons charged as the reputed or putative fathers of bastard children with the maintenance thereof are of little or no estate, and are committed to jail for non-performance of orders made against them, or for not giving security to perform the same, and make the towns liable with their support in jail : therefore,

SEC. 11. When and so often as any man shall stand committed to jail for the non-performance of any final adjudication and order in bastardy made up against him, the town council for the time being, wherein such order originated, shall and may bind out and give and take indentures of servitude of such prisoner, for such length of time and for such wages or sum as the town council shall think convenient and requisite ; which indenture shall be signed and sealed by the town clerk in behalf of the council ; and so much of the wages or money arising from such service as shall be necessary to fulfil the order and all incidental charges shall be so applied, and the residue, if any there be, shall remain to and for the use of the person so charged.

SEC. 12. In case such bastard child shall die or cease to be chargeable to the town in which such child belongs, the justices or other authority empowered by this act shall make a just estimate of all reasonable expenses that ought to be paid by the person bound, and are fully empowered to issue a warrant for collecting the same ; but in case the person against whom such order shall be made shall be dissatisfied with such estimate, he may appeal to the court of common pleas next to be holden in the county wherein such town lies ; which court is empowered to hear and finally determine between the parties.

SEC. 13. In all cases where complaint has been made and substantiated to the authority aforesaid, after the birth of a bastard still-born child as aforesaid, the words in the form of the order prescribed by this act shall be varied as follows, to wit : after the words " and thereupon do order, as well for the relief of the said town of " the following words shall be inserted, instead of these " as for keeping and maintaining of said child," to wit : as for paying the necessary charges

which have accrued, for the expenses and trouble which have arisen, for rendering comfort and subsistence to the mother of such still-born child, and of decently interring the same, that the said                    shall forthwith upon sight of this order, pay or cause to be paid to the overseers of the poor of said town for the time being, the sum of                    in satisfaction for the expense and trouble aforesaid ;” all the other parts of which order in such case shall be of the form of the order above recited.

SEC. 14. If sufficient security shall be proffered to the overseers of the poor in any case of complaint aforesaid under this act, and to their satisfaction, to indemnify such town for the support of such child, it shall be the duty of such overseers to accept such security.

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*An Act in relation to Firemen and Fire Companies.*

## SECTION

1. Firemen exempt from military duty after ten years service, except during war.
2. Clerks of companies to make return of members.

## SECTION

3. Penalty for neglect.
4. To make return of the number exempted from military duty.
5. Justices of the peace may take cognizance of breaches of by-laws.

*It is enacted by the General Assembly, as follows :*

SECTION 1. All firemen who are by law exempted from military duty while serving as firemen, shall be forever exempted from military duty except in time of war, provided they shall serve in said capacity ten years in succession after they arrive at the age of twenty-one years.

SEC. 2. The clerk of every incorporated fire engine, hook and ladder, stationary engine and hydraulion company, shall, within ten days after the annual election of the officers thereof in every year, make return to the town clerk of the town in which any member of such company may reside, of the names of all the members of such company, and of all the members who are exempted from military duty and from serving as jurors, who are resident in such town.

SEC. 3. If the clerk of any such company shall neglect or refuse to make such return within the time aforesaid, he shall forfeit the sum of twenty dollars ; to be recovered before any justice of the peace in such town in an action of debt ; the one half to and for the use of the person who shall sue for the same, and the other half to and for the use of said town.

SEC. 4. Whenever the general assembly hath heretofore

or shall hereafter exempt from military duty or from serving as jurors any portion of the members of any such company, elected by any village, district or town, it shall be the duty of the clerk of every such company annually, and within ten days after his election, to return to the town clerk of the town in which any member of such company may reside, a list of the names of such members as are or shall be so exempted and resident in such town.

SEC. 5. Every justice of the peace, unless where special provision be made to the contrary, in any town in which is any fire engine, hook and ladder, stationary engine or hydraulion company, the members of which are chosen by such town, or by any village or district or incorporated company within it, is fully authorized and empowered to take cognizance of any breach of any by-law or act that is or shall be lawfully made by such town, district, village or corporation, relating to the management of said engine or apparatus within the town in which such justice lives; to make up judgment pursuant to the same, and award execution for all penalties incurred thereby. Any person who shall think himself aggrieved at any such judgment may appeal therefrom to the next court of common pleas in the same county, observing the same rules as in other cases of appeal.

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*An Act in relation to the Discharge of Fire-Arms, and the firing and selling of Fire-Works.*

## SECTION

1. Forfeiture for firing guns loaded with ball or shot across road, street, &c.
2. Forfeiture for making bonfire in public street, &c.
3. Forfeiture for firing musket, &c., in Providence—in certain other towns and places.

## SECTION

4. Forfeiture for selling fire works without license—or using the same.
5. Forfeiture for firing gun, &c., between sunset and sunrise.
6. Forfeitures, how recovered and appropriated.

*It is enacted by the General Assembly, as follows:*

SECTION 1. If any person shall fire any rifle, gun, musket, blunderbuss or pistol, loaded with a bullet or shot, in or across any road, street, square or lane, he shall forfeit and pay not less than three dollars nor more than ten dollars.

SEC. 2. If any person shall make a bonfire in any public street, road, square or lane, without special permission from the town council of the town in which the same shall be made, he shall forfeit a sum not exceeding ten dollars.

SEC. 3. If any person shall fire any musket, rifle, fowling-piece, blunderbuss or other small arms, not being at the time under military duty, within the following limits, viz: the whole city of Providence excepting the public waters and the public rivers therein; also such parts of the towns of Cranston and Johnston as are contained within the following limits, to wit: beginning on the Pawtuxet road, at the Providence line; thence running southerly on said Pawtuxet road until it comes to the cross road leading to Cranston road; thence northerly and westerly with said cross road and Cranston road until it comes to the road which leads over Rocky-hill to Johnston meeting-house; thence northerly with said last mentioned road until it meets the Johnston road near Johnston meeting-house; thence easterly with said Johnston road until it comes to the line of Providence, to the place of beginning; also within one mile upon land from the State-house in the town of Bristol; and the whole town of North-Providence; except upon land owned or occupied by him, or except on other days than the first day of the week, by permission of the owner or occupant of the land on and into which he may shoot, he shall forfeit and pay the sum of five dollars for the first offence, and ten dollars for every subsequent offence.

SEC. 4. If any person shall sell, offer for sale, enkindle or use, or suffer to be sold, offered for sale, enkindled or used, by his wife, children or servants or other persons whomsoever, any rocket, cracker, squib or other fire-works of a combustible nature ordinarily used for exhibition or amusement, unless he shall previously obtain special license from the town council of the town, and for the purpose of exhibition on a suitable occasion, he shall forfeit and pay the sum of ten dollars for each offence.

SEC. 5. If any person shall fire any gun, rifle, musket or blunderbuss in any road, street, lane or tavern, or other public house, after sun-setting and before sun-rising, he shall forfeit the sum of five dollars for the first offence, and seven dollars for every subsequent offence.

SEC. 6. All forfeitures accruing under this act shall be recovered by action of debt before any justice of the peace in the town where they shall be incurred; one half thereof to and for the use of the state, and the other half to and for the use of the person who shall sue for the same. But no such action shall be sustained unless commenced within thirty days from the time the same shall accrue.



*An Act concerning Dogs.*

## SECTION

1. Town councils authorized to make laws concerning dogs.
2. Town councils authorized to impose a tax on the owners of dogs.

## SECTION

3. Owners of dogs to be liable for damages done by them to sheep or cattle. On second judgment, dog to be killed.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The city council of the city of Providence, and the town councils of the several towns, are severally empowered to make such laws concerning dogs in their respective towns as they shall deem expedient ; to be enforced by the destruction of the animal, or by pecuniary penalties not exceeding five dollars, to be recovered by action of debt, to such use as said city council or town council in their respective towns may prescribe.

SEC. 2. The town councils of the several towns are authorized to impose such yearly tax upon every person in their respective towns who shall own or keep any dog, for every dog owned or kept, as they shall judge proper ; and also to make such laws to prevent damage being done to flocks of sheep and cattle as they may deem necessary.

SEC. 3. When any person shall have any sheep or cattle worried, torn or killed by any dog, he shall recover his damages against the owner of such dog, in an action on the case, with costs of suit ; and if afterwards any damage be done by such dog to any sheep or cattle, the owner of such dog shall pay to the party aggrieved double the damages ; to be recovered in like manner as aforesaid, with costs ; and an order shall be made by the court before whom such second recovery shall be had, for killing such dog, and the same shall be done accordingly by the officer who shall be charged therewith.

*An Act regulating Fences.*

## SECTION

1. What is a lawful fence.
2. Partition fence to be kept up through the year.
3. Between improved lands to be maintained equally—between lands part improved, &c., how maintained.
4. Proprietor neglecting to repair, complaint may be made to fence viewer—proceedings on complaint.
5. Water fence when to be kept up.

## SECTION

6. Disputes [about rights in fence, &c., settled by fence viewer.
7. Partition fence by agreement, how maintained—agreement to be recorded.
8. Party making more than his share, how compensated.
9. Penalty on fence viewer for neglect.
10. Fees of fence viewer.
11. Marsh land not included in the act.
12. Cattle not to run on marsh.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The fences herein after described are and shall be adjudged to be lawful fences, to wit : a hedge with a ditch shall be three feet high upon the bank of the ditch, well staked, at the distance of two feet and an half, bound together at the top, and sufficiently filled to prevent small stock from creeping through ; and the bank of the ditch shall not be less than one foot above the surface of the ground. A hedge without a ditch shall be four feet high, staked, bound and filled, as a hedge with a ditch. Post and rail fence on the bank of a ditch shall be four rails high, each well set in posts, and not less than four feet and an half high. A stone wall fence shall be four feet high with a flat stone hanging over the top thereof, or a good rail or pole thereon, well staked or secured with crotches or posts ; and a stone wall without such flat stones, rails or posts on the top shall be four feet and a half high ; and all other kinds of fences not herein particularly described shall be four feet and a half high.

SEC. 2. All partition fences shall run on the dividing line ; and the owners shall have the right to place one half of the width thereof on the land of each adjoining proprietor. Such fences shall be kept up and maintained in good order through the year, unless the parties concerned shall otherwise agree.

SEC. 3. Partition fences between lands under improvement shall be made and maintained in equal halves in length and quality by the proprietors or possessors of such lands respectively. In case any proprietor of land shall improve his land, the land adjoining being unimproved, and shall make the whole partition fence, the proprietor or possessor of the land adjoining and unimproved shall, upon improvement thereof, pay for one half of such partition fence, according to the value thereof at that time ; and shall keep up and maintain the same ever afterwards, whether he shall continue to improve such land or not.

SEC. 4. When any proprietor or possessor of land shall neglect or refuse to repair or re-build any partition fence, or shall withdraw his fence from any division line, the aggrieved party may complain to any fence viewer of such town ; who after due notice to such party shall attend and view the same ; and if he shall find said complaint to be true, he shall in writing require the delinquent party to repair or re-build the same within such time as he shall therein appoint, not exceeding fifteen days. If such order shall not be complied with, the complainant may repair or re-build the same in the manner set forth in said order, and when the same shall be com-

pleted to the satisfaction of such fence viewer, he shall ascertain the costs thereof and give a certificate of the same, including also his fees, to the complainant, who may demand of the party delinquent double the sum in said certificate mentioned. If the same be not paid within one month after demand thereof, the complainant may recover the same in an action on the case for money laid out and expended, with interest at the rate of twelve per cent. per annum.

SEC. 5. Whenever any two persons' lands shall lie together adjoining the water, and each under improvement, the proprietors or possessors thereof shall make and maintain a sufficient water fence to prevent trespass of each others' cattle, in the same manner as other partition fences are directed to be made by this act.

SEC. 6. When any controversy shall arise about the rights of the respective occupants in partition fences and their obligation to maintain the same, either party may apply to a fence viewer of the town where the lands lie; who, after due notice to each party, may, in writing, assign to each his share thereof, and direct the time within which each party shall erect or repair his share of the same; which assignment being recorded in the town clerk's office, shall be binding upon the parties and all succeeding owners and occupants of the lands, and they shall be obliged always thereafter to maintain their respective shares of said fence.

SEC. 7. In all cases where partition fences are erected as one half part of the partition fence between proprietors or possessors of adjoining lands, or where the same may be hereafter erected by the agreement of the parties in interest or other lawful manner, the proprietors of the fences in either of the said cases erected, their heirs or assigns, shall hold and improve the same without molestation; and shall be forever afterwards excused from making other fence on such dividing line in all cases whatever, except by the special agreement of such parties to the contrary; all agreements which shall be made hereafter relating to such partition fences shall be registered in the town clerk's office in the town where such lands shall lie.

SEC. 8. Where the whole or more than one half of any partition fence hath been or shall be made by the proprietor or possessor of the land on one side of the same, the proprietor or possessor of the land adjoining, shall pay to the proprietor or possessor who made such fence where he improves the land adjoining, the value of so much of the fence erected as aforesaid as the same may exceed one half of the fence on

the whole line ; and in case of his refusal so to do, the value shall be ascertained by any one fence viewer of the town where such land is situated, on application to him for that purpose ; which fence viewer on such application, shall forthwith cite the parties in interest on such dividing line, at a convenient time, to view the fence ; shall ascertain the value of the whole, and award the one half of such sum against the proprietor or possessor so refusing, with cost, and divide the whole fence between such parties and make report into the town clerk's office, which division shall be permanent ; and if any person against whom report shall be made as aforesaid shall refuse to pay the sum so reported, said sum with cost shall be recovered by the party aggrieved, against such person, by action of debt before any court proper to try the same.

SEC. 9. If any fence viewer to whom complaint shall be made against any person for a breach of this act shall neglect or refuse to do the duty by this act enjoined on him to do, such fence viewer so refusing shall forfeit and pay five dollars for every such neglect ; to be recovered by any person who shall sue for the same, before any justice of the peace in the town where such fence viewer shall live.

SEC. 10. Every fence viewer shall be allowed one dollar and a half per day, and in proportion for half a day, or for any less time, for viewing any fence, on complaint made to him for that purpose ; which fees shall be paid in the first instance, by the person complaining to him ; and in case there shall appear to be good cause of complaint, may be by him recovered back of the party complained against.

SEC. 11. All tracts of marsh land so situated and exposed to the flow and wash of the sea as to render it impracticable for the several owners thereof to keep up partition fences around their respective shares or lots, shall be exempted from the operation of this act.

SEC. 12. If any person shall permit any cattle, sheep, horses or hogs to him belonging to run upon any such tract of marsh land, the owner of such marsh land shall, for every such trespass, have all the remedies provided in other cases by the act entitled " an act for impounding certain animals in certain cases, and for recovering damages that shall be done by them."

*An Act establishing Pounds.*

Each town to maintain a pound—penalty for neglect.

*It is enacted by the General Assembly, as follows:*

Each town shall erect and maintain at its own charge, one or more public pounds, for the impounding of horses, mules, neat cattle, sheep, goats, hogs and asses, and for the securing of such animals agreeably to law, in some convenient place or places in such town, on the penalty of forfeiting the sum of thirty dollars for such neglect, to and for the use of the state.

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*An Act for Impounding certain Animals in certain cases, and for recovering damages that shall be done by them.*

## SECTION

1. Cattle breaking through lawful fence may be impounded—or owner may be sued for the damage done.
2. Damages to be appraised.
3. Pound keeper shall give notice to owner—post up notice in case.
4. Cattle may be sold at auction unless damages are paid, &c.
5. Proceeds to be paid into the town treasury.
6. Pound keeper to feed the beasts.
7. Keeper's fees.
8. Person impounding may have his action for damages.
9. Owners may replevy.

## SECTION

10. Method of replevying.
11. Same subject.
12. Judgment in replevin—how entered, &c.
13. When beasts are returned, irrepleviable.
14. Plaintiff to have judgment in case, &c.
15. Appeal given.
16. Cause may be removed to court of common pleas, &c.
17. Before person aggrieved proceeds by action, he shall have the damages appraised.
18. Cattle breaking through unlawful division fence, owner of fence liable.

*It is enacted by the General Assembly, as follows:*

SECTION 1. If any neat cattle, horses, sheep or hogs shall break through a lawful fence into the enclosure of any person, the person aggrieved thereby may recover his damages either by action against the owner of the trespassing beasts, or by impounding such beasts.

SEC. 2. The party aggrieved, in order to be entitled to recover damages, either by action or impounding, shall within two days after such beasts break into his enclosure get two freeholders of the town wherein the trespass is committed, to appraise the damage, and give a statement thereof in writing, under their hands, and shall lodge the same with the pound keeper.

SEC. 3. When beasts are impounded the pound keeper shall within forty-eight hours thereafter give notice thereof in writing to the owner, if the owner shall be known to him and

resides within six miles from the pound ; which notice shall be delivered to the owner or left at his place of abode, and shall contain a description of the beasts and a statement of the time and cause of impounding ; and in case the owner shall not be so known or resides more than six miles from the pound, the person impounding shall post up such notice in three public places in the town in which the beasts are impounded.

SEC. 4. If the owner of such beasts impounded as aforesaid shall not within ten days after the impounding thereof pay and satisfy the damages appraised as aforesaid, and the charges of impounding and feeding said beasts, or shall not replevy the same, the pound keeper shall cause them to be sold at vendue in the town where they are impounded ; first advertising the sale by giving personal notice to the owner of said beasts if he is known, and if he is not known, by posting notices of such sale, at least three days before said sale, in three public places in the town in which said beasts are impounded.

SEC. 5. The proceeds of sale, after paying all the said damages, costs and expenses, with the costs of advertising and selling the beasts, shall be paid into the town treasury for the use of the owner of said beasts, if he shall substantiate his claim thereto within two years from the sale.

SEC. 6. The pound keeper shall feed such beasts so impounded at the charge of the owner thereof ; and he shall not deliver them to the owner until the owner pays him his fees, together with the sum demanded for damages, and all other legal costs and expenses.

SEC. 7. The pound keeper shall be allowed as his fee for impounding, for each neat beast or horse, four cents ; for each hog or sheep, two cents ; and for each notification set up or notice given to the owner, twenty-five cents ; and four cents per mile for travel in giving personal notice, to be computed from the pound to the place of service.

SEC. 8. If the owner of such beasts so impounded shall within two days after they are impounded demand of and receive from the pound keeper such beasts, and pay him his charges, and the person impounding has not lodged with the pound keeper a statement of damages, he may have his action at law for such damages, provided, he shall perform all the requisitions and proceedings mentioned in the second section of this act.

SEC. 9. Any person whose beasts are impounded, may if he see cause maintain a writ of replevin therefor, to be sued

out and prosecuted before any justice of the peace in the town where they were impounded.

SEC. 10. The writ shall be sued out, served and returned, and the cause shall be heard and determined, in like manner as other civil actions before a justice of the peace, in all particulars in which a different course is not prescribed.

SEC. 11. The writ shall not be served unless the plaintiff or some one in his behalf, shall execute and deliver to the officer a bond to the defendant, with sufficient sureties, to be approved by the officer, in a penalty double the value of the beasts to be replevied, with condition to prosecute the replevin to final judgment, and to pay such damages and costs as the defendant shall recover against him, and also to return the said beasts in case such shall be the final judgment; which bond the officer shall return with the writ to be left with the justice for the use of the defendant.

SEC. 12. If it shall appear that the beasts were lawfully impounded, the defendant shall have judgment for such sum as shall be found due from the plaintiff for the damages for which the beasts were impounded, together with all the legal fees, costs, charges and expenses, and the costs of the action of replevin; or instead of such judgment the justice may in his discretion enter judgment for a return of the beasts to the defendant, to be held by him irrepleviable by the plaintiff, and for the defendant's damages for the taking thereof by the replevin and for his costs of suit. In case the plaintiff in replevin shall not enter his suit in replevin, the defendant may file his complaint before the justice and have judgment against the plaintiff as afore provided.

SEC. 13. When the beasts are returned to the defendant pursuant to such judgment, they shall be held and disposed of in like manner as if they had not been replevied.

SEC. 14. If it shall appear upon the default of the defendant or otherwise, that the beasts were taken without sufficient or justifiable cause, the plaintiff shall have judgment for his damages caused by the unjust taking and detaining of the beasts, and for his costs of suit.

SEC. 15. Either party may appeal from the final judgment of the justice, as in other civil actions tried before a justice of the peace.

SEC. 16. When the sum demanded for damages exceeds twenty dollars, or when the property in the beasts is in question, and their value exceeds that sum, or when title to real estate is brought in question, the case shall, at the request of either party, be transferred to the court of common pleas in

the same county, and be there disposed of in like manner as civil actions before justices of the peace are disposed of, where title to real estate is brought in question by the pleadings.

SEC. 17. If the aggrieved person shall proceed by action against the owner or keeper of the trespassing beasts, he shall get two disinterested inhabitants of the same town wherein the trespass was committed to appraise the damages, and to give him a memorandum thereof in writing under their hands, which certificate shall be attached to his writ, and shall make an essential part thereof; and under no circumstances shall he recover of the defendant in such action a greater amount of damages than the amount named in such certificate.

SEC. 18. Nothing in this act contained shall be construed to impair the right of any proprietor or occupant of land to recover all the damages which he shall sustain by any cattle, sheep, horses or hogs breaking into his land, through that part of the division fence between him and the adjoining owner, which it is the right and duty of such adjoining owner to repair, if such part of said division fence shall at the time be out of repair or not conformable to law.

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*An Act to prevent certain Animals from going at large.*

## SECTION

1. Horses, neat cattle, &c., found at large, may be impounded.
2. Pound keeper to receive and feed them.
3. Owner shall not reclaim until keeper's fees are paid—fees of keeper—penalties.
4. Penalties how appropriated.
5. Pound keeper to set up notifications—

## SECTION

- if no owner appear, &c., town treasurer may sell the animal—proceeds how appropriated.
6. Town may exempt itself or any part from operation of the act.
7. Town may extend it to goats and geese—keeper's fees in such case.
8. Former acts repealed.

*It is enacted by the General Assembly, as follows :*

SECTION 1. If any horse, neat cattle, sheep or hog shall be going at large in any highway or common, it shall be lawful for any freeholder or qualified elector of the town within which such animal is at large, to take up such animal and impound the same in one of the public pounds of said town.

SEC. 2. It shall be the duty of the keeper of any pound in which any animal shall be impounded, for the cause set forth in the preceding section, to receive, and keep and feed such animal in such pound; and he shall and may duly milk any cow so impounded for his own use.

SEC. 3. The owner of any animal so impounded shall



not have the same out of said pound, until he shall first pay to the pound-keeper the expenses of keeping such animal; no regard being had to the milk derived from the same; the pound-keeper's fees, to wit: for receiving the same into the pound, for each horse and neat-beast, four cents; and for each sheep and hog, two cents; for every notification set up or notice given to the owner, twenty-five cents; and the following penalties, to wit: for every horse, neat-beast and hog, fifty cents, and for every sheep, ten cents.

SEC. 4. The pound-keeper shall pay one half part of every sum received by him as a penalty, in pursuance of the preceding section, to the town treasurer of the town in which the pound is situated, and the other half to the person who impounded the animal.

SEC. 5. When any animal shall have continued in any pound for forty-eight hours, the pound-keeper shall, within forty-eight hours thereafter, set up notifications in at least three public places in the same town with said pound; one of which shall be at or near the office of the town clerk of such town, describing the natural and artificial marks, if any, on such animal, or shall give notice in writing to the owner of such animal; and if no owner shall appear within twenty days from the date of such notifications or notice, and pay the penalty and charges aforesaid, then the said pound-keeper shall deliver the said animal to the treasurer of such town, with a statement in writing of the time and manner in which the said animal was impounded, and of the proceedings of such pound-keeper in relation to the same; together with an account of the charges and expenses due from the owner of such animal to said pound-keeper by virtue of this act; and if said treasurer shall find the proceedings of said pound-keeper correct, he shall sell said animal at public auction, after giving reasonable notice of such sale; and shall, out of the proceeds of such sale, pay the incidental expenses of such sale, the cost of keeping such animal, after the same was delivered to him by the pound-keeper for sale, the expenses and charges aforesaid, the expenses and the penalty aforesaid, and in the order above, if the proceeds of the sale be not sufficient to pay the whole thereof.

SEC. 6. Any town may at a legal meeting pass a vote exempting itself or any part thereof from the operation of this act; after which this act, in such town or such part thereof, shall be of no effect; but the common law shall still remain in force.

SEC. 7. Any town may at any legal meeting pass a vote

extending the provisions of this act to goats and to geese going at large within its limits; and thereafter goats and geese going at large in such town or any part thereof, shall subject their owner to the same obligations and duties, and shall themselves be disposed of in the same way, as is in this act provided in relation to the animals therein named. In such case, the pound-keeper's fees for receiving goats shall be four cents each, and for receiving geese, two cents each; and the penalty shall be twenty cents for each goat, and five cents for each goose.

SEC. 8. From and after the time when this act goes into operation, all acts heretofore passed to prevent any animals from going at large in any town, or district or village, or any geese from so going at large; the act authorizing the town of Newport to pass laws restraining all kinds of domestic animals from going at large; an act entitled "an act to authorize the town of Newport to make all necessary rules and regulations to prevent hogs and cows from running at large in the streets, highways or commons in said town;" and all acts authorizing or permitting any town to pass any by-law, ordinance or regulation on the subject, are hereby repealed; except so far as relates to any suit then commenced, or any penalty then incurred.

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### *An Act relative to Estrays.*

**SECTION**

1. Horses, &c., found damage feasant, may be taken up as estrays if the owners are not known—notice thereof to be given to the town clerk in ten days.
2. Town clerk to set up notifications of the marks on such estray and advertise the same.
3. Estrays to be kept a year and a day, and if a horse, with a withe about his neck—owner to have it within that time on paying charges.
4. If no owner appear within a year and

**SECTION**

- a day finder to have it appraised, and to pay one half the appraisal to town clerk, and then convert to his own use.
5. Person taking up an estray and not proceeding according to this act, to forfeit five dollars.
6. Person taking up an estray may use it after notice to town clerk.
7. Town clerk to keep record of his proceedings—his fees stated.
8. This act to extend to no town where other provision is made by law.

*It is enacted by the General Assembly, as follows :*

SECTION 1. If any person shall find any horse, neat-beast, sheep or hog on his own land, damage feasant, not knowing to whom the same belongs, he may take up such animal as an estray, and within ten days thereafter he shall repair to the town clerk of the town in which the same was taken up and give notice thereof.

SEC. 2. The said town clerk shall thereupon cause to be made three notifications, attested under his hand, setting forth the natural and artificial marks of such animal ; one of which notifications he shall cause to be set up in the same town, and the other two in some public places in the two next towns in this state, and shall also cause such notifications to be published in one of the newspapers printed in the town nearest to that in which such estray shall be taken up.

SEC. 3. Any animal so strayed and taken up shall be kept by the person who took it up, one year and a day, and if it be a horse, to have a withe kept about his neck the whole of said time ; and any person laying just claim to such animal may, at any time within the year and a day, have the same again upon paying the just and reasonable charges of keeping, crying and notifying as aforesaid, over and above the actual benefit derived from the use of the same ; but in case any difference shall arise between the said parties about the charge of keeping such animal, the same shall be referred to three justices of the peace within said town, who are hereby directed and empowered to hear and determine the same, according to justice and equity, and to tax costs as in other cases ; which judgment shall be final.

SEC. 4. In case no owner shall appear within said year and a day, the person who took up said animal shall repair to the town clerk, taking with him two electors of the neighborhood, who shall be by the town clerk engaged to make a faithful and true appraisal of said animal ; and the person who took up said animal shall pay one half of the sum said animal shall be appraised at, after all just charges are deducted, into the hands of the town clerk, who shall give him a certificate from under his hand that he hath proceeded according to law with said animal ; whereupon the said person may convert the same to his own use.

SEC. 5. Any person taking up any such animal and not proceeding as is by this act required, shall forfeit and pay the sum of five dollars ; to be recovered before any justice of the peace in the town where the offence shall be committed, by action of debt ; one half thereof to and for the use of said town, the other half to and for the use of him who shall sue for the same.

SEC. 6. The person who shall take up any such animal may lawfully use the same during the year and day it may be in his possession, after he has given notice thereof to the town clerk, as required in the first section of this act.

SEC. 7. Each town clerk shall keep a fair record of all

his proceedings under this act; and shall pay all monies by him received for any such estrays, and for which no owner appears, into the town treasury, immediately on receipt thereof; and the town clerk shall be paid for every animal so cried, and for every advertisement posted up or printed as aforesaid, twelve cents; and if no owner appear, and it be appraised and he give a certificate as aforesaid, he shall have twenty-five cents therefor.

SEC. 8. This act shall not extend to any town where other provision on this subject is made by law.

*An Act concerning Crimes and Punishments.*

## SECTION

1. Treason against the state, by levying war, punished with imprisonment for life.
2. Misprison of treason against the state, by levying war, punished with imprisonment, not exceeding twenty, nor less than five years, or be fined not exceeding ten thousand dollars.
3. Two witnesses to the same overt act, or confession in open court, requisite to convict any person of treason against the state by levying war.
4. Town meetings not called and holden according to law, forbidden; the moderator and clerk of any such meeting to be fined not more than one thousand dollars, nor less than five hundred dollars, and imprisoned six months.
5. Punishment for consenting to accept any office to be obtained by election at any unlawful town meeting; fine not exceeding two thousand dollars, and imprisonment for one year.
6. Punishment for assuming the office of governor, &c., without due election, imprisonment for life.
7. Meetings described in fourth section, and all meetings of persons not authorized by law, as the general assembly, to be dispersed by civil posse or military force.
8. Supreme court alone authorized to try offences against preceding sections. Indictments may be found and tried in any county.
9. Complaints for any breach of foregoing sections to be allowed by the governor or attorney general, before warrants are to issue thereon from any justice of the peace. Persons adjudged probably guilty by a magistrate, to be imprisoned in any county.
10. Murder punished with death.
11. Manslaughter, with not exceeding twenty years imprisonment.

## SECTION

12. Robbery, with imprisonment not less than five years.
13. Rape, with imprisonment not less than ten years.
14. Putting out an eye, &c., with malice or with intent to disfigure, with imprisonment not more than ten years, nor less than one year.
15. Duelling, with imprisonment not more than seven years, nor less than one year.
16. Challenging to a duel and accepting a challenge, with imprisonment not more than seven years, nor less than one year.
17. Inhabitant of this state fighting a duel out of the state, and wounding a person that afterward dies in this state, guilty of murder.
18. Inhabitant of this state a second in any duel out of the state, and present when a mortal wound is inflicted, of which the person dies in this state, accessory before the fact to the crime of murder.
19. Former conviction or acquittal in state where duel fought, bar to proceedings in this state, under two next preceding sections
20. Poisoning food, &c., or wells, with intent to kill or injure any person, punished with imprisonment for life, or any term of years.
21. Threats to accuse a person of a crime, &c., to extort money, with imprisonment not more than two years, or fine not more than five hundred dollars.
22. Assault with intent to murder, &c., with imprisonment not more than twenty years, nor less than one year.
23. Mayhem, with imprisonment not more than five years, nor less than one year.
24. Assault and battery, with imprisonment not more than six months, or fine not more than one hundred dollars.

## SECTION

25. Carrying a person out of the state against his will and unlawfully, with imprisonment not more than ten years, nor less than one year.
26. Arson, with death, or imprisonment, not less than ten years.
27. Burning or destroying buildings, &c., other than dwelling houses, with imprisonment not more than ten years.
28. Burning or destroying stacks of grain, &c., with imprisonment not more than two years, or fine not more than one thousand dollars.
29. Burning property to defraud insurer, with imprisonment not more than ten years or less than two years.
30. Four preceding sections extended to married women, though property belong to their husbands.
31. Firing woods, punished with imprisonment not exceeding one year.
32. Burglary, with imprisonment not less than five years.
33. Breaking and entering a building, &c., not a dwelling house, with intent to steal, &c., with imprisonment not more than ten years.
34. Theft, with imprisonment not more than five years, or fine not more than one thousand dollars.
35. Receiving stolen goods, punished the same as theft.
36. Falsely personating another and receiving thereby goods, &c., punished the same as theft.
37. Obtaining goods, &c., by false pretences, punished same as theft.
38. Cutting out tongues, &c., of beasts or wilfully poisoning them, punished with imprisonment not exceeding two years, or fine not more than one thousand dollars.
39. Taking fruit, &c., clandestinely, destroying trees, &c., or injuring buildings or fences, with imprisonment not more than one year, or fine not exceeding two hundred dollars.
40. Drawing or robbing a fish-pot, with fine not exceeding twenty dollars.
41. Entering a house, &c., in the night or breaking a house, &c., in the day time with intent to murder, &c., with imprisonment not less than five years, or fine not less than five hundred dollars.
42. Officer in serving a warrant for robbery or theft, to secure stolen property and annex a schedule of it to his return.
43. Person embezzling property delivered him for a specific purpose, or under trust, punished as for theft.
44. Officer of bank embezzling funds of the bank, to be punished with fine not exceeding five thousand dollars, or with imprisonment not more than five years.
45. Putting obstructions on a rail road,

## SECTION

- punished with imprisonment not more than ten years, nor less than one year, or with fine not more than ten thousand dollars.
46. Justice of the peace, sheriff, &c., to disperse rioters—form of proclamation to be made in such case.
47. Refusal to assist justice, sheriff, &c., in case of riot, punished with a fine not less than seven dollars, nor more than thirty dollars.
48. Persons refusing to disperse, or obstructing justice or sheriff, &c., punished with a fine not more than one thousand dollars, or imprisonment not more than one year.
49. Wilfully injuring public property, to be punished with a fine twice the amount of the injury; if over twenty dollars, with imprisonment not less than one year.
50. Breaking lanterns, with a fine not more than twenty dollars.
51. Perjury, with imprisonment not more than twenty years—all false swearing when oath is required, declared to be perjury.
52. Subornation of perjury, with imprisonment not more than twenty years.
53. Inciting to perjury, with imprisonment not more than ten years.
54. Indictment for perjury, &c., how to be framed.
55. Administering oaths by persons not authorized by law, and taking oaths before any such unauthorized person, with fine of one hundred dollars.
56. Bribery of judge, justice of the peace, &c., with imprisonment not more than seven years, or fine not more than one thousand dollars.
57. Accepting a bribe by any judge, justice of the peace, &c., with same penalty as bribery.
58. Rescuing a convict or person in custody, like penalty as the prisoner was or could be sentenced to, except where punishment was capital, or ten years imprisonment; in such case, with imprisonment not more than ten years, or fine not more than three thousand dollars.
59. Obstructing an officer, with imprisonment not more than one year, or fine not more than five hundred dollars.
60. Jailer or officer having a prisoner in custody for a criminal matter, and voluntarily suffering him to escape, like penalty as the prisoner was or could be sentenced to, except as in case of rescue.
61. Jailer or officer negligently suffering any prisoner in custody for a criminal matter to escape, to be imprisoned not more than one year, or fined not more than one thousand dollars.
62. Conveying tools to a prisoner to break

## SECTION

- jail, with imprisonment not more than one year, or fine not more than one thousand dollars. If a prisoner escape, same penalty as for rescuing a convict.
63. Extortion by officers, with imprisonment not more than one year, or fine not more than one thousand dollars.
64. Assuming to be a judge, &c., falsely, with imprisonment not more than one year, or fine not more than one thousand dollars.
65. Compounding certain offences, with imprisonment not more than five years, or fine not more than five thousand dollars.
66. Receiving money by a sheriff, &c., for neglect of duty, &c., with imprisonment not more than six months, or fine not more than five thousand dollars.
67. Neglecting to pay over fines, &c., to proper officers, with a fine treble the amount of the one not paid over.
68. Counterfeiting state securities and bank bills, with imprisonment not more than ten years, nor less than two years.
69. Passing counterfeit bank bills, &c., knowing them counterfeit, to defraud, same as counterfeiting them.
70. Bringing into state or having in possession counterfeit bank bills, &c., intending to pass them, same as counterfeiting them.
71. Having any plate, &c., to counterfeit bank bills, &c., with intent to use, same as counterfeiting bank bills, &c.
72. Counterfeiting or altering public records, &c., same as counterfeiting bank bills, &c.
73. Counterfeiting coin, same as counterfeiting bank bills, &c.
74. Passing counterfeit coin, knowing the same to be counterfeit, to defraud, same as counterfeiting bank bills, &c.
75. Bringing into state or having in possession counterfeit coin intending to pass it, same as counterfeiting bank bills, &c.
76. Having any mould, die, &c., to counterfeit coin, with intent to use, same as counterfeiting bank bills, &c.
77. In prosecutions for counterfeit bank bills, &c., the personal attendance of the alleged signers of such bills not necessary if they reside out of state, or thirty miles from place of trial, but evidence of persons skilled in detecting counterfeit bills, may be received as competent evidence.
78. Seduction punished with imprisonment not more than five years, or fine not more than five thousand dollars. Crime defined and evidence requisite for conviction.
79. Keeping a house of ill fame, with im-

## SECTION

- prisonment not more than one year, or fine not more than five hundred dollars for first offence; for second offence, with imprisonment not less than one year, nor more than three years.
80. When lessee of house is convicted of keeping a house of ill fame his lease may be avoided by lessor.
81. Enticing a virtuous female to house of ill fame for purposes of lewdness, punishable with imprisonment not more than five years, or fine not more than five thousand dollars.
82. Magistrates may issue warrants to search for females enticed to houses of ill fame.
83. Adultery, punished with imprisonment not exceeding one year, or fine not more than five hundred dollars—both parties guilty of adultery if either be married.
84. Fornication, with fine not more than ten dollars.
85. Bigamy, with imprisonment not exceeding five years nor less than one year, or fine not more than one thousand dollars.
86. Concealing the birth or death of a bastard child, with imprisonment not more than ten months, or fine not more than three hundred dollars.
87. Woman indicted for murder of her bastard child may be charged in same indictment with the offence named in the preceding section.
88. Blasphemy, with imprisonment not more than two months, or fine not more than two hundred dollars.
89. Profane swearing, with fine not more than five dollars.
90. Crime against nature, with imprisonment not more than twelve years, nor less than one year.
91. Selling, &c., obscene prints, &c., with imprisonment not more than one year, or fine not more than five hundred dollars.
92. Justices of the peace may issue search warrants for obscene prints, &c.
93. Disturbing public meetings, &c., punished with imprisonment not more than one year, or fine not more than five hundred dollars.
94. Digging up human body or concealing one dug up, &c., with imprisonment not more than ten years, or fine not more than one thousand dollars.
95. Defacing tombs, &c., or fences, &c., around tombs, &c., with imprisonment not exceeding ten months, or fine not more than five hundred dollars.
96. Abusing horses, &c., with fine not more than fifty dollars.
97. Working on the first day of the week, by fine of one dollar for first offence, and two dollars for second offence.
98. Setting another's servant at work on

## SECTION

- the first day of the week, punished the same as working on that day.
99. Complaints under two next preceding sections, limited to ten days after offence committed.
  100. Exception in favor of Sabbatarians and Jews from penalty in the three preceding sections.
  101. Playing at games of chance other than billiards, for money, &c., subject loser to a fine of four dollars for first offence, eight dollars for second, and sixteen dollars for third, and the winner to the same fine, and the sums won.
  102. Gaming at billiards, loser fined twenty dollars for first offence, fifty dollars for second offence, and one hundred dollars for third offence. Winner fined the same amount, and the sums won.
  103. Licensed inn-holder, &c., permitting gaming, fined thirty dollars, and his license is rendered void.
  104. Persons betting liable to the same penalties as the players.
  105. Bonds, notes, mortgages, &c., given for money lost in gaming, or for money lent to game with, void.
  106. Betters on horse racing fined one hundred dollars.
  107. Horses running for a wager forfeited to the state.
  108. Conveying strong liquor to prisoners in state prison or jail, without permission of the keeper thereof, punished by a fine of twenty dollars.
  109. Selling unwholesome food, with imprisonment not more than six months, or fine not more than two hundred dollars.
  110. Adulterating food or liquors for sale with substances injurious to health, with imprisonment not more than six months, or with fine not more than two hundred dollars.
  111. Adulterating drugs for sale, in a manner injurious to health, with imprisonment not more than six months, or with fine not more than two hundred dollars.
  112. Holding communication with a prisoner in state prison from without prison, with imprisonment not more than three months, or with fine not more than one hundred dollars.
  113. Prisoner in state prison assaulting any officer of the prison, or escaping, or attempting to escape, to be imprisoned for the same term as originally sentenced for.
  114. The killing of any officer of the state prison, by any prisoner, to be deemed murder.
  115. Corruption of blood and forfeiture of estate abolished.
  116. Deodands, benefit of clergy, and petit treason, abolished.

## SECTION

117. Indictments for certain offences, when to be preferred.
118. All fines to be for the use of the state.
119. Persons convicted of any offence at common law, not punishable specially by this act, to be imprisoned not more than one year, or fined not over one thousand dollars.
120. Accessaries before the fact punishable as principals. Aiding, hiring, commanding, &c., another to commit a crime, constitutes such an accessory, or a principal, according to the nature of the offence.
121. Accessaries after the fact, punishable by imprisonment not more than five years, or fine not more than one thousand dollars. Certain relatives not chargeable as accessaries after the fact.
122. Sentence to one year's imprisonment renders person infamous.
123. Sentence of death to be carried into effect by hanging, to take place in the jail or jail yard.
124. Every person sentenced to one year or more imprisonment for one offence, to be confined in the state prison and there kept at labor. Other imprisonment to be in county jails.
125. Person injured in property, reputation or body, by commission of any crime, may recover his damages in a civil action, to be commenced after he has made complaint against the offender, and taken out a warrant against him. In case of thefts, owner of goods stolen may recover two-fold value of those not restored.
126. Keepers of jails to report to supreme court all prisoners in custody at suit of the state.
127. Supreme court may remove convicts sentenced to imprisonment, to any jail in state.
128. Supreme court and court of common pleas may sentence convicts to be imprisoned in any state's jail.
129. Supreme court may remove prisoners from county jails when insufficient.
130. Supreme court may establish a nightly watch at any county jail.
131. Court to select punishment.
132. Courts of record to commit or bind over persons suspected of committing perjury before them.
133. Courts of record to detain papers when necessary for prosecution for perjury committed before them.
134. Governor may offer rewards for apprehension of criminals.
135. Duty of justice of the peace on complaint made to him for threats.
136. Duty of justice on trial for threats.
137. Recognizance to be certified to court of common pleas.

**SECTION**

- 138. Costs by whom to be paid on acquittal.
- 139. Duty of justice of the peace on complaint made for the commission of any offence.
- 140. Assault and battery how punished by justice of the peace.
- 141. Larceny how punished by justice of the peace
- 142. When justice of the peace shall bind over for trial.
- 143. On refusal to give recognizance when required, justice of the peace to commit.
- 144. Justice of the peace may adjourn examinations and trials.
- 145. When recognizance given on any adjournment before justice of peace, he to certify the same to court of common pleas.
- 146. Witnesses before justice of the peace on examination for aggravated offence, to be recognized also to appear.
- 147. Witnesses refusing to give recognizance when required, to be committed.
- 148. Depositions when to be used in criminal cases, and how taken.
- 149. Complainant for assault and battery, &c., may compromise.
- 150. Appeal granted from sentence of justice of peace to court of common pleas. Terms of appeal.
- 151. Justices of the supreme court, court of common pleas, and wardens, declared to be magistrates.
- 152. Magistrates may direct warrants to all sheriffs, &c., in the state, in certain cases.
- 153. Capias issued on any indictment to run through the state—how to be executed.
- 154. Officers required to execute warrants and capias—protected in the service of them.
- 155. Appeal granted from sentence of court of common pleas to supreme court—terms of appeal.
- 156. Appellant not entering his appeal may be sentenced by court appealed to.
- 157. Exclusive jurisdiction of supreme court.
- 158. Bail to be granted in certain cases by supreme court only.

**SECTION**

- 159. Persons accused of murder, &c., when to be indicted and tried.
- 160. No person to be tried by supreme court or court of common pleas but on indictment, except on appeal.
- 161. Offences committed in Narragansett Bay may be tried in any county.
- 162. In what county offences shall be tried.
- 163. Criminal process not to abate for want of form, but may be amended.
- 164. Prisoner standing mute, plea of not guilty to be entered for him—super-numerary challenges by prisoner to be disregarded.
- 165. Person indicted for an aggravated offence may be found guilty of a lesser one.
- 166. Payment of costs to make part of every sentence in certain cases.
- 167. State to pay costs in certain cases.
- 168. Convicts fined, to be imprisoned till fine is paid.
- 169. Recognizance being forfeited, process to issue against recognizors.
- 170. Surety in recognizance may surrender principal.
- 171. Search warrants, when and how to be issued.
- 172. Property recovered on search warrant to be kept and used as evidence.
- 173. Costs of search warrant, how and by whom to be paid.
- 174. Magistrate may issue warrant against fugitive from justice.
- 175. Proceedings against fugitives from justice.
- 176. Person recognized or committed as a fugitive from justice, to be discharged, unless demanded by executive of state.
- 177. Warrant against a fugitive from justice not to be issued until recognizance be given to pay costs.
- 178. Warrant to commit to state prison, how to be issued and served.
- 179. Person sentenced to state prison disabled from conveying his property.
- 180. Administrator to be appointed on the estate of a person committed to state prison for seven years or more.
- 181. Duties and powers of an administrator on the estate of a person sentenced to state prison.

*It is enacted by the General Assembly, as follows :*

SECTION 1. Every person who shall be convicted of treason against this state by levying war against the same, or by adhering to the enemies of this state, giving them aid and comfort, shall be imprisoned during life.

SEC. 2. If any person shall have knowledge of the commission of treason against this state by levying war against this state, or by adhering to the enemies of this state, giving them aid and comfort, and shall conceal the same, and shall



not as soon as may be disclose and make known such treason to the governor or to some magistrate, such person shall be deemed guilty of misprison of treason against this state; and upon conviction thereof shall be imprisoned not exceeding twenty years, nor less than five years, or be fined not exceeding ten thousand dollars.

SEC. 3. No person shall be convicted of treason against this state by levying war against the same, or by adhering to the enemies of this state, giving them aid and comfort, but by testimony of two lawful witnesses to the same overt act, for which he shall then be on trial, unless he shall in open court confess the same.

SEC. 4. All town meetings of the freemen, inhabitants or residents of this state, or of any portion of the same, for the election of any town, city, ward, county or state officers, called or held in any town in this state or in the city of Providence, except in the manner, for the purposes, at the times, and by the persons by law prescribed, are illegal and void; and any person who shall act as moderator, warden or clerk in such pretended meetings hereafter to be held, or in any manner receive, record or certify votes for the election of any pretended town, city, ward, county or state officers, shall be deemed guilty of a misdemeanor; and be fined not exceeding one thousand dollars, nor less than five hundred dollars, and be imprisoned for the term of six months: *provided, however,* that this section is not intended to apply to cases in which by accident or mistake some prescribed forms of calling town and ward meetings of the electors of the several towns of this state and of the city of Providence, shall be omitted or overlooked.

SEC. 5. Any person who shall in any manner signify that he will accept any legislative, executive, judicial or ministerial office, by virtue of any pretended election in any such pretended town, ward or other meetings, or shall knowingly suffer or permit his name to be used as a candidate therefor, shall be adjudged guilty of a high crime and misdemeanor; and be fined not exceeding two thousand dollars, and be imprisoned for the term of one year.

SEC. 6. If any person, except he be duly elected thereto according to the laws of this state, shall assume or exercise any of the legislative, executive or ministerial functions of the office of governor, lieutenant governor, senator, member of the house of representatives, secretary of state, attorney general or general treasurer of this state, within the territorial limits of the state, as the same are now actually had and en-

joyed, either separately or with others, or shall assemble with others for the purpose of exercising any of said functions, he shall be imprisoned during life.

SEC. 7. Such meetings as are described in the fourth section of this act, and also all meetings of persons other than those authorized by law, calling themselves when collected, or claiming to be the general assembly of this state, or either house thereof, are hereby declared to be riotous, tumultuous and treasonable assemblies; and the commander in chief, the sheriff of any county or any deputy sheriff, any justice of the court of common pleas in any county, the mayor of the city of Providence, or in his absence the board of aldermen of said city, are hereby authorized and required to command such assemblies, or any of them, to disperse; and if they do not forthwith obey said command, then by the civil posse, or if they deem it necessary, by calling out and using for that purpose the whole or any portion of the military force of this state, within their respective jurisdictions, that they or either of them may deem sufficient therefor to disperse such assemblies or any of them within their jurisdictions; and all such officers and all military officers in this state, and persons under their command, are hereby directed to govern themselves accordingly.

SEC. 8. The supreme court alone shall have jurisdiction to try persons accused of offences against either or any of the foregoing sections. Indictments under the same may be preferred and found in any county in the discretion of the attorney general, without reference to the county in which the offence is charged to have been committed; but they shall be tried in the county where found, unless such court shall for good cause remove the same into some other county.

SEC. 9. No magistrate shall issue any warrant to apprehend any person for any such offence, unless the complaint shall be first allowed of and indorsed or countersigned by the governor or by the attorney general. When any magistrate shall adjudge any person, rightfully before him, to be probably guilty of any such offence, he shall order him to be committed to the state's jail, in such county as he shall deem proper, there to remain until discharged by order of law; and issue his warrant accordingly, directed to the sheriff or his deputy, or to either of the town sergeants or constables in the same county with himself, and to the keeper of the state's jail in the county in which the accused is to be committed; which warrant may be executed by the officer charged therewith, although beyond his precinct, and shall constitute him, while

charged therewith, an officer within the meaning of the fifty-ninth section of this act.

SEC. 10. Every person who shall be convicted of murder shall suffer death.

SEC. 11. Every person who shall be convicted of manslaughter shall be imprisoned not exceeding twenty years.

SEC. 12. Every person who shall be convicted of robbery, shall be imprisoned for life, or for any term not less than five years.

SEC. 13. Every person who shall be convicted of rape, shall be imprisoned for life, or for any term not less than ten years.

SEC. 14. Every person who shall be convicted of putting out an eye, slitting the nose, ear or lip, or of cutting off or of biting off, or of disabling any limb or member of another, with malice aforethought, and with intent to maim or disfigure such other, shall be imprisoned not exceeding ten years, nor less than one year.

SEC. 15. Every person who shall be convicted of voluntarily engaging in a duel, with any dangerous weapon, to the hazard of life, shall be imprisoned not exceeding seven years, nor less than one year.

SEC. 16. Every person who shall be convicted of challenging another to fight a duel, with any dangerous weapon, to the hazard of life, and every person who shall be convicted of accepting a challenge to fight such duel, though no duel be fought, shall be imprisoned not exceeding seven years, nor less than one year.

SEC. 17. Every person, being an inhabitant of or resident in this state, who shall fight a duel without the jurisdiction of this state, by previous appointment or engagement made within the same, and in such duel shall inflict a mortal wound upon any person, whereof the person so injured shall afterwards die within this state, shall be deemed guilty of murder within this state; and may be indicted, tried, convicted and sentenced in the county in which such death shall happen.

SEC. 18. Every person, being an inhabitant of or resident in this state, who shall, by previous appointment or engagement made within the same, be the second of either party in any such duel as is mentioned in the next preceding section, and shall be present as the second when such mortal wound is inflicted, whereof death shall ensue within this state, shall be deemed to be an accessory before the fact, to the crime of murder within this state; and may be indicted, tried, convicted and sentenced within the county where the death shall happen.

SEC. 19. Any person indicted under either of the two next preceding sections, may plead a former conviction or acquittal of the same offence, in the state or country in which such duel was fought; and such plea, if admitted or established, shall bar all further proceedings against such persons for the same offence within this state.

SEC. 20. Every person who shall mingle any poison with any food, drink or medicine, with intent to kill or injure any person, and every person who shall wilfully poison any spring, well, or reservoir of water, with such intent, and shall be thereof convicted, shall be imprisoned for life, or for any term of years.

SEC. 21. If any person shall maliciously threaten to accuse another of any offence, or shall by any written or printed communication threaten any injury to the person or property of another, with intent thereby to compel the person so threatened to do any act against his will, or with intent to extort money or any pecuniary advantage, and shall be thereof convicted, he shall be imprisoned not exceeding two years, or fined not exceeding five hundred dollars.

SEC. 22. Every person who shall be convicted of making an assault, with intent to commit murder, robbery, rape, burglary, or the abominable and detestable crime against nature, shall be imprisoned not exceeding twenty years, nor less than one year.

SEC. 23. Every person who shall be convicted of pulling out or putting out an eye of another voluntarily, maliciously, and of purpose, or of cutting off or otherwise disabling any limb or member of any other person, maliciously, and of purpose, shall be imprisoned not exceeding five years, nor less than one year.

SEC. 24. Every person who shall be convicted of making an assault, or battery, or both, shall be imprisoned not exceeding six months, or fined not exceeding five hundred dollars.

SEC. 25. Every person who shall be convicted of transporting or carrying, or of causing to be transported or carried, by land or water, any citizen of this state, or any other person lawfully residing or inhabiting therein, to any place without the limits of this state, without his consent or voluntary agreement, except in order to remove such person from one part of the state to another part of the same, or for the purpose of defending the same in time of war, agreeably to law, or except such person be sent by due course of law, shall be imprisoned not exceeding ten years, nor less than one year.

SEC. 26. Every person who shall be convicted of arson

shall suffer death, or be imprisoned for life, or for any term not less than ten years.

SEC. 27. Every person who shall be convicted of wrongfully or maliciously burning or otherwise destroying any dwelling-house or other building whatever, the burning whereof shall not be arson at common law, or any ship or vessel, dam, lock, bridge or flume, shall be imprisoned not exceeding ten years.

SEC. 28. Every person who shall be convicted of maliciously and wilfully burning, or otherwise destroying any stack of corn, hay, grain, straw, cornstalks or husks, any flax, or fence, or fencing stuff, any pile or parcel of boards, timber or other lumber, or other property, except such the burning or destroying whereof is provided for in the two sections next preceding, shall be imprisoned not exceeding two years, or be fined not exceeding one thousand dollars.

SEC. 29. Every person who shall wilfully burn any building or any goods, wares or merchandize, or other chattels, which shall at the time be insured against loss by fire, with intent to injure the insurer, whether such person be the owner of the property or not, shall be imprisoned not exceeding ten years, nor less than two years.

SEC. 30. The preceding four sections shall severally extend to a married woman who shall commit either of the offences therein described, though the property burned or destroyed shall belong partly or wholly to her husband.

SEC. 31. If any person shall set or cause any fire to be set in the woods in any part of this state, to run and spread at large, at any time of the year, under any pretence whatsoever, he shall be imprisoned not exceeding one year.

SEC. 32. Every person who shall be convicted of burglary, shall be imprisoned for life, or for any term not less than five years.

SEC. 33. Every person who shall be convicted of breaking and entering any bank, shop, office or warehouse, not adjoining to or occupied with a dwelling-house, any meeting-house, church, chapel, court-house, town-house, college, academy, school-house, library or other building erected for public use, or occupied for any public purpose, or any ship or vessel, in the night time, with intent to commit murder, rape, robbery or larceny, shall be imprisoned not exceeding ten years.

SEC. 34. Every person who shall be convicted of stealing any money, goods or chattels, any note of the treasurer of this state for the payment of money, any bank bill, any certificate

of any bank, or of any public officer or corporation, securing the payment of money to any person or certifying the same to be due, any order entitling any person to money or other article, any bill of exchange, bond, warrant, obligation, bill or promissory note, for the payment of money, or other valuable property, any record or paper belonging to any public officer, any writ, warrant or other legal process, any book account, any receipt for money, or other article paid or delivered, any adjustment or document of any kind, relating to the payment of money or delivery of any article, any indenture of apprenticeship, any deed, covenant, indenture or assurance whatever, respecting any property real or personal, any lottery ticket, or part or share of any lottery ticket authorized to be sold in this state, shall be deemed guilty of larceny, and shall be imprisoned not exceeding five years, or fined not exceeding one thousand dollars.

SEC. 35. Every person who shall be convicted of fraudulently receiving any stolen money or other article, knowing the same to be stolen, shall be deemed guilty of larceny, and be subject to the like imprisonment and penalty as is in the next preceding section prescribed for stealing the same, although the person who stole the same may not have been prosecuted or convicted therefor.

SEC. 36. Every person who shall falsely personate or represent another, and in such assumed character shall receive any money or other article whatever intended to be delivered to the party so personated, with intent to convert the same to his own use, shall be deemed guilty of larceny, and upon conviction thereof shall be punished accordingly.

SEC. 37. Every person who shall be convicted of obtaining from another designedly by any false pretence in writing or by any privy or false token, and with intent to defraud, any money or other article, or of obtaining with such intent the signature of any person to any written instrument, the false making whereof would be punishable as forgery, shall be deemed guilty of larceny, and shall be imprisoned not exceeding five years, or fined not exceeding one thousand dollars.

SEC. 38. Every person who shall be convicted of cutting out the tongue or otherwise dismembering any beast, wilfully or maliciously; or wilfully or maliciously killing or wounding any beast of another; or wilfully or maliciously administering poison to, or exposing any poisonous substance with intent that the same should be taken or swallowed by any beast of another; shall be imprisoned not exceeding two years, or fined not exceeding one thousand dollars;

and shall moreover be liable to the owner of such beast for treble damages, to be recovered by action of trespass.

SEC. 39. Every person who shall be convicted of clandestinely taking and carrying away any corn, grain or fruit, out of any field, garden or orchard, of the value of five dollars or more; or of maliciously rooting up, cutting down or otherwise injuring or destroying any tree, root, fruit or vegetable, growing in any garden, field, orchard, highway, common or public square; or who shall maliciously or wantonly in any way injure or deface any building not his own, or break the glass or any part of it in any such building; or shall maliciously injure any fence on or enclosing lands not his own, shall be imprisoned not exceeding one year, or fined not exceeding two hundred dollars. And every magistrate within the proper county shall have jurisdiction over either of the offences in this section mentioned, when the value of the property taken or destroyed shall not exceed the sum of twenty dollars; and may sentence the offender to imprisonment not exceeding thirty days, or to be fined not exceeding twenty dollars.

SEC. 40. Every person who shall be convicted of robbing or drawing any fish-pot, weir or net belonging to any other person, shall be fined not exceeding twenty dollars.

SEC. 41. Every person who shall be convicted of entering any dwelling-house in the night time, or of breaking and entering in the day time any dwelling-house or other building, or any ship or vessel, with intent to commit murder, rape, robbery, arson or larceny, shall be imprisoned not exceeding five years, or be fined not exceeding five hundred dollars.

SEC. 42. The officer who shall apprehend any person as principal or as accessory in any robbery or larceny, shall secure the property alleged to be stolen, and shall be answerable for the same, and he shall annex a schedule thereof to his return, and upon conviction of the offender, the stolen property shall be restored to the owner.

SEC. 43. If any officer, agent, clerk or servant, or person to whom any money or other property shall be entrusted for any specific purpose, shall embezzle or fraudulently convert to his own use, or shall take or secrete with intent to embezzle and fraudulently convert to his own use, any money or other property which shall have come into his possession or shall be under his care or charge, by virtue of such employment, or for such specific purpose, shall be deemed guilty of larceny, and may be tried, sentenced and punished, as for any other larceny.

**SEC. 44.** If any officer, agent or servant of any incorporated bank shall embezzle or appropriate to his own use, any monies, goods, effects or funds of any such bank, with intent to cheat or defraud the same, or any person whomsoever, he shall be deemed guilty of larceny, and on conviction thereof shall be fined not exceeding five thousand dollars, or be imprisoned for a term not exceeding five years.

**SEC. 45.** Whenever any person shall be convicted of maliciously placing upon any rail road any thing calculated or designed to hinder or impede the safe passage of any locomotive engine or car over such rail road, or of maliciously doing any other act, matter or thing so calculated or designed, with intent to interrupt or impede the safe passage of such locomotive engine or car, he shall be imprisoned not exceeding ten years nor less than one year, or fined not exceeding ten thousand dollars.

**SEC. 46.** If any persons to the number of twelve or more, being armed with clubs 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, deputy sheriff, town sergeant or constable, shall among the rioters, or as near to them as he can safely come, command silence while proclamation is making, and shall openly make proclamation in substance as follows :

**The State of Rhode-Island and Providence Plantations.**

By virtue of the laws of said state, in relation to routs, riots and tumultuous assemblies, I am directed to charge and command, and do accordingly 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 inflicted by said laws: God save the state.

And if such persons assembled as aforesaid shall not forthwith disperse themselves, it shall be lawful for every such officer to command sufficient aid and to seize, arrest and secure in custody all such persons, so that they may be proceeded against according to law; and if any such persons shall be killed or wounded by reason of their resisting the persons endeavoring to disperse or seize them, the said justice, sheriff, deputy sheriff, town sergeant, constables and their assistants, shall be indemnified and held guiltless.

**SEC. 47.** If any person being commanded by such justice, sheriff, deputy sheriff, town sergeant or constable as aforesaid, shall refuse or neglect to afford the assistance re-



quired, he shall be fined not less than seven dollars, nor more than thirty dollars.

SEC. 48. All persons who, after proclamation made as aforesaid, shall unlawfully, routously, riotously and tumultuously continue together, or shall wilfully obstruct or hinder any such officer, who shall be known or shall openly declare himself to be such, from making such proclamation, shall be fined a sum not exceeding one thousand dollars, or shall be imprisoned not exceeding one year; and if any such persons so riotously assembled shall demolish or pull down, or begin to demolish or pull down any dwelling-house or other building, ship or vessel, they shall be fined or imprisoned as aforesaid.

SEC. 49. If any person shall wilfully cut, deface or otherwise injure any public building, or fence, or other property belonging to this state, he shall on conviction thereof be fined a sum not less than twice the amount of the damage done, unless that sum shall exceed twenty dollars; if it shall exceed that sum, he shall be imprisoned not exceeding one year.

SEC. 50. Every person who shall be convicted of wilfully breaking any public or private lamp or lantern, which is already set up or hereafter shall be set up in either of the towns, shall, for every such lamp or lantern so broken, be fined not exceeding twenty dollars.

SEC. 51. Every person of whom an oath or affirmation is or shall be required by law, who shall be convicted of wilfully swearing or affirming falsely, in regard to any matter or thing respecting which such oath or affirmation is or shall be required, shall be deemed guilty of perjury, and shall be imprisoned not exceeding twenty years.

SEC. 52. Every person who shall be convicted of subornation of perjury, by procuring another to commit perjury, shall be imprisoned not exceeding twenty years.

SEC. 53. Every person who shall be convicted of endeavoring to incite or procure another to commit perjury, though the person incited do not commit perjury, shall be imprisoned not exceeding ten years.

SEC. 54. In every indictment for perjury or subornation of perjury, or incitement to 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 to have had competent authority to administer the same, together with the proper averment or averments to falsify the matter wherein the perjury is assigned; without setting forth any part of any

record or proceeding, 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, or was agreed, or promised, or procured, or incited to be committed.

SEC. 55. If any person not authorized by law to administer oaths and affirmations, shall administer any oath, affirmation or obligation in the nature of an oath, or if any person shall knowingly or willingly permit or suffer any such oath, affirmation or obligation in the nature of an oath, to be administered to him by any person not authorized by law, every person so offending shall be fined one hundred dollars for every offence.

SEC. 56. Every person who shall be convicted of giving any sum of money or any bribe, present or reward, or any promise or security for any, to obtain or influence the opinion, judgment, verdict, sentence, report or award of any judge, justice of the peace, warden, juror, auditor, referee, arbitrator, master in chancery, or person summoned as a juror, in any matter or cause pending or to be tried before him alone or before him with others, shall be imprisoned not exceeding seven years, or shall be fined not exceeding one thousand dollars.

SEC. 57. Every judge, justice of the peace, warden, juror, auditor, referee, arbitrator, master in chancery or person summoned as a juror, who shall be convicted of accepting, receiving or agreeing for in any way, any bribe, present or reward to him offered, for the purpose of obtaining or influencing his opinion, judgment, verdict, sentence, report or award, in any matter or cause depending or to be tried before him alone, or before him with others, shall be imprisoned not exceeding seven years, or fined not exceeding one thousand dollars.

SEC. 58. Every person who shall be convicted of setting at liberty, or of rescuing either by force or stratagem, any person convicted of any crime or offence, or in the custody of any officer upon any criminal charge, shall suffer the like imprisonment or penalty as the prisoner so rescued was sentenced to or would be liable to suffer upon conviction for the crime or offence wherewith he stood charged and in custody: *provided, always,* that if the prisoner escaping shall be charged with or convicted of any crime, the punishment whereof is by law capital, or for which he may be imprisoned for any term exceeding ten years, the person convicted of so setting at liberty or rescuing, shall be imprisoned not exceeding ten years, or fined not exceeding three thousand dollars.

SEC. 59. Every person who shall be convicted of menacing, threatening, obstructing, striking, insulting, assaulting, or in any other manner abusing any officer, civil or military, while in the execution of his office, shall be imprisoned not exceeding one year, or fined not exceeding five hundred dollars.

SEC. 60. Every jailer or other officer who shall be convicted of voluntarily suffering any prisoner in his custody upon conviction or upon any criminal charge to escape, shall suffer the like imprisonment or penalty as the prisoner so escaped was sentenced to or would be liable to suffer upon conviction for the crime or offence wherewith he stood charged and in custody: *provided, always*, that if the prisoner escaping shall be charged with or convicted of any crime the punishment whereof is by law capital, or for which he may be imprisoned for any term exceeding ten years, the jailer or other officer so convicted of voluntarily suffering him to escape, shall be imprisoned not exceeding ten years, or be fined not exceeding three thousand dollars.

SEC. 61. Every jailer or other officer who shall be convicted of negligently suffering any prisoner in his custody upon conviction or upon any criminal charge to escape, shall be imprisoned not exceeding one year, or fined not exceeding one thousand dollars.

SEC. 62. Every person who shall be convicted of conveying, without the knowledge of the jailer, any instrument or other thing whatsoever to any prisoner in any jail, whereby any prisoner might break jail, or in any way escape, shall be imprisoned not exceeding one year, or be fined not exceeding one thousand dollars. But in case any prisoner shall escape by means of any instrument or thing whatever to him so conveyed, the person so conveying the same shall suffer the like imprisonment and penalty as the prisoner so escaping was sentenced to, or would be liable to suffer upon conviction for the crime or offence wherewith he stood charged and in custody: *provided, always*, that if the prisoner so escaping shall be charged with or convicted of any crime the punishment whereof is, by law, capital, or for which he may be imprisoned for any term exceeding ten years, the person conveying such instrument or thing shall be imprisoned not exceeding ten years, or be fined not exceeding three thousand dollars; and moreover shall be liable to pay all sums of money for which such prisoner was committed on execution, and all sums that shall be recovered against him in all suits in which he was committed on mesne process.

SEC. 63. Every officer appointed by the state or by any town in this state, whose fees are stated by law, who shall be convicted of corruptly exacting or of extorting any more or greater fees for any services than by law are stated and allowed, or of corruptly levying, demanding, receiving or taking, under color of his office, any bond, bill or note, or other assurance or promise whatever, securing the payment of a greater sum of money for any service than he is by law authorized to demand and receive, shall be imprisoned not exceeding one year, or be fined not exceeding one thousand dollars.

SEC. 64. Every person who shall be convicted of falsely assuming or pretending to be a judge, justice of the peace, warden, sheriff, deputy sheriff, town sergeant, city sergeant, or constable, and of acting as such, shall be imprisoned not exceeding one year, or fined not exceeding one thousand dollars.

SEC. 65. Every person who shall be convicted of having knowledge of the commission of any crime or offence punishable by this act by imprisonment for the term of ten years or more, and of taking any money, gratuity or reward, or any engagement therefor upon an agreement or understanding, express or implied, to compound or conceal such crime or offence, or not to prosecute therefor, or not to give evidence relative thereto, shall be imprisoned not exceeding five years, or be fined not exceeding five thousand dollars.

SEC. 66. If any sheriff, deputy sheriff, town sergeant, city sergeant or constable, shall be convicted of receiving from any defendant or any other person, any money or other valuable thing, as a consideration, reward or inducement for omitting or delaying to perform any duty pertaining to his office, he shall be imprisoned not exceeding six months, or fined not exceeding five hundred dollars.

SEC. 67. All officers who shall receive any fines, forfeitures or penalties, shall forthwith pay the same into the proper office where by law they ought to be paid; and if any officer, judicial, executive or ministerial, shall refuse or neglect for the space of three months to pay over any fine, forfeiture or penalty, or any part thereof, which may have come to his hands, to the proper officer to whom by law the same ought to be paid or delivered, he shall be fined treble the value or amount of the fine, forfeiture or penalty so withholden or not paid over.

SEC. 68. Every person who shall be convicted of falsely making, forging, counterfeiting, or falsely altering any note,

certificate or other security, in imitation of and purporting to be a note, certificate or other security, which has been or hereafter may be issued for any debt of this state, or any bank bill or note, in imitation of or purporting to be a bank bill, which has been or hereafter may be issued by any corporation which is or hereafter may be established as a bank, in this state or elsewhere, shall be imprisoned not exceeding ten years, nor less than two years.

SEC. 69. Every person who shall be convicted of uttering, publishing, passing or tendering in payment as true, any such false, forged, counterfeited or altered certificate, security or bank bill or note, knowing the same to be false, forged, counterfeited or altered, with intent to defraud, shall be imprisoned not exceeding ten years, nor less than two years.

SEC. 70. Every person who shall be convicted of bringing into this state, or of having in his possession or custody within this state, any such false, forged, counterfeited or altered certificate or security, bank bill or note, knowing the same to be false, forged, counterfeited or altered, with intent to utter, pass or tender in payment the same as true, shall be imprisoned not exceeding ten years, nor less than two years.

SEC. 71. Every person who shall be convicted of engraving, forming, making or mending, or of beginning to engrave, form, make or mend any plate, stone, paper, rolling press or other instrument or material, devised, adapted and designed for the stamping, forging or making any false, forged and counterfeited bank bill or notes, in imitation of bank bills or notes which have been or shall be issued by any bank which is or hereafter may be established as a bank in this state or elsewhere, or of having in his possession or custody any such plate or stone engraven in any part, or any such paper, rolling press or other instrument or material, devised, adapted or designed as aforesaid, with intent to use and employ the same, or to cause or permit the same to be used and employed in making any such false and counterfeited bank bill or note, shall be imprisoned not exceeding ten years, nor less than two years.

SEC. 72. Every person who shall be convicted of falsely making, altering, forging or counterfeiting, or of procuring to be falsely made, altered, forged or counterfeited, any public record, or any writ, process or proceeding in any court of justice in this state, any certificate or attestation of any judge, justice of the peace, warden, public notary, clerk of any court, town clerk, city clerk, or other public officer, in any matter wherein such certificate or attestation may be received as le-

gal proof, any charter, deed, will, testament, bond or writing obligatory, letter of attorney, policy of insurance, bill of exchange, promissory note, order, acquittance, discharge for or upon the payment of money or delivery of goods, or any acceptance of a bill of exchange, or any endorsement, assignment or guaranty of any bill of exchange or promissory note, or any certificate or accountable receipt for money, goods or any other thing, or any warrant, order or request for the payment of money or delivery of goods, or for the delivery of any note, bill or other security for money or goods, or any lottery ticket or part or share of any lottery ticket, authorized to be sold in this state, or any writing whatever purporting to contain evidence of any debt, contract or promise, or of the discharge, payment or satisfaction of any debt, contract or promise, with intent to defraud, or of uttering and publishing as true, or of procuring to be uttered and published as true, any such false, forged, altered or counterfeited record, deed or other writing aforementioned, knowing the same to be false, forged, altered or counterfeited with intent to defraud, shall be imprisoned not exceeding ten years, nor less than two years.

SEC. 73. Every person who shall be convicted of forging or counterfeiting any coin, in imitation or similitude of any gold or silver coin current within this state by law or usage, shall be imprisoned not exceeding ten years, nor less than two years.

SEC. 74. Every person who shall be convicted of uttering or tendering in payment as true, any false, forged or counterfeit coin, made and forged in imitation and similitude of any gold or silver coin current within this state by law or usage, knowing the same to be false and counterfeit, with intent to defraud, shall be imprisoned not exceeding ten years, nor less than two years.

SEC. 75. Every person who shall be convicted of bringing into this state, or of having in his possession or custody, any false or counterfeit coin, made and forged in imitation and similitude of any gold or silver coin current within this state by law or usage, knowing the same to be false or counterfeit, with intent to utter or pass the same in payment as true, shall be imprisoned not exceeding ten years, nor less than two years.

SEC. 76. Every person who shall be convicted of casting, stamping, engraving, forming, making or mending, or of beginning to cast, stamp, engrave, form, make or mend, or of having in his possession or custody any mould, pattern, die,

punch, press, or other tool or instrument whatever, devised, adapted and designed for the forging or making any false or counterfeit coin, in imitation and similitude of any gold or silver coin current within this state by law or usage, with intent to use and employ the same, or to cause the same to be used and employed in forging or making any such false or counterfeit coin as aforesaid, shall be imprisoned not exceeding ten years, nor less than two years.

SEC. 77. In no prosecution for forging, counterfeiting or altering any bank bill or note, or for uttering, passing or tendering in payment as true, any such false, forged, counterfeited or altered bank bill or note, or for bringing into this state, or for having in possession or custody any such false, forged, counterfeited or altered bank bill or note, with intent to pass the same as true, knowing the same to be false, forged, counterfeited or altered, shall the testimony of any person whose name is purported to be signed to such bill or note, or his personal attendance as a witness be requisite when he shall be absent from this state at the time of such trial, or when his place of residence shall be without the limits of this state, or more than thirty miles from the place of trial; but the testimony of any competent witness who is acquainted with the handwriting of such person, or who has knowledge of the difference of true and counterfeit or altered bank bills, and who is skilled therein, shall be received as competent evidence to prove any such bank bill or note to be false, forged, counterfeited or altered.

SEC. 78. Every person who shall be convicted of obtaining carnal knowledge of any female by virtue of any feigned or pretended marriage, or of any false or feigned express promise of marriage, shall be imprisoned not exceeding five years, or fined not exceeding five thousand dollars. But no person shall be convicted of said crime upon the testimony of the female unless the same be corroborated by other evidence.

SEC. 79. Any person who shall keep a house of ill fame, resorted to for the purpose of prostitution or lewdness, shall be imprisoned not exceeding one year, or be fined not exceeding five hundred dollars; and any person who after having been once convicted of such offence shall again be convicted of a like offence, shall be imprisoned not less than one year and not exceeding three years.

SEC. 80. When the lessee of a dwelling house shall be convicted of keeping the same as a house of ill fame, the lease or contract for letting such house shall, at the option of the lessor, become void; and such lessor shall thereupon have

the like remedy to recover possession as against a tenant holding over after the expiration of his term.

SEC. 81. Any person who shall inveigle or entice any female, before reputed virtuous, to a house of ill fame, or shall knowingly conceal, or aid or abet in concealing any such female so deluded or enticed, for the purpose of prostitution or lewdness, shall be imprisoned not exceeding five years, or fined not exceeding five thousand dollars.

SEC. 82. When there is reason to believe that any female has been inveigled, deluded or enticed to a house of ill fame as aforesaid, upon complaint thereof being made under oath by any overseer of the poor, sheriff, deputy sheriff, town sergeant or constable, or by the parent, master or guardian of such female, to any justice of the peace or other magistrate authorized to issue warrants, he may issue his warrant, to enter by day or night such house or houses of ill fame, and to search for such female, and to bring her and the person in whose possession or keeping she may be found, before such justice or magistrate; who may, on examination, order her to be delivered to such overseer, parent, master or guardian, or to be discharged, as law and justice may require.

SEC. 83. Every person who shall be convicted of adultery shall be imprisoned not exceeding one year, or fined not exceeding five hundred dollars; and illicit sexual intercourse between any two persons, where either of them is married, shall be deemed adultery in each.

SEC. 84. Every person who shall be convicted of fornication shall be fined not exceeding ten dollars.

SEC. 85. Every person who shall be convicted of being married to another, or of cohabiting with another as husband and wife, having at the time a former husband or wife living, shall be imprisoned not exceeding five years, nor less than one year, or be fined not exceeding one thousand dollars: *provided*, that this shall not extend to any person whose husband or wife shall be continually remaining without the limits of this state for the space of seven years together, the party being married again after the expiration of said seven years, not knowing the other to be living within that time; nor to any person who shall be divorced at the time of such second marriage; nor to any person by reason of any former or prior marriage, made when the man was less than fourteen and the woman less than twelve years of age.

SEC. 86. Every woman who shall be convicted of concealing the birth of any issue of her body, which, if it were born alive, would be a bastard, so that it may not be known



whether it was born dead or alive, or of concealing the death of any infant bastard child born of her body, so that it may not be known whether such child was murdered or not, shall be imprisoned not exceeding ten months, or be fined not exceeding three hundred dollars.

SEC. 87. Any woman who shall be indicted for the murder of her infant bastard child, may also be charged in the same indictment, with either or both of the offences referred to in the next preceding section; and if upon the trial the jury shall acquit her on the charge of murder, and find her guilty of the other offences, or either of them, judgment and sentence may be awarded against her accordingly.

SEC. 88. Every person who shall be convicted of blasphemy, shall be imprisoned not exceeding two months, or fined not exceeding two hundred dollars.

SEC. 89. Every person who shall be convicted of profane swearing and cursing, shall be fined not exceeding five dollars.

SEC. 90. Every person who shall be convicted of the abominable and detestable crime against nature, either with mankind or with any beast, shall be imprisoned not exceeding twelve years, or less than one year.

SEC. 91. If any person shall import, print, publish, sell or distribute any book, pamphlet, ballad, printed paper or other thing, containing obscene language or obscene prints, pictures, figment or other descriptions, manifestly tending to the corruption of the morals of youth, or shall introduce into any family, school or place of education, or shall buy, procure, receive or have in his possession any such book, pamphlet, ballad, printed paper or other thing, either for the purpose of sale, exhibition, loan or circulation, or with intent to introduce the same into any family, school or place of education, he shall be imprisoned not exceeding one year, or fined not exceeding five hundred dollars.

SEC. 92. Any justice of the peace within his county may issue a search warrant for the purpose of searching for any such obscene book, pamphlet, ballad, printed paper or other thing mentioned in the preceding section, complaint being first made to him in writing, and on oath, as in this act is required, before the issuing of search warrants in other cases: and all such things which shall be found by any officer in executing any such search warrant, or which shall be produced and brought into court, shall be safely kept so long as shall be necessary, for the purpose of being used as evidence in any

case : and as soon as may be afterwards, shall be destroyed by order of the court before which the same shall be brought.

SEC. 93. Every person who shall be convicted of wilfully interrupting or disturbing any town or ward meeting, any assembly of people met for religious worship, or any public or private school, or any meeting lawfully and peaceably held for purposes of literary or scientific improvement, either within or without the place where such meeting or school is held, shall be imprisoned not exceeding one year, or fined not exceeding five hundred dollars.

SEC. 94. Every person who shall be convicted of secretly disinterring, digging up, removing or carrying away any human body from its place of sepulture, or of knowingly concealing any such body so dug up or carried away, shall be imprisoned not exceeding ten years, or fined not exceeding one thousand dollars.

SEC. 95. Every person who shall be convicted of wilfully and maliciously destroying, mutilating, defacing, covering over, injuring or removing any tomb, monument, grave-stone or other structure or thing placed or designed for a memorial of the dead, or any fence, railing, curb, tree, shrub, or other thing intended for the protection or for the ornament of any tomb, monument, grave-stone, or other structure before mentioned, or of any enclosure for the sepulture for the dead, shall be imprisoned not exceeding ten months, or fined not exceeding five hundred dollars.

SEC. 96. Every person who shall be convicted of cruelly using, beating, tormenting, overloading or overdriving any horse, ox or other animal, whether belonging to himself or another, shall be fined not exceeding fifty dollars.

SEC. 97. If any person shall do or exercise any labor or business or work of his ordinary calling, or use any game, sport, play or recreation on the first day of the week, or suffer the same to be done or used by his children, servants or apprentices, works of necessity and charity only excepted, he shall be fined one dollar for the first offence and two dollars for the second offence.

SEC. 98. If any person shall employ, improve, set to work or encourage any other person's servant to commit any act named in the preceding section, and be convicted thereof, he shall suffer the like punishment.

SEC. 99. All complaint for offences against the two next preceding sections, shall be made within ten days after the committing thereof, and not after.

SEC. 100. All the professors of the Sabbatarian faith or

of the Jewish religion, and such others as shall be owned or acknowledged by any church or society of said respective professions, as members of, or as belonging to such church or society, shall be permitted to labor in their respective professions or vocations on the first day of the week; but the exception in this section contained shall not confer the liberty of opening shops or stores on the said day for the purpose of trade and merchandize, or of lading, unlading or fitting out of vessels, or of working at the smith's business, nor at any other mechanical trade in any compact place, except the compact villages in Westerly and Hopkinton; or of drawing seines, or fishing or fowling in any manner in public places, and out of their own possessions; and in case any dispute shall arise respecting the persons entitled to the benefit of this section, a certificate from a regular pastor or priest of any of the aforesaid churches or societies, or from any three of the standing members of such church or society, declaring the person claiming the exemption aforesaid to be a member of, or owned by, or belonging to such church or society, shall be received as conclusive evidence of the fact.

SEC. 101. If any person shall play or game at cards, dice tables, bowls, wheels of fortune, shuffle boards, raffling, cock fighting, or any other game of chance other than billiards, for money or any other valuable consideration, the person losing at any such game shall be fined four dollars for the first offence, and for the second offence eight dollars, and for the third offence sixteen dollars; and the winner at any such game shall be fined four dollars and the sum won for the first offence, and for the second offence eight dollars and the sum won, and for the third offence sixteen dollars and the sum won.

SEC. 102. If any person shall play or game at billiards for money or other valuable consideration, the person losing at such game shall be fined twenty dollars for the first offence, and for the second offence fifty dollars, and for the third offence one hundred dollars; and the winner at such game shall be fined twenty dollars and the sum won for the first offence, and for the second offence fifty dollars and the sum won, and for the third offence one hundred dollars and the sum won.

SEC. 103. If any tavern keeper, inn-holder, retailer or keeper of any other house or place of public resort which is licensed, shall suffer any person to use or play at any of the said games in his house, or other place in his possession or improvement, he shall be fined the sum of thirty dollars for every offence; and upon such conviction of the offender, his

license shall be declared null and void by the court where he shall be convicted.

SEC. 104. All persons betting at any of the aforesaid games shall be liable to the same fines and penalties as persons playing at any of the said games are by this act.

SEC. 105. All bills, bonds, notes, judgments, mortgages, deeds or other securities, given for money or lands, houses or other things won by playing at any of the aforesaid games, or by betting on either side of such as play at any of the aforesaid games, or for repayment of any money lent knowingly for such gaming or betting, shall be utterly void.

SEC. 106. If any person shall hereafter make any bet, or lay any wager of any kind upon any horse, to start or run therefor, he shall be fined one hundred dollars.

SEC. 107. If any person shall knowingly suffer or permit any horse belonging to him to start or run for any bet or wager, he shall forfeit his horse starting or running as aforesaid, for the use of the state.

SEC. 108. If any person shall convey or cause to be conveyed to any prisoner committed to the state prison, or to either of the jails in this state, any wine or any strong liquor without the consent of the warden, sheriff or jailer, he shall, on conviction of the offence, be fined not exceeding twenty dollars.

SEC. 109. Every person who shall be convicted of knowingly selling any kind of diseased, corrupted or unwholesome provisions, whether for meat or drink, without making the same known to the buyer, shall be imprisoned not exceeding six months, or fined not exceeding two hundred dollars.

SEC. 110. Every person who shall be convicted of fraudulently adulterating for the purpose of sale, any substance intended for food, or any wine, spirits, malt liquor, or other liquor intended for drinking, with any substance injurious to health, shall be imprisoned not exceeding six months, or fined not exceeding two hundred dollars.

SEC. 111. Every person who shall be convicted of fraudulently adulterating for the purpose of sale, any drug or medicine, in such a manner as to render the same injurious to health, shall be imprisoned not exceeding six months, or fined not exceeding two hundred dollars.

SEC. 112. If any person shall have any communication or convey any tools, or hold any conversation with any prisoner confined in the state prison, from the outside of said prison, such person shall be deemed guilty of a misdemeanor,

and on conviction thereof shall be fined not exceeding one hundred dollars, or imprisoned not exceeding three months.

SEC. 113. If any prisoner confined in the state prison shall assault the warden, any underkeeper or other officer of said prison, or shall attempt to escape from said prison, or shall effect an escape therefrom, such prisoner upon conviction of either of said offences shall be sentenced by the court to the same term of imprisonment in the state prison for which said prisoner was originally sentenced, except where the original sentence was imprisonment for life; to commence from the expiration of the original term of imprisonment of said prisoner.

SEC. 114. In case the warden, any underkeeper, or any other officer of said prison be killed in any assault by a prisoner, such killing shall be murder, and punished accordingly.

SEC. 115. No conviction or sentence for any offence whatever shall hereafter work corruption of blood, or forfeiture of estate.

SEC. 116. Deodands, the plea of the benefit of clergy, and the distinction between petit treason and murder, are hereby abolished. Hereafter petit treason shall be prosecuted and punished as murder.

SEC. 117. No person shall be convicted of any offence, except treason against the state, murder, arson, burglary, counterfeiting, forgery, robbery, larceny, rape or polygamy, unless indictment be found against him therefor, within three years from the time of committing the same.

SEC. 118. All fines, unless special provision be made to the contrary, shall be paid into the general treasury, to and for the use of the state.

SEC. 119. Every act and omission which is an offence at common law, and for which no punishment is prescribed by this act, may be prosecuted and punished as an offence at common law. Every person who shall be convicted of any such offence at common law shall be imprisoned for a term not exceeding one year, or fined not exceeding one thousand dollars.

SEC. 120. Every person who shall aid, assist, abet, counsel, hire, command or procure another to commit any crime or offence, shall be proceeded against as principal, or as an accessory before the fact, according to the nature of the offence committed; and upon conviction shall suffer the like punishment as the principal offender is subject to by this act.

SEC. 121. Every person not standing in the relation of husband or wife, parent or grand-parent, child or grand-child,

brother or sister, by consanguinity or affinity, to another who shall have committed any offence, or been accessory before the fact to the commission of any offence, who shall be convicted of knowingly harboring or relieving such other person, with intent that he shall escape or avoid detection, arrest, trial or punishment, shall be imprisoned not exceeding five years, or fined not exceeding one thousand dollars.

SEC. 122. Every person who shall be sentenced under any provision in this act to imprisonment for life, or for the term of one year or more, for any one offence, shall forever thereafter be incapable of being elected to any office of honor, trust or profit in this state, and of acting as an elector therein, and of giving testimony as a witness before any tribunal, unless the said person be pardoned, or such sentence be reversed by the court passing the same.

SEC. 123. Whenever any person shall be sentenced to suffer death under any provision of this act, such sentence shall be carried into effect by hanging such person by the neck until dead. The execution of such sentence shall take place within the prison or prison yard of the county in which such person shall be convicted; and in the presence only of the sheriff and deputy sheriffs of such county, and of such other person or persons as shall be by such sheriff specially required or permitted to attend.

SEC. 124. Every person who shall be sentenced to imprisonment for life, or the term of one year or more, for any one offence, shall be imprisoned in the state prison at Providence, and there kept at hard labor. All other persons sentenced to imprisonment shall be imprisoned in the jail in the county where they shall be convicted, excepting only in the cases provided for in the one hundred and twenty-seventh and one hundred and twenty-eighth sections of this act.

SEC. 125. Whenever any person shall suffer any injury to his person, reputation or estate, by the commission of any crime or offence, he may recover his damages for such injury, either in an action of trespass or in an action on the case, against the offender: *provided, however,* that no such action shall be commenced for such injury until after complaint has been made to some proper magistrate for such crime or offence, and process issued thereon against the offender, excepting only those cases in which such actions may now be maintained at common law; and whenever any person shall be convicted of larceny, he shall be liable to the owner or owners of the money or articles taken for two-fold the value

thereof, unless the same be restored, and one-fold the value thereof in case of restoration, to be recovered by civil action.

SEC. 126. The keepers of the jails in the several counties are required on or before the second day of each term of the supreme court in their respective counties, to report to said court in writing the name of every person in custody at the suit of the state; the cause for which he was committed, the time of commitment, and by what court or magistrate, and, as far as he can ascertain, the time and place of birth, and previous residence of each prisoner, whether married or not, whether he has children or not, and where his family reside.

SEC. 127. Said court are hereby empowered to cause all or any of said prisoners who shall have been sentenced to imprisonment, to be brought before them, with the warrants of commitment, and to order all or any of them to be carried to and confined in any other jail, on their sentences.

SEC. 128. The supreme court and any court of common pleas are hereby empowered to sentence any person who shall be convicted before them of an offence punishable by imprisonment in any jail, to be imprisoned in the jail in any county.

SEC. 129. Whenever in the opinion of the said supreme court the jail in any county shall be insufficient to keep any prisoner safely, and whenever they shall have cause to apprehend that any prisoner will be rescued or liberated by any person whatever, it shall be lawful for said court to remove such prisoner to the jail in some other county, to be therein confined.

SEC. 130. The said court in the several counties, in term time, and any one of the justices thereof, in vacation, are authorized and empowered to order and cause to be established, a nightly guard at any of the jails, whenever they shall deem it necessary for the public safety or the safety of the prisoners, and to continue the same for so long a time as they may think proper.

SEC. 131. Whenever in this act it is provided that any crime or offence shall be punished with death, or by fine or imprisonment, it shall be in the discretion of the court or magistrate imposing such punishment to select the kind of punishment to be imposed, and if such punishment be fine or imprisonment, the amount or term of the same; the said amount or term being within the limits prescribed by law.

SEC. 132. Whenever it shall appear to any court of record that any witness or party who has been legally sworn,

or affirmed and examined, or has made an affidavit in any proceeding before said court, has testified in such manner as to induce a reasonable presumption that he has been guilty of perjury therein, the court may immediately commit such witness or party by an order or process for that purpose; or may take a recognizance with surety, for his appearance to answer to an indictment for perjury.

SEC. 133. If in any proceeding before any court of record in which perjury shall be reasonably presumed as aforesaid, any papers, books or documents shall have been produced which shall be deemed necessary to be used on any prosecution for such perjury, such court may, by order, detain the same from the person producing the same, so long as may be necessary, in order to their being used in such prosecution.

SEC. 134. Whenever any murder, attempt at murder, robbery, or any other high crime, shall be committed in this state, and the perpetrator thereof shall escape detection, the governor is hereby authorized to issue his proclamation, offering a suitable reward, not exceeding one thousand dollars, for the apprehension of the offender.

SEC. 135. Whenever complaint shall be made to any justice of the peace within his county, that any person hath, within said county, threatened to commit any crime or offence against the person or property of another, such justice shall examine such complainant under oath or affirmation, reduce his complaint to writing, and cause the same to be signed by the complainant. If the complainant shall then, before such justice, enter into a recognizance in such sum not exceeding fifty dollars, and with such surety as the justice shall direct and approve, conditioned to prosecute such complaint to final judgment with effect, or in default thereof to pay the costs that may accrue thereon, such justice shall issue his warrant, returnable forthwith, annexing thereto said complaint or reciting the substance of the same therein, directed to the sheriff, deputy sheriff, town sergeants, city sergeants and constables in said county, and to the like officers in the county in which the accused may be supposed to belong, reside or be found, and requiring the officer who shall be charged with the service of the same, forthwith to apprehend the accused and have him before said justice, or some other magistrate having jurisdiction over such complaint, to answer thereto.

SEC. 136. When any party accused shall be brought before any such magistrate, it shall be the duty of such magistrate judicially, by the oath or affirmation of the complainant



or witnesses, as well for as against the accused, to inquire into the truth of such complaint; and if it shall appear that said complaint is true, and that there is reasonable cause to fear that such threat would be carried into execution, the person accused shall be sentenced to enter into recognizance, with such sufficient surety and in such sum as the magistrate shall direct; conditioned to keep the peace towards all the people of this state, and especially towards the person against whom or against whose property the threat shall have been made, for a certain time thereafter, not exceeding eleven months, and to pay all the costs of his prosecution and conviction. Upon complying with such sentence he shall be discharged, but on neglecting so to do he shall be committed to the county jail in the same county, there to remain during the term for which he was sentenced to give such recognizance, and until said costs are paid, and also all the costs of his commitment and board while in jail; or until he shall enter into the recognizance required by such sentence, before some magistrate in the same county, and pay the costs and board as aforesaid.

SEC. 137. Every recognizance taken in pursuance of such a sentence shall be certified to the clerk of the court of common pleas next to be holden in the same county, and filed by the clerk of said court with the papers of his said office.

SEC. 138. If the magistrate before whom such warrant shall be returned after trial shall not consider such complaint to be supported by the evidence adduced, he shall forthwith discharge the accused, and as soon as may be, tax the costs that have accrued thereon, including therein the attendance and travel of the witnesses summoned and present or sworn by the complainant; and if such costs are not paid within ten days, he shall issue execution for the same against the complainant, returnable in forty days from the date thereof. Such costs when collected shall be paid to said magistrate, and be by him paid out to the several persons having right thereto.

SEC. 139. Whenever any complaint shall be made to any justice of the peace within his county, of the commission of any offence within said county, he shall examine the complainant under oath or affirmation relative thereto, and to the person guilty or suspected to be guilty thereof, reduce the same to writing, and cause the same to be signed by the complainant. If such complaint shall allege the commission of an assault or battery or both, or of any larceny of any amount not exceeding twenty dollars, or the commission of any offence the punishment of which is a fine of twenty dollars or

less, or which is or shall be declared within the jurisdiction of a justice of the peace to try and determine, such justice of the peace shall then require the complainant to enter into a like recognizance as is by this act required when complaint is made for any threat. Upon the giving of such a recognizance in the case where a recognizance is required, and upon the making of such a complaint only where no such recognizance is required, such justice of the peace shall forthwith issue his warrant, directed and returnable in the same manner as a warrant issued on a complaint for threats.

SEC. 140. Whenever any such person shall be convicted before any magistrate of an assault or battery, or both, such person shall be thereupon sentenced to the payment of a fine not exceeding twenty dollars, or to be imprisoned not exceeding one month; but if it shall appear to such magistrate that such fine or imprisonment is an inadequate punishment, the like course shall be taken in relation to the accused as though he were complained of for an offence beyond the jurisdiction of the magistrate trying the same.

SEC. 141. Whenever any person shall be convicted before any such magistrate of larceny, of any amount less than twenty dollars, he shall be sentenced to the payment of a fine not exceeding twenty dollars, or to be imprisoned not exceeding three months; but if it shall appear to such magistrate that such fine or imprisonment is an inadequate punishment, the like course shall be taken in relation to the accused as though he were complained of for an offence beyond the jurisdiction of the magistrate trying the same.

SEC. 142. When any person shall be brought before any such magistrate charged with being guilty, or as being suspected of being guilty, of any offence of which he has not jurisdiction to try and determine, and after hearing all the evidence adduced in relation thereto, it shall not appear to such magistrate that the accused is probably guilty of said offence, or of any other offence substantially charged in said complaint, the accused shall be forthwith discharged; but if it shall appear that the accused is probably guilty as aforesaid, such magistrate shall thereupon, if the offence be bailable by him, require the accused to enter into a recognizance with sufficient surety, in such sum as the magistrate shall approve and direct; conditioned, that the accused will appear at the next term of the court in and for said county having jurisdiction over such offence, and not depart said court without leave, and in the mean time keep the peace and be of good behaviour toward all the people of this state; which recognizance

the magistrate shall certify to said court as soon as may be. But if the said offence be not bailable by such magistrate, the accused shall forthwith be committed to the jail, in the same county, there to remain until he be discharged by order of law.

SEC. 143. In every case in which any such magistrate shall require the accused to give recognizance for his appearance before some court, and in which he shall not give such recognizance, the accused shall be forthwith committed to the jail in the same county, there to remain until he shall give such recognizance or be discharged by order of law.

SEC. 144. Any magistrate may adjourn any trial or examination pending before himself from time to time, not exceeding ten days at any one time, except with the consent or at the request of the accused, and to the same or to a different place in the same county. If in such a case the accused be charged with any offence not bailable by such magistrate, he shall in the meantime be committed to the jail in the same county; otherwise he may be recognized in a sum and with a surety to the satisfaction of such magistrate, for his appearance for such further examination, and for want of such recognizance may be committed to said jail.

SEC. 145. If the person recognized as in the next preceding section mentioned shall not appear according to the condition of such recognizance, the magistrate shall record the default and certify the recognizance with the record of the default, to the court of common pleas in the same county.

SEC. 146. Whenever any person charged with treason against this state, murder, arson, rape, robbery, burglary, perjury, or subornation of perjury, shall be recognized or committed for trial at a higher court by any magistrate, such magistrate shall also bind, by recognizance, such witness or witnesses as he shall deem material, to appear and testify at such court; and may also require any such witness to give surety to be bound with him for his appearance at such court, in case he shall deem it necessary to ensure the attendance of any such witness; and the supreme court and the several courts of common pleas may, in their discretion, require any witness before them, in any criminal matter, to recognize with or without surety, for his appearance to testify at any future time in the same cause.

SEC. 147. Every witness who shall refuse to comply with the order of either of said courts or of any magistrate requiring him to give recognizance, whether with or without surety, shall be committed to the jail in the same county, there to re-

main till he give such recognizance or be discharged by order of law.

SEC. 148. Whenever there shall be any indictment or information pending either before the supreme court or any court of common pleas for any crime or offence, unless it be treason against this state, murder, robbery, rape, arson, burglary, perjury, or subornation of perjury, it shall and may be lawful for any justice of the court before which the same shall be pending, at the request either of the attorney general or of the accused, to take the deposition of any witness, to be used as evidence on the trial of such indictment or information. Any such deposition taken and returned by any such justice, with the formalities required in the taking and returning of depositions in civil causes, shall and may be used in the cause for which the same shall be taken: *provided* the deponent shall not be within the jurisdiction of the court at the time of such trial: and *provided further*, that in case the accused shall at the time of taking such deposition be confined in jail on said charge, such deposition shall be taken in his presence in said jail, unless the person giving such deposition shall by reason of sickness be unable to come to said jail; in which case the justice taking such deposition may cause such accused to be brought before him, at the time and place appointed for taking the same, by the jailer having him in custody, if said accused be committed for no other cause, and to be returned again to jail after such deposition shall be taken; and the same fees shall be allowed for taking such depositions as are allowed for taking depositions in civil cases.

SEC. 149. When any person shall be committed to jail or shall be under recognizance to answer any charge of assault or battery, or both, or for any threat of committing any offence against the person or property of another, if the party injured or threatened shall appear before the magistrate who issued the warrant of commitment or took the recognizance, and acknowledge in writing that he has received satisfaction of the injury, or has ceased to fear the execution of the threat, such magistrate may in his discretion, upon payment of all costs that have accrued, including the board of the prisoner in jail, if committed, discharge the recognizance or supercede the commitment by an order under his hand; which order shall be filed with the recognizance or recorded in the jail book, as the case may require; and may also discharge all recognizances and supercede the commitment of every witness in the case. Every such order shall forever bar all remedy by civil action for such injury.

SEC. 150. Any person who shall be aggrieved at any sentence of any magistrate pronounced against him, or any complaint for threats, assault or battery or both, or for theft, or for any offence which is or shall be within the jurisdiction of such magistrate to try and determine, may appeal from such sentence to the court of common pleas then next to be holden in the same county, after ten days: *provided* such appeal be prayed at the time of passing such sentence; and upon such prayer the appellant shall be required to give recognizance in such sum as such magistrate shall direct, and with surety to the satisfaction of such magistrate, conditioned, that he will file his reasons of appeal, together with a copy of the whole case in the court appealed to, on or before the second day of the next term thereof as aforesaid, that he will appear before said court and there prosecute his appeal with effect, and abide or perform the order or sentence of said court in said case, and that he will in the meantime keep the peace towards all the people of this state; which recognizance such magistrate shall forthwith certify to said court of common pleas; and upon the neglect of such appellant to give such recognizance, he shall forthwith be committed to the jail in the same county, there to remain until he give such recognizance or be discharged by order of law. And said appeal shall be there heard and tried, and the judgment or sentence of said court therein shall be final.

SEC. 151. The justices of the supreme court throughout the state, the justices of the several courts of common pleas throughout their respective counties, and the wardens in the town in which they are chosen by law throughout their respective towns, shall have the same powers in criminal cases that justices of the peace have in their respective counties.

SEC. 152. Whenever any magistrate in any county shall issue his warrant against any person charged with an offence committed within such county, and such persons so charged as aforesaid shall escape into, reside or be in any other county, such magistrate may direct said warrant to each and all sheriffs, deputy-sheriffs, town sergeants and constables within this state, requiring them to apprehend such person and him bring before such magistrate, to be dealt with according to law.

SEC. 153. Any court in any county before which an indictment shall be found against any person for an offence committed or triable within such county, may, if such person shall escape into, reside or be in any other county, issue a *capias* directed to each and all officers as aforesaid, requiring

them to apprehend such person and him bring before said court, if said court at the time of the service of said *capias* shall still be in session; if not, then to commit him to jail in the county in which such indictment is pending, there to be kept until he shall give recognizance before some magistrate of the same county with sufficient sureties, in the sum named in said *capias*, if any sum be named therein, and if not, then in such sum as the magistrate shall deem reasonable, if the offence be bailable, to appear before the said court in said county, on the second day of the term next after the giving of such recognizance, to answer to said indictment; which recognizance shall be returned by said magistrate unto the clerk of the said court; or the prisoner may give such a recognizance while in the custody of the officer before he is committed to jail; and thereupon the officer shall discharge him from his custody.

SEC. 154. The officers to whom such warrant or *capias* shall be directed, are hereby required to obey and execute the same. And any person who shall obstruct or assault any such officer while in the execution of his said office, shall be liable to the penalty prescribed in the fifty-ninth section of this act.

SEC. 155. Any person who shall be aggrieved by any sentence of any court of common pleas, pronounced against him in any criminal prosecution originally commenced and prosecuted before such court, may appeal from such sentence to the supreme court at their next term, to be holden within and for the same county, where the cause shall be duly heard as if such prosecution had been commenced before said supreme court: *provided* such appeal be prayed at the time of passing such sentence; and upon such prayer the appellant shall enter into recognizance with two good and sufficient sureties, in such sum as the said court shall direct for his appearance before said supreme court, and for the prosecution of his appeal with effect, and to abide by and to perform what said court shall enjoin thereon, and to be of good behaviour in the mean time; which recognizance the clerk of said court of common pleas shall immediately certify to said supreme court; and upon the neglect of the appellant to give such recognizance, he shall forthwith be committed to the jail in the same county, there to remain till he give such recognizance, or be discharged by order of law. And every person appealing from any such sentence, shall file his reasons of appeal with the clerk of the said supreme court appealed to, ten days

before the sitting of such court, and also an attested copy of the whole case.

SEC. 156. If any appellant shall fail to enter or prosecute his appeal he shall be defaulted on his recognizance, if any was taken; and the court appealed to may award sentence against him for the offence whereof he was convicted, in like manner as if he had been convicted thereof in that court, and make such further order in the premises as they would or might have made had said appeal been entered and prosecuted in said court; and if he be not then in custody process may be issued to bring him into court to receive sentence.

SEC. 157. No person accused of any offence for which by this act he may be sentenced to death, to imprisonment for life, or for a term of seven years, shall be tried except by the supreme court.

SEC. 158. No person accused of treason against this state, murder, robbery, rape, arson, or burglary, shall be bailed except by the supreme court or one of the justices thereof.

SEC. 159. Every person who shall be imprisoned upon suspicion of having committed either of the crimes in the next preceding section mentioned, shall be bailed or discharged, if not indicted at the second term of said supreme court after such commitment. Every person who shall be indicted for either of said crimes and shall be imprisoned under the indictment, shall be tried or bailed at the term of said court next after that at which he shall plead to said indictment, if he demand a trial, unless it shall appear to the court that some material witness in behalf of the state has either been enticed away or is prevented from attending court by some unavoidable accident. Upon the trial of any such person he shall be allowed to challenge peremptorily twenty of the persons summoned as jurors, and no more.

SEC. 160. No person, except upon indictment found by a grand jury, shall be put on trial for any crime or offence before the supreme court or either of the courts of common pleas in this state, except in case of an appeal from the sentence of some magistrate.

SEC. 161. All indictments for any crime or misdemeanor committed on the waters of the Narragansett bay, shall be triable in any county, at the discretion of the attorney general.

SEC. 162. Every person who shall be accused of any offence shall be proceeded against in the county in which the offence shall be alleged to have been committed, and not elsewhere, except in the cases in which special provision is or shall be made to the contrary.

SEC. 163. No indictment or other criminal process shall be abated or quashed for any want of form: *provided* it contain such allegations of the offence that the accused shall be able to plead and make defence thereto without prejudice to his rights, and to avail himself of any judgment that may be rendered thereon in case of a second complaint against him for the same offence; and every defect and want of substance in any such process may be amended and supplied with the consent of the accused.

SEC. 164. If any prisoner on being arraigned for any offence shall stand mute, or not answer directly, or shall peremptorily challenge a greater number of the persons summoned as jurors than he is by law entitled to challenge, the plea of not guilty shall be entered on the record, the super-numerary challenges disregarded, and the trial proceed as if the prisoner had pleaded not guilty, and as if he had not made such challenges.

SEC. 165. When an indictment shall be found against any person for any offence and the petit jury shall not be satisfied that he is guilty of the whole offence, but shall be satisfied that he is guilty of so much thereof as shall substantially amount to an offence of a lower nature, the jury may find him guilty of such lower offence; and the court shall proceed to sentence such convict for the offence of which he shall be so found guilty.

SEC. 166. Every person who shall be convicted of any crime or offence before any court or magistrate, shall be liable to pay all the costs of his prosecution and conviction, and the payment of the same shall be a part of his sentence; and in case he shall be imprisoned he shall be kept in imprisonment until such costs are paid; including also all costs of his commitment, unless upon application such costs shall be remitted by a justice of the supreme court or court of common pleas of the same county; such justice being first satisfied that the prisoner is unable to pay such costs.

SEC. 167. The preceding section shall not apply to convicts sentenced to death or to be imprisoned in the state prison; in any such case the costs shall be paid by the state.

SEC. 168. Every person who shall be convicted before any court or magistrate of any crime or offence, and who shall be fined therefor, shall be committed to the jail in the same county unless otherwise ordered, according to the provisions of the one hundred and twenty-seventh section, until such sentence be complied with in all its parts; subject how-



ever to the provision respecting the remission of costs in the one hundred and sixty-sixth section of this act.

SEC. 169. Whenever any person under recognizance shall fail to perform the condition of his recognizance, his default shall be recorded, and process shall be issued against the persons bound in such recognizance, or such of them as the attorney general shall direct.

SEC. 170. Any person who shall be surety in any recognizance to keep the peace, or for the appearance of any person accused, or of any witness, or in any recognizance which shall be given on claiming an appeal, shall have the same power and authority over his principal as though he were bail for him in any civil cause; such surety may at any time surrender his principal to the court or magistrate who took such recognizance, or may commit him to the jail in the same county, leaving with the jailer a certified copy of such recognizance; and upon such surrender or commitment shall be discharged and exempt from all liability for any act of the principal subsequent thereto, which would have been a breach of the condition of the recognizance; and the person so surrendered or committed may be recognized anew with sufficient surety, and be in all respects dealt with in the like manner and with the same effect as though he had never given any recognizance in the case: *provided, however*, that in case any recognizance shall have been certified to some other court, the surrender shall be made to such court if in session.

SEC. 171. When complaint shall be made on oath or affirmation to any magistrate authorized to issue warrants in criminal cases, that any money or other thing, the subject of larceny by the provisions of this act, has been stolen or embezzled, or obtained by false tokens or pretences, within this state or elsewhere, and that the complainant believes that the same is concealed in some house or place within the county where such complaint shall be made, and in such complaint particularly described, such magistrate, if he be satisfied that there is reasonable ground for such belief, shall issue his warrant directed to the sheriff, his deputy, or to either of the town sergeants, city sergeants or constables in said county, commanding them in the name of the state diligently to search the house or place therein described, in the day time, and to bring said money or thing stolen, if the same shall be found therein, and the person or persons in whose possession or custody the same shall be, before said magistrate or some other magistrate in the same county; which warrant any such officer is hereby authorized and required to execute.

**SEC. 172.** When any such warrant shall be returned executed, to any such magistrate, all the money or other things returned therewith shall be safely kept according to the direction of such magistrate, for the purpose of being used as evidence on any trial, and as soon as may be afterwards shall be restored to the owner or owners thereof.

**SEC. 173.** Whenever any such property so recovered shall be used as evidence in any criminal trial, all the costs of such search warrant, together with the costs of keeping such property, shall be taxed in the bill of cost; in all other cases the costs shall be paid by the state.

**SEC. 174.** Whenever any person shall be found within this state, charged with an offence committed in any other state or territory, and liable by the constitution and laws of the United States to be delivered over upon the demand of any executive of any other state or territory, any magistrate authorized to issue warrants in criminal cases may, upon complaint under oath, setting forth the crime or offence and such other matters as are necessary to bring the case within the provisions of law, issue his warrant to bring the person so charged before the same or some other magistrate within the state, to answer such complaint as in other cases.

**SEC. 175.** If upon the examination of any person so charged, it shall appear that there is reasonable cause to believe the complaint true, and that such person may be lawfully demanded of the executive of this state, he shall, if not charged with an offence not bailable by such magistrate if committed within this state, be required to recognize in a reasonable sum with sufficient sureties, to appear before such magistrate at some future day, allowing a reasonable time to obtain a warrant from the said executive, and to abide the order of such magistrate on such complaint. If such person shall not so recognize, he shall be committed to jail, and be there detained until he give such recognizance, or until such day. And if the person so recognizing shall fail to appear according to the conditions of his recognizance, he shall be defaulted, and like proceedings shall be had as in case of other recognizances entered into before some magistrate; but if such person shall be charged with an offence not bailable by such magistrate if committed within this state, he shall be committed to prison, and there detained until the day so appointed for his appearance before such magistrate. Yet in such case the said person shall be bailable in the same manner as he would be if such offence had been committed in this state.

SEC. 176. If the person so recognized or committed shall appear before such magistrate upon the day appointed he shall be discharged unless he shall be demanded by a person authorized by a warrant of the executive to receive him: *provided, however,* that whether such person so committed be recognized, committed or discharged, any person authorized by a warrant from the executive of this state may at any time take him in custody, and the same shall be a discharge of the recognizance, if any, and shall not be deemed a breach of the same.

SEC. 177. No warrant shall be issued in pursuance of the one hundred and seventy-fourth section of this act, after the complainant shall have given recognizance with surety in such sum as the magistrate shall approve and direct, to pay all the costs that may accrue thereon, including the board of the person complained of, if committed to jail; nor shall any such warrant supersede any arrest, either civil or criminal process theretofore made, nor shall any arrest either on civil or criminal process theretofore made supersede any arrest made on any such warrant, or on any warrant issued by the executive of this state in such cases.

SEC. 178. When any person shall be sentenced to imprisonment in the state prison, the clerk of the court passing such sentence shall forthwith issue a warrant under the seal of the said court, directed to the sheriff or his deputy of the county wherein such court is held, reciting the sentence, and requiring said sheriff or deputy to take the said convict and him deliver to the warden of the said prison; and the said warden to receive said convict into his custody and him safely keep in said prison during the term specified in such sentence; and such warrant shall constitute the officer charged therewith, while he has the same in his possession for service, an officer in any county in this state into which it may be necessary for him to go, to all intents and purposes whatever.

SEC. 179. No person who shall be sentenced to imprisonment in the state prison shall have any power, during his imprisonment, to make any will or any conveyance of his property, or of any part thereof.

SEC. 180. Whenever any person shall be imprisoned in the state prison for life, or for a term of seven years or more, any creditor of such person may apply to the court of probate of the town in which the said prisoner last lived and was domiciled, in this state, or in which he shall have any estate, that letters of administration may be granted on said estate to the next of kin to said prisoner, or to any disinter-



*It is enacted by the General Assembly, as follows :*

SECTION 1. The oversight, management and control of the state prison shall be vested in a board of seven inspectors, to be appointed annually by the general assembly. They shall elect their own chairman and clerk. In case the person elected clerk shall not be one of the board, he shall receive such reasonable compensation for his services, not exceeding two dollars per day for the time in which he shall be actually employed, as the said board of inspectors shall direct.

SEC. 2. The board of inspectors shall hold quarterly meetings at the prison on the second Wednesdays in the months of January, April, July and October, at which four shall constitute a quorum for doing business ; and they may hold special meetings when necessary, all the members having notice thereof ; they may make all necessary rules and regulations for the internal police of said prison, for the mode of employment of the convicts imprisoned therein, and the manner and extent of the punishments to be inflicted for the breach of said rules and regulations : *provided* the same are not inconsistent with law ; which rules and regulations are to be entered in a book kept for the purpose, and a copy thereof given to the warden and other officers of said prison. One of said board shall, at least once in every week, visit each prisoner, and in the absence of the warden and underkeepers, examine into his situation, hear any complaints that he may make, and see that the rules and regulations of the prison be strictly observed ; they shall keep a particular record of all their meetings and proceedings, of their weekly visits and complaints made to them by prisoners, whether well or ill founded.

SEC. 3. The board of inspectors shall appoint the warden and physician of the prison, and may license any proper person who will serve without compensation to visit the convicts as a moral and religious teacher. They shall advise with the warden as to the purchase of necessary supplies and provisions for the convicts, and materials to be manufactured by them, and as to the sale of all articles made in the prison. They shall annually audit the warden's accounts before they are presented to the general assembly. Each of said board shall have power to administer oaths in relation to all matters connected with the prison. The board of inspectors may remove the warden or physician at any time for good cause. They shall serve gratuitously, and during their continuance in office they shall be exempted from military duty and from serving on juries ; and any inspector who shall hold that office for five years shall be exempted from such military duty ever after-

ward. They shall make a written report of all their doings to the general assembly at the October session in each year.

SEC. 4. The board of inspectors shall have full power and authority over the prisoners now under sentence, and over all that hereafter may be committed to said prison, to enlarge their confinement and regulate their labor by permitting them to perform labor in the corridor of said prison, or in any workshop that the general assembly may provide for that purpose; by permitting more than one person to remain in a cell, or a nurse to be with a prisoner in his cell in case of sickness; by permitting them to go into the yard of the prison in the day time; by admitting such communication to and from their friends and among themselves, and such books and other articles as they may deem expedient, consistent with the safe keeping of the prisoners, under such general rules and regulations as they may from time to time make.

SEC. 5. The warden shall reside at the prison, and shall not absent himself therefrom for a night without the written permission of two inspectors. He shall give bond to the state in the sum of five thousand dollars with sureties to the satisfaction of the inspectors, for the faithful performance of his duties. His compensation for his time and services shall be a sum not exceeding eight hundred dollars per annum, at the discretion of the said inspectors, in addition to the perquisites mentioned in the ninth section of this act.

SEC. 6. He shall from time to time appoint so many underkeepers as the board of inspectors shall advise, and may dismiss them when he thinks proper, or the board of inspectors shall direct him so to do. He shall be responsible for the faithful conduct of such underkeepers, and may require bonds with sureties from them upon their appointment.

SEC. 7. He shall keep a journal, in which he shall regularly enter the reception, discharge, death, pardon or escape of every convict; all complaints that are made to him by the convicts; all punishments by him inflicted for breach of prison discipline, and the visits of the inspectors and physicians.

SEC. 8. He shall see that the rules of the prison are strictly obeyed; that the convicts regularly receive their allowance of food and clothes; that they are cleanly in their dress and cells, and actively engaged in the work prescribed them; and he shall enforce obedience to the prison rules by such punishments as are prescribed therein; but neither whipping nor any other corporal punishment shall be inflicted, except under the direction of one of the inspectors.

SEC. 9. The warden of the state prison shall be purveyor of supplies for the county jail in the county of Providence, as well as for said prison. He shall be supplied with fuel, oil and board for himself and family, out of the supplies furnished for said establishments. Under the advice of the board of inspectors, he shall purchase the raw materials to be manufactured by the convicts under his care, and shall make sale of all articles manufactured.

SEC. 10. He shall keep a correct account of all receipts and expenditures; and at the October session of the general assembly shall present such account, together with an account of stock on hand, after the same shall have been examined and certified by the inspectors to be correct. He shall also at the same time present a written report which shall contain the number of persons in confinement, the sex, age, place of nativity, time of commitment, crime and term of imprisonment; noting also what convicts have left the prison during the preceding year, and under what circumstances.

SEC. 11. He shall not receive from any one confined in the state prison, nor from any one in behalf of any such prisoner, any gift or reward, or the promise of any, for any services or supplies, or as a gratuity, under the penalty of five hundred dollars.

SEC. 12. The warden of the state prison shall ex-officio be the keeper of the jail in the county of Providence; his compensation as warden shall be in full for all his services as keeper of said county jail.

SEC. 13. All fees that may accrue to the keeper of the jail shall be credited to the state in his account of credits and disbursements, and also the amount of money received for board of persons committed to his charge.

SEC. 14. The keeper of the jail in the county of Providence shall receive and safely keep in said jail, all such prisoners as may temporarily be committed to his keeping while being transferred from one county to another, under charge and in the custody of any of the officers of this state; and of all prisoners in custody of any officer of another state, while passing through this state. The officer having charge of such prisoners shall certify their commitment and discharge on the books of the said jail, and the warrant of such officer left with the jailer during such prisoners detention shall be a sufficient protection to him therefor.

SEC. 15. Whenever a vacancy shall occur in the office of warden of the state prison, by death or resignation, or removal, the inspectors shall immediately give notice thereof to

the sheriff of the county of Providence, and proceed as early as possible to the election of another warden ; and in the interim, and until the bond of the warden is executed as by law required, the said sheriff of the county of Providence shall ex officio be the warden of the state prison and the keeper of the jail in the county of Providence ; and shall be entitled to receive such compensation as by law belongs to said office.

SEC. 16. One underkeeper shall every day visit the cell of each prisoner, shall see that his meals are regularly delivered, that he is diligent at his work, and that his cell and all its contents are in good order ; all deficiencies in any respect he shall report in writing to the warden, and to the inspectors also when required.

SEC. 17. No underkeeper shall absent himself from the prison without the leave of the warden ; nor shall any one receive from any convict confined in the state prison, nor from any one in his behalf, any reward, or gift, or promise of any, either for services or supplies, or as a gratuity, under the penalty of imprisonment for thirty days. He shall also be immediately dismissed, and shall not afterward be employed in said prison.

SEC. 18. The compensation for underkeepers shall be fixed by the board of inspectors.

SEC. 19. The underkeepers shall have no conversation with the convicts other than is necessary for understanding and supplying their wants, and enforcing industry and obedience to the rules of the prison.

SEC. 20. The physician shall visit each convict in the prison once in every week, and oftener if need be. All directions given by him in relation to medicine, diet, clothing, cleanliness and exercise of the sick, so far as not inconsistent with law or the rules of the prison, or the safe custody of the convicts, shall be strictly attended to by the warden ; such directions shall be in writing, and entered on his journal.

SEC. 21. He shall examine each convict on his first visit to him, as to the state of the health, both of his body and mind, his habits and mode of life, and make a memorandum thereof in his journal.

SEC. 22. The physician shall present to the general assembly at their October session in each year, a written report of his proceedings, and of the state of health of the prison for the year preceding.

SEC. 23. He shall also have the medical care of such of the prisoners in the jail in the county of Providence at the suit of the state as need medical aid ; and for his services in



both establishments shall receive the annual compensation of one hundred dollars.

SEC. 24. No prisoner shall be dismissed from the state prison while laboring under dangerous disease, unless at his own request, although entitled to his discharge.

SEC. 25. Any person or persons licensed by the inspectors shall be allowed as free intercourse with the convicts, for the purpose of giving them moral and religious instruction, as is consistent with their safe custody.

SEC. 26. Public religious exercise may be held by such person in the corridor of said prison on Sundays; measures being taken to prevent the convicts during the same from holding any communication with any one which is not authorized by the rules of the prison.

SEC. 27. Every cell shall be furnished with a bible, and one hour each day shall be allowed each convict for the perusal of the same.

SEC. 28. The governor and lieutenant governor of the state, the speaker of the house of representatives, the secretary of state, the attorney general and the justices of the supreme court shall, ex-officio, be official visitors of the prison.

SEC. 29. No person not an official visitor shall be allowed to visit the prison without a written permit from one of the inspectors; nor shall any person other than an official visitor have any conversation or communication with any convict, except as provided for in the general rules established for the prison. This rule may be dispensed with in favor of any person visiting the prison from without the state, for the purposes of general information, by a written permit from two inspectors.

SEC. 30. No person shall deliver to or receive from any convict any letter or message whatever, not authorized by the rules and regulations adopted by the board of inspectors, or supply any convict with any article of any kind, under the penalty of one hundred dollars.

SEC. 31. Every convict imprisoned in the prison shall be clothed in the uniform of the prison immediately on his commitment. He shall be examined by the warden and other officers, and his name, height, apparent and alleged age, place of nativity, complexion, color of hair and eyes, length of foot, and trade or occupation, as near as may be ascertained, and entered in a book provided for that purpose, together with such natural and accidental marks as may serve as a means of identifying his person.

SEC. 32. All the effects on the person of the convict, as

well as his clothes shall be taken from him, an inventory of which shall be entered under the description of his person in his presence; after which he shall be conducted to the cell assigned him, informed of the rules of the prison, and set to labor as soon as conveniently may be. The effects and clothes of each convict shall be carefully kept by the warden and restored to him on his discharge, unless he shall desire to have the same sold by the warden; if so, he shall receive the proceeds thereof on his discharge.

SEC. 33. The uniform of the prison shall be determined by the inspectors. A change of linen shall be furnished each prisoner at least once a week.

SEC. 34. No convict shall receive any thing but the prison allowance, unless by order of the physician. When a convict shall be discharged, he shall receive his effects and clothes taken from him at his commitment, or the proceeds thereof, and shall also be paid four dollars by the warden, to be charged to expenses, whereby he can support himself until he can obtain employment.

SEC. 35. All breaches of this act shall be punished by indictment.

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*An Act directing the Keepers of Jails in this State to receive and safe keep all Prisoners committed under the authority of the United States.*

Jailers and warden to receive prisoners committed under the authority of the United States.

Whereas by an act of the Congress of the United States at the session begun and holden on the fourth day of March, A. D. one thousand seven hundred and eighty-nine, it was "Resolved, that it be recommended to the several legislatures of the several states, to pass laws making it expressly the duty of the keepers of their jails 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 case of prisoners committed under the authority of such states respectively; the United States to pay for the use and keeping of such jails, at the rate of fifty cents per month for each prisoner that shall, under their authority, be committed thereto, during the time

such prisoner shall therein be committed ; and also to support such of said prisoners as shall be committed for offences :”

In accordance with the above recommendation,

*It is enacted by the General Assembly, as follows :*

The keepers of the respective jails in the counties of Newport, Providence, Washington, Bristol and Kent, and the warden of the state prison, are hereby ordered and directed and it shall be expressly their duty to receive and safe keep therein, all prisoners committed or who shall be 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 case of prisoners committed under the authority of this state, and upon the terms in the said resolve of Congress expressed.

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*An Act to protect the Officers of Justice of adjoining States in passing through this State in the execution of their duties.*

Officers of justice of adjoining states protected while passing through this state in the discharge of their duties—penalty for obstructing, the same as for obstructing an officer of this state.

*It is enacted by the General Assembly, as follows :*

Sheriffs, deputy sheriffs, constables and other officers of the adjoining States, with their assistants, in the legal execution of any writ, warrant or other process issuing from and returnable to courts in their respective states, may and shall have full liberty, power and authority, to pass and repass, and also to convey such persons or things as they may legally have in their custody by virtue of any writ or warrant, in or by any of the roads or ways lying in or leading through any of the towns or lands of this state, in as full, free and ample manner as the officers of justice of this state do use and exercise in the discharge of their duty and office ; and all persons that menace, threaten, obstruct, strike, insult or assault, or in any other manner abuse any such officer of the adjoining states, in such execution of his office, as he is passing through any of the lands or roads of this state, shall be subject to the same pains and penalties as persons would by law be subject unto for insulting or otherwise abusing similar officers of justice of this state, in the due execution of their office.

*An Act for the preservation of Stakes and Buoys within the waters of this State, and for other purposes.*

## SECTION

1. No vessel or raft to be made fast to any stake or buoy placed by the United States in Narragansett bay, north of Kinnimicut point, or in Providence or Warren river—penalty not more than ten dollars, nor less than three dollars.
2. No vessel or raft to be made fast to the buoy south of Kinnimicut point, the stake on that point, the flag staff on half-way rock, stakes at the mouth of Bristol harbor, or to any moorings

- of said buoys, under penalty of not more than twenty dollars, or less than five dollars.
3. Captain and owner of any vessel injuring the buoys at the north or south end of Goat Island, at the entrance of Bristol harbor, or other buoys south of Kinnimicut point, or stakes on that point, or the chains or anchors by which they are moored, liable to a penalty of not more than thirty-six dollars, or less than twelve dollars.

*It is enacted by the General Assembly, as follows :*

SECTION 1. Each and every owner and each and every person having the charge of any vessel, scow, boat or raft of any kind, which shall be hereafter made fast to any stake or buoy which hath been or shall be placed, at the expense of the United States, for the security and direction of vessels, either in Providence river or in any part of Narragansett bay, or the waters thereof north of Kinnimicut point, or in Warren river, and each and every person who shall in any way injure or destroy any of the said stakes and buoys placed as aforesaid, shall forfeit and pay a sum not exceeding ten dollars, nor less than three dollars ; to be recovered by an action of debt, two-thirds thereof to the use of the United States, in order to replace such stake or buoy, and the other third to the informer who shall prosecute for the same. For any offence aforesaid committed in Providence river or in any part of Narragansett bay or the waters thereof north of Kinnimicut point, the action may be tried and determined before any justice of the peace in the county of Providence or Kent, and the part of the forfeiture belonging to the United States as aforesaid for such offence, shall be paid to the collector of the district of Providence ; and for any offence aforesaid committed in Warren river, the action may be tried and determined before any justice of the peace in the county of Bristol, and the part of the forfeiture belonging to the United States as aforesaid for such offence shall be paid to the collector of the district of Bristol ; and all forfeitures that may accrue under this section shall be prosecuted for within the term of six months after they shall accrue.

SEC. 2. Every person who shall make fast any ship, vessel, scow, boat or raft of any kind to the buoy on the shoal south of Kinnimicut, or to the stakes on said point, or to the

flag staff on the half-way rock, or to any stake which has been or may be placed at the mouth of Bristol harbor, or to any of the moorings of said buoys, and the master or owner of such ship, vessel, scow, boat or raft, shall forfeit and pay a sum not exceeding twenty dollars, nor less than five dollars; to be recovered by action of debt before any justice of the peace in the county of Kent, Bristol or Providence; one third thereof to and for the use of the person who shall sue and prosecute for the same, and the other two-thirds to be paid to the collector of the customs within whose district the offence shall be committed, for the use of the United States.

SEC. 3. The captain, owner or owners of every ship or vessel that shall by running against either of the buoys at the north and south end of Goat Island, or at the entrance of Bristol harbor near Castle Island, or shall otherwise injure the beacon on said island, or any other buoy placed or hereafter to be placed, at the expense of the United States, in any of the waters of the Narragansett bay south of Kinnimicut point, or the stakes on said point, or in any way injure, destroy or remove the chains or anchors by which they are or shall be moored, shall forfeit and pay a sum not exceeding thirty-six dollars, nor less than twelve dollars; to be recovered by an action of debt before any court proper to try the same in the county of Kent or Newport; to be distributed, paid and appropriated in the manner herein before pointed out.

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*An Act in relation to Lotteries and Lottery Tickets.*

## SECTION

1. Lotteries prohibited.
2. Selling and purchasing lottery tickets prohibited.
3. Purchaser may recover back purchase money.
4. Obligations given for tickets void.

## SECTION

5. Transfer and acceptance of tickets prohibited.
6. Penalties in this act how recovered.
7. Act not to extend to lotteries now granted, or to sales of tickets by licenses now in force.

*It is enacted by the General Assembly, as follows:*

SECTION 1. No person shall directly or indirectly set up or put forth any lottery, by whatever name the same may be called: if any person shall offend against the preceding provision, he shall forfeit and pay as a fine a sum not exceeding one thousand dollars, nor less than fifty dollars.

SEC. 2. If any person shall sell or purchase any ticket in any lottery set up in this state, or in any other state in the United States, he shall forfeit and pay as a fine for every such offence the sum of twenty dollars.

SEC. 3. The purchaser of any lottery ticket shall and may recover back the amount which he paid for the same, of the person from whom the same was purchased, in an action on the case for money had and received.

SEC. 4. All obligations and securities given for the purchase of any lottery ticket are, and are hereby declared to be null and void.

SEC. 5. Every person who shall sell or purchase, give away or accept, or in any way dispose of to or receive from another any lottery ticket, shall forfeit and pay as a fine the sum of twenty dollars for every offence.

SEC. 6. Penalties incurred under this act shall be recovered by indictment.

SEC. 7. Nothing in this act shall be deemed or construed to refer to or include any transfer of any lottery ticket, or any obligation or security given for any lottery ticket, in any lottery now granted by the general assembly, or sold by virtue of any license, by any licensed vender of lottery tickets, during the continuance of any such license.

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*An Act to prevent Trespasses.*

## SECTION

1. Penalty for cutting trees, &c., without leave—how recovered.

## SECTION

2. Method of proceeding in convicting offenders—parties may be sworn.

*It is enacted by the General Assembly, as follows :*

SECTION 1. If any person shall cut, destroy or carry away any tree, timber, wood or underwood whatever, lying or growing on the land of any other person, without leave of the owner thereof, he shall for every such trespass pay the party injured twice the value of any tree so cut, destroyed or carried away; and for the wood or underwood, treble the value thereof; which several penalties, forfeitures and damages, shall and may be recovered by action of trespass before any justice of the peace in the county, if the penalty or damage exceed not the sum of twenty dollars; but if it be above that value, then before the court of common pleas in the same county.

SEC. 2. In case any dispute shall arise upon any action brought as aforesaid, where the plaintiff shall charge the defendant in trespass with cutting, destroying, or carrying away any particular tree, parcels of timber, wood or underwood, off or from any such land as aforesaid, or of being aiding or assisting therein, then and in such case, if the plaintiff or his

agent or attorney shall make oath that there have been cut, destroyed or carried away, such and so many trees, parcels of wood or underwood, as mentioned in the writ, and that he suspects the defendant to have committed the said trespass, although the plaintiff or his agent or attorney may not be able to produce any other evidence thereof than such circumstances as render it highly probable in the judgment of the justice or such other court before whom the trial is, then and in such case, unless the defendant shall acquit himself upon oath, to be administered to him by the court or justice who shall try the cause, the plaintiff shall recover against the defendant damages and costs; but if the defendant shall acquit himself upon oath as aforesaid, the court or justice before whom the trial is, shall enter up judgment for the defendant, to recover against the plaintiff double his costs occasioned by such prosecution.

*An Act regulating the Assessing and Collecting of Taxes.*

## SECTION

1. Secretary of state to send copy of tax bill to each town clerk.
2. Assessors to notify inhabitants to bring in lists of property under oath.
3. Those refusing to be without remedy if over-taxed.
4. Assessors to value each person's real and personal estate separate.
5. Assessors may disregard any list known to be false—party's remedy.
6. Real estates to be assessed either to owners or occupants.
7. Assessors to distinguish in the tax bills those persons who give in lists, also, the taxes assessed on real estate.
8. Penalty for making tax bill contrary to previous section.
9. Assessors to give tax bill to town clerk, and he to send copy to general treasurer—he to annex his warrant to collector.
10. Person refusing to pay tax may be committed to jail.
11. Person removing, collector may follow him to another town.
12. Collector may remove property distrained and sell in any other town.
13. Taxes on unimproved lands to be levied out of the lands—mode of selling the same.
14. Collector may cite the debtor, &c., of absent person before justice of the peace, to pay such person's tax out of his debt.
15. Such debtor, &c., refusing to appear, justice of the peace to grant warrant of distress against the debtor, &c.

## SECTION

16. Such debtor, &c., paying tax, to be protected from claim.
17. General treasurer may call special courts on collectors and their sureties who neglect their duties.
18. Executions obtained in such suits to run against real estate of collectors.
19. Sheriffs may adjourn sales of estates so attached, in certain cases.
20. Estate of such collector being insufficient, an alias execution to issue against his sureties.
21. Town treasurer refusing to deliver delinquent collector's bond to general treasurer for suit, liable to have his estate taken to make up deficiency.
22. Sales of real estates, and deeds of same, under this act, regulated.
23. Town taxes to be assessed, &c., like state taxes.
24. Warrants to collect tax to be in force till tax is collected.
25. Fees of assessors, collectors, &c.
26. Towns refusing to assess a state tax, to be fined.
27. Houses for public worship, schools, &c., exempted from taxation.
28. No other property not ceded to United States nor belonging to this state exempt from taxation.
29. When a town tax is ordered, town may elect assessors and collectors of it.
30. Towns to have preference for taxes due from insolvents, in certain cases.
31. Personal property held in trust, where to be taxed.

SECTION	SECTION
32. Certain machinery to be assessed in towns where located.	land may be collected out of any one of them.
33. Owners of such machinery may give in lists thereof to assessors.	36. Owner of estate sold for taxes may redeem in six months.
34. Buildings on leased land to be assessed as real estate.	37. Town may pay proportion of state taxes out of town treasury.
35. Taxes assessed on several parcels of	

*It is enacted by the General Assembly, as follows :*

SECTION 1. When any tax is ordered to be assessed and levied on the inhabitants of this state or any estates within the same, the secretary of state, for the time being, shall forthwith send a copy of the act imposing such tax unto each one of the town clerks, to be immediately delivered to the assessors of taxes for their respective towns.

SEC. 2. The assessors of each town shall assess and apportion the same on the inhabitants of such town, and the rateable estates within the same, by the time expressed in such act of assembly ; and they shall, three weeks before they assess or apportion the same, set up three notifications under their hands, or advertise in one newspaper printed in the town, three successive weeks, requiring each of the inhabitants of their town to bring in unto them in writing and under his hand, an exact list of the rateable estate, with a particular description of each parcel thereof, and the value of each parcel, by such time as shall be therein prescribed, and to make oath to the same before any one of said assessors, who are hereby empowered to administer to the same ; which oath shall be in the following form, to wit : You do solemnly swear, (or affirm,) that the account or list now exhibited by you contains, to the best of your knowledge and judgment, a true and full account of all your rateable estate : so help you God ; (or this affirmation you make and give upon peril of the penalty of perjury.)

SEC. 3. Whosoever shall refuse or neglect to render and give in an account of his rateable estate as required in the preceding section, if he be overtaxed, shall have no remedy for the same.

SEC. 4. The assessors shall, before they apportion the tax among the inhabitants, make a list containing the value of each person's rateable estate by him given in, and likewise the value of all such persons estate, according to the best judgment and estimate of the assessors, who neglect or refuse to give in an account thereof, agreeably to law ; and the assessors shall cast the rateable estates and thereby find how much per centum it will be, and they shall apportion the tax accordingly.



SEC. 5. When any person shall give in an account of his rateable estate and the assessors or either of them know that such account is not just and true, in such case, the assessors shall estimate such person's estate at such value in said list as they shall think it worth; and if any person shall think himself aggrieved thereby he may petition the next court of common pleas for the county in which the supposed grievance shall happen; and said court on receiving such petition are hereby required to grant a citation for the assessors against whom such complaint is made, to appear before them to answer thereunto; and if it shall appear on trial before the said court that the party complaining did secrete or omit any part of his rateable estate in giving in his list or account, or did place other than a fair cash value on the same, they shall give judgment against him, and the assessors shall recover costs, and the said court shall award execution for the same; but if on trial it shall appear to the said court that a true list was given in and a fair valuation, then they shall give judgment for the complainant, that the sum in which they shall judge him to be overtaxed, together with his costs, be deducted from his tax; a copy of which judgment being produced to the collector of taxes of the town, he shall deduct such sum so overtaxed as aforesaid, and the cost from such person's tax, in case the same be not levied and collected, and the town shall pay into the general treasury such sum deducted; but in case such tax shall have been fully paid before the producing to the said collector of taxes a copy of such judgment, then the complainant shall present the same to the town treasurer, who shall refund to him the sum over taxed and cost, out of the town treasury; and in case such sum over taxed and cost shall amount to more than such person's tax, then the balance shall be paid him out of the town treasury on producing to the town treasurer a copy of the judgment aforesaid; and no such appeal or complaint to the said court shall, during the pendency thereof and before judgment obtained as aforesaid, stay or prevent the collection of the tax of the appellant or complainant.

SEC. 6. The assessors of taxes in the several towns in assessing taxes for real estate, may assess the same either upon the owners of the real estate, or upon the persons who hold or occupy the same; in case the said taxes shall be assessed on the owners of such real estates, the real estates of such owners shall be liable for the payment and satisfaction of the said taxes: provided the same are not paid at the time appointed for the payment thereof; and in case the said taxes

shall be assessed on the tenants or occupants of such real estates, the real and personal estates of such occupants respectively, on whom the same are assessed, shall be liable for the payment and satisfaction of the said taxes so assessed: *provided, nevertheless*, that if such occupants or tenants of real estates as aforesaid are not possessed in their own right of estates real or personal, sufficient to satisfy the taxes assessed against them as aforesaid, the said real estates by them occupied as aforesaid shall be liable for the payment and satisfaction of the said taxes so assessed.

SEC. 7. The assessors shall, in making the said list or estimate of rateable estates, distinguish therein those persons who give in an account of their estates from those who neglect so to do; and shall also distinguish all taxes assessed for real estates from those assessed for personal estates, making in the tax bill a distinct and separate column for each, and shall deliver the said estimate to the town clerk with the said tax bill.

SEC. 8. Every assessor of taxes who shall assist in making any estimate of rateable estates, or shall apportion any tax upon any estimate made in any manner different from that prescribed in the preceding section of this act, shall forfeit the sum of one hundred dollars; one half thereof to the use of the person who shall sue for the same, and the other half thereof to and for the use of the town in which such unlawful estimate and apportionment may have been made; to be recovered before any court of competent jurisdiction, in an action of debt.

SEC. 9. The assessors shall, immediately upon their assessing and apportioning any tax to them committed to assess, send a true bill or list thereof to the town clerk, under their hands; and if it be a state tax the town clerk shall upon receipt thereof draw an exact copy, under his hand, and send the same to the general treasurer, with the names of the town treasurer and the collector of taxes for his town; but if it be a town tax he shall deliver the said bill or list to the town treasurer of said town; and the general treasurer on receipt of said copy shall issue forth his warrant to the collector of said town, and affix the same to the bill or list sent to him by the town clerk, commanding him in the name of the state to collect the several sums of money therein expressed against each person's name, by such time as by law is limited; and when collected to pay the same unto him or his successor in said office.

SEC. 10. If any person being legally taxed in any town

shall neglect or refuse to pay such tax, it being by the officer to whom such tax shall be committed to collect legally demanded of him, in case no estate real or personal can be found by such officer to attach or distrain sufficient for the payment thereof, he shall be by such officer committed to the jail in the county, there to remain without any allowance for his support until he shall pay the sum assessed on him with the cost, or be otherwise discharged according to law.

SEC. 11. When any person shall be taxed in one town and remove into another before his tax shall be collected, then it shall be lawful for the collector of taxes to follow such person into any town, and there levy and collect such tax as fully and effectually to every intent and purpose as if such person had not removed out of the town wherein he was taxed.

SEC. 12. Every collector of taxes is hereby empowered to remove stock or other property by him distrained for the non-payment of taxes, to any part of the state where the same may be sold to the best advantage; and a sale thereof at public auction, in the place to which the same shall be removed as aforesaid, after due notification, shall be as good and valid in law as though the same had been sold in the town where the said stock or property was distrained.

SEC. 13. The taxes assessed upon all unimproved lands, the owners of which do not reside within the state, and upon all improved lands whereof neither the owner or occupant live within this state, shall be levied by the sale of so much of the said land as will pay the said tax, after public notice has been given twenty days in one of the newspapers printed in this state, near the lands so assessed, by the collector of taxes of the town in which such land lies; and if the owner thereof neglects to pay the tax so assessed and levied upon his land, with the cost of notification, by the time limited in the notification in said newspaper, then and in such case the collector of taxes shall sell so much of the said land at public auction to the highest bidder as will be sufficient to pay said tax and the cost of notification.

SEC. 14. If any person being legally taxed in any town shall go to sea or depart out of this state, leaving no property whereby his said tax may be satisfied, it shall and may be lawful for the collector of such town to cite the attorney, agent, factor, trustee or debtor of any such absent person before any justice of the peace of such town, to declare on oath how much of the estate of such absent person he hath, if any, in his possession; and such attorney, agent, factor, trustee or

debtor shall forthwith pay to the said collector the tax of such absent person, with the cost of citing as aforesaid, if he hath sufficient property in his possession, or shall deliver unto the said collector all or so much of the property of such absent person as will be sufficient to discharge his said tax and cost.

SEC. 15. If any attorney, agent, factor, trustee or debtor of such absent person as aforesaid, shall neglect or refuse on being cited to appear before any justice as aforesaid, to declare on oath how much, if any, of the property of such absent person he hath in his possession; or having declared on oath as aforesaid, shall neglect or refuse to pay the tax of such absent person; or to deliver to the collector all or so much of the property of such absent person as will be sufficient to pay the same with costs, such justice shall forthwith grant unto the said collector his warrant of distress against the proper goods and chattels of such attorney, agent, factor, trustee or debtor; and the said collector is hereby authorized and empowered to seize and distrain the same, or so much thereof as will be sufficient to pay and discharge said tax with cost.

SEC. 16. If any attorney, agent, factor, trustee or debtor shall pay the tax of any such absent person, or shall deliver unto the collector the property of such absent person for that purpose, or shall have his goods and chattels distrained for the payment of such absent person's tax in manner as aforesaid, it shall be a good and sufficient bar to any action which shall or may be brought for the same by such absent person against such attorney, agent, factor, trustee or debtor.

SEC. 17. The general treasurer for the time being is hereby empowered and directed to call special courts upon any collector of taxes and his sureties, who shall neglect to pay into the general treasury the proportion of any tax to him committed to collect, by the time limited for collecting the same; and town treasurers shall on request deliver the bonds of any delinquent collector unto the general treasurer for that purpose.

SEC. 18. In all executions issuing on any judgment obtained by the general treasurer as aforesaid, against any delinquent collector of taxes and his sureties, the words "or real estate" shall be inserted in the mandatory part of such execution immediately after the words "goods and chattels;" and the sheriff to whom the said execution shall be delivered shall, immediately on the receipt of the same, attach and take into his possession all the estate real and personal within his precinct belonging to such collector; and shall immediately

after such attachment, advertise the said estate real or personal to be sold at public auction within twenty days thereafter; and shall cause so much of said estate to be sold as will be sufficient to pay and satisfy the amount of such execution, and all incidental expenses and costs.

SEC. 19. In case of accidents or extraordinary storms or tempests, by reason whereof few or no purchasers may attend, it shall and may be lawful for the sheriff to adjourn the sale of the estates so attached, from one day to the next, and so for three adjournments, and no longer.

SEC. 20. If the estate real or personal of such delinquent collector, which shall be sold as aforesaid, shall not be sufficient to discharge the amount of the execution, with the cost of levying the same, an alias execution shall be immediately issued against the sureties of such collector for levying and collecting the remainder; which execution shall be levied on the estate, real and personal, of the sureties in manner as above directed, and shall be returnable in fourteen days from the date thereof.

SEC. 21. If any town treasurer shall neglect or refuse to deliver to the general treasurer as herein required the bond of any delinquent collector, to be prosecuted in manner as aforesaid, the general treasurer shall immediately issue a warrant of distress against such town treasurer, directed to the sheriff or his deputy of the county in which such town treasurer shall reside; and the said sheriff or deputy shall, on the receipt of the same, attach and take into his possession all the estate, real and personal, of such town treasurer, and sell the same at public auction in the same manner he is directed to sell the estates of delinquent collectors; and if the estate of such town treasurer attached and sold as aforesaid shall not be sufficient to discharge the tax for which such delinquent collector is in arrear, together with the cost of executing said warrant of distress, the body of said town treasurer shall be committed to jail, there to remain until such tax and costs are fully paid and satisfied.

SEC. 22. In all cases where by virtue of this act real estates are liable for the payment of taxes, and the manner of selling the same and executing deeds thereof is not herein prescribed, the same shall be sold at public auction to the highest bidder; notifications thereof having been set up in two or more public places in the town where such real estate lies, twenty days at least previous to such sale; and a deed or deeds thereof made and executed by the sheriff or collector who shall sell the same, shall vest in the purchaser all the estate,

right and title the owner or owners thereof had in and to such real estate at the time said tax was assessed, subject to the provisions herein after contained.

SEC. 23. All town taxes which shall be assessed in any town shall be assessed, levied and collected in the same manner as the state taxes are, or by this act ought to be ; and the town treasurer of each town shall have the same power of calling special courts on delinquent collectors and their sureties, and of levying execution on their estates, real and personal, as the general treasurer hath by this act.

SEC. 24. All warrants that shall be granted for collecting taxes shall continue and remain in full force until the whole of each respective tax shall be collected.

SEC. 25. Assessors shall receive such reasonable compensation for apportioning each tax as the town may allow ; town clerks for copying the tax bills shall be paid as for other copies ; and collectors shall be paid for collecting at the rate of five per cent., unless they shall have agreed with the town for a less sum therefor ; which fees shall be paid out of each town treasury.

SEC. 26. When any tax shall be ordered by the general assembly to be assessed upon the inhabitants of this state, and any or either of the towns therein shall neglect or refuse to assess such tax upon the inhabitants of their respective towns, agreeably to such order of the assembly, such towns so neglecting or refusing shall pay a fine of double their proportion of said tax ; to be recovered by the general treasurer by an action of debt against the town treasurer of such delinquent town, in either of the courts of common pleas ; and further, any such delinquent towns, notwithstanding their being fined, shall be obliged to pay their proportion of tax.

SEC. 27. So much property as now is or hereafter may be invested in houses for public religious worship, or in houses for schools, academies and colleges, established or owned by any town, company or corporation, and the land on which they stand, together with such other property as now is or hereafter may be specially exempted by a charter granted by this general assembly, and such lots of land as are or may be exclusively used as burial grounds, are hereby exempted from taxation.

SEC. 28. No property whatsoever of any description not ceded or belonging to the United States or this state, except as aforesaid, shall, on any pretence whatever, be deemed to be exempted from taxes ; any law or act public or private to the contrary notwithstanding.

SEC. 29. The electors in the several towns in town meeting assembled may, if they deem it expedient, whenever they shall order a town tax, elect such and so many assessors of town taxes not exceeding seven, and one or more collectors of such tax as they shall think expedient, and said assessors and collector or collectors when so elected shall be subject to and regulated by the laws of the state relative to the assessing and collecting of taxes.

SEC. 30. Whenever any person shall become insolvent or die insolvent, the several towns to which he may stand indebted for town taxes shall have preference, after payment of debts due to the United States and to this state, over other debts and demands, save those due for necessary funeral charges of the deceased, for attendance and medicines during his last sickness, in the same manner that the United States have preference.

SEC. 31. All personal property held in trust by any executor, administrator or trustee, the income of which is to be paid to any other person, shall be assessed against such executor, administrator or trustee in the town in which such other person is an inhabitant; but if such other person resides out of the state, the same shall be assessed in the town where the executor, administrator or trustee resides.

SEC. 32. All the picking, carding, spooling, drawing, spinning and reeling frames, dressing and warping machines, looms, tools and other machines of every kind and nature, propelled by steam or water power in any cotton or woolen factory, shall be assessed and pay taxes in the towns where they are located, in the same manner as though the owner thereof resided in said towns.

SEC. 33. The owners of such property shall have the same right and privilege to present a list of said property to the assessors, and to appeal, as though they were inhabitants of the towns where said property is situated, in the same manner as is herein before provided for the inhabitants of towns.

SEC. 34. In the assessment of all taxes, buildings standing on leased land, the leases whereof are in writing and recorded, shall be deemed real estate, and if any such building shall be removed, the lien thereon shall not thereby be affected; but any collector may sell the same in the same manner as he can sell other real estates by virtue of this act.

SEC. 35. In case any person shall be assessed for more than one piece or parcel of real estate lying in any one town, or for real and personal estate in the same tax, the collector of such tax may levy and collect the whole amount of such

person's tax out of any part of said person's real estate which shall be owned by him at the time of the actual collection thereof, or out of his personal estate.

SEC. 36. In case of the sale of any real estate or buildings for the payment of taxes, the person who owned the same at the time the same was assessed for such taxes, his heirs and devisees, shall have the right within six months after such sale to redeem the same upon repaying to the purchaser the amount paid therefor with twenty per cent. in addition.

SEC. 37. Whenever any state tax shall be ordered by the general assembly, and apportioned among the several towns, any town may at any time before the time limited for the payment, pay such town's proportion of said tax into the general treasury, out of the town treasury of such town, and include the same if necessary in any future town tax ordered by such town; in such case no assessment of said town's proportion of said state tax need be made by the assessors of such town.

*An Act to prevent Hawking and Pedling without license.*

**SECTION**

1. No person to sell as a hawker or pedler foreign manufactures, &c., without license—penalty—how recovered.
2. Offenders how prosecuted—complainant to give recognizance—articles, &c., may be seized and forfeited.
3. General treasurer may grant licenses—sum paid for license—to continue one year.

**SECTION**

4. Pedler to show his license on demand, &c.
5. Defendant to prove that goods sold, &c., were the growth or manufacture of United States.
6. Inhabitants of this state may sell domestic manufactures without license.

*It is enacted by the General Assembly, as follows :*

SECTION 1. No person unless licensed as herein after provided shall, as a hawker or pedler, sell or offer for sale any goods, wares or merchandize not of the growth, produce or manufacture of the United States; any tin ware, silver ware, plated ware, glass ware, jewelry, combs, brushes, essences, books, other than the bible, table cloths, table covers, oil cloths, rubber cloths, counterpanes, bed quilts, bed coverings, blankets, damask cloths, diapers, or other articles manufactured of hemp, flax, silk, wool or cotton; any clocks, watches, paper, buttons, matches, gunpowder, needles, brass ware, pewter ware, Britannia ware, articles manufactured of German silver, wood ware, brushes, brooms, cigars, whips, whiplashes, ink, ink powder or blacking of any description; hats made of fur, wool, silk, palm leaf or any other materials, or caps or bonnets of any sort or description; or shall carry such goods,



wares or merchandize, or any of said enumerated articles, through or into any town, to be sold or bartered from packs, packages, horses, carts or other vehicles, under the penalty of forfeiting the sum of fifty dollars ; to be recovered by an action of debt before the court of common pleas in the county where the offence shall be committed ; one half thereof to and for the use of the person who shall sue for the same, and the other, to and for the use of the state. And every individual sale or offer for sale made contrary to the provisions of this act shall be deemed and construed as a distinct and separate offence ; and the person making the same shall be liable to be prosecuted therefor as such, in the manner prescribed in this act.

SEC. 2. Whenever complaint shall be made to any justice of the peace within his county that any person within his county is selling or offering for sale any article contrary to the preceding section, such justice shall examine the complainant under oath, reduce his complaint to writing, and cause the same to be by him signed. If the complainant shall then enter into a recognizance in such sum, not exceeding fifty dollars, and with such surety as the justice shall direct and approve, conditioned to prosecute such complaint to final judgment with effect, or in default thereof to pay the costs that may accrue thereon, such justice shall issue his warrant to seize the article or articles so offered for sale ; together with all other prohibited merchandize and afore enumerated articles then in the immediate possession of the person complained of, with the packs, packages, carriage and horse, or other vehicle upon or in which the same shall have been transported ; and to summon such person to appear before him and show cause why all such property should not be adjudged forfeited ; and if upon trial it shall appear that such complaint is true, then all such property so seized shall be forfeited ; one half thereof, after payment of the costs, to and for the use of the complainant, and the other half to and for the use of the state.

SEC. 3. The general treasurer shall be and is hereby authorized and empowered to grant and issue to any person or partnership, of not more than two persons, that he may deem suitable, a license for offering for sale and for selling any goods, wares or merchandize of foreign growth or manufacture, together with the other articles enumerated in the first section of this act in manner aforesaid, upon the payment of the sum of one hundred dollars for the use of the state ; and a license for offering for sale and selling the articles enumer-

ated in the first section of this act, exclusive of such as are of foreign growth or manufacture, upon payment of the sum of seventy-five dollars for the use of the state, and one dollar for his trouble for each license by the person or such partnership applying therefor; and shall at the time of issuing such license enter upon a list kept for that purpose, the name of the person or such partnership so licensed, the kind of license, and the time of the expiration of such license; and shall also furnish to any person who may request it, a statement copied from said list of all such licenses as may be or may have been in force in any year designated by the person requesting such statement; and every such license shall continue in force for and during the term of one year from the granting thereof, and no longer; and shall authorize only the person or such partnership named therein, to sell and offer for sale as aforesaid.

SEC. 4. If any person selling or offering for sale as a hawker or pedler, any goods, wares or merchandize of foreign growth or manufacture, or any other goods enumerated in the first section of this act, shall, after being by any inhabitant of this state, or any person having a license under this act, distinctly requested to show his license, neglect or refuse for the space of ten minutes to show a license then in force according to the provisions of this act, and allow the same to be read, every such person, if sued or prosecuted under this act, shall be adjudged to pay all the costs of such suit or prosecution, although it shall appear on trial that he had a license duly issued and in force at the time of the alleged offence.

SEC. 5. On the trial of all complaints made for a breach of the provisions of this act, it shall be incumbent on the person complained of or prosecuted, to prove to the satisfaction of the court or justice by whom the suit or complaint shall be tried, that the goods sold or offered for sale as of the growth, produce or manufacture of the United States, were of the growth, produce or manufacture of the United States.

SEC. 6. Nothing in this act contained shall be so construed as to require any inhabitant of this state to procure a license to enable him to peddle any article manufactured with his own hands; nor shall this act be so construed as to prevent the inhabitants of this state from vending without license, tow cloth, knit stockings, gloves and mits, and all other articles of household manufacture made and manufactured in this state.

*An Act requiring the Clerks of the Courts to Account, and for other purposes.*

## SECTION

1. All fines, costs, &c., except those received by justices of the peace and clerks of common pleas, to be paid to the clerks of the supreme court; by them into the general treasury.
2. Costs unclaimed six months, to be paid into the general treasury.
3. Orders for costs and incidental expenses how drawn.
4. Clerks to transmit to general treasurer

## SECTION

- an account of fines, &c., imposed—also of all monies received, and pay over the same.
5. General treasurer to furnish blank forms.
  6. Penalty for neglect in paying over costs.
  7. General treasurer to make report, and sue for neglect.

*It is enacted by the General Assembly, as follows :*

SECTION 1. All fines, penalties and forfeitures, except such as shall be received by justices of the peace and clerks of the courts of common pleas, and all costs due or payable into the general treasury, shall be paid to the clerk of the supreme court for the county in which the same shall be imposed, assessed or taxed, and be by him accounted for and paid into the general treasury. All sheriffs, deputy sheriffs and jailers shall pay to the clerk of the supreme court for their respective counties, all fines and costs by them received, due and payable into the general treasury; and the said clerks of the supreme court shall prosecute all delinquents under this act according to law.

SEC. 2. All costs paid out of the general treasury, or by defendants or others in criminal prosecutions, which shall remain unclaimed by the persons to whom the same shall be due for the space of six months after the same shall be received, shall be paid by the officer or person holding the same to the clerk of the supreme court for the county, who shall account for and pay the same as aforesaid into the general treasury.

SEC. 3. All orders drawn on the general treasury for bills of costs shall be accompanied with copies of the said bills of cost; and all orders drawn on the general treasury for incidental and extraordinary expenses or services in criminal prosecutions, shall contain a statement of the particulars of said expenses or services, and a description of the prosecutions or causes in which the same were paid or rendered.

SEC. 4. Each of the clerks of the supreme court and court of common pleas shall, within twenty days after the rising of the court of which he is clerk, at every term thereof, render a true and particular account to the general treasurer of all fines, penalties and forfeitures imposed or declared forfeit at

that term of said court; and copies of all bills of costs taxed in criminal prosecutions, or any other cases in which the state or the general treasurer may be a party; and of all allowances for extraordinary and incidental services or expenses; and also of all money by him received in pursuance of the act entitled "an act in relation to jurors;" and shall, if a clerk of the supreme court, also make like return of all money by him received and payable into the general treasury; which account shall be accompanied by a certificate from some one of the justices of said court verifying the same, and specifying therein the number of cases tried before or opened to the jury, and the amount of fines imposed by said courts for non-attendance of jurors; and all such monies shall be paid into the general treasury at the time of rendering said account.

SEC. 5. The general treasurer shall furnish the clerks of said courts from time to time with such forms of accounts and returns as he shall think proper and convenient; and the said clerks shall make return to the general treasurer according to law, agreeably to such forms by him prescribed.

SEC. 6. If any officer or other person shall neglect or refuse to pay to any clerk of the supreme court, any costs payable to him at the time when the same ought to be paid; or if any of said clerks shall neglect or refuse to pay into the general treasury, any costs payable thereunto at the time when the same ought to be paid, the person so offending shall forfeit and pay treble the value or amount of the costs so withheld or not paid; to be recovered by action of debt, to be commenced by the general treasurer for the use of the state.

SEC. 7. It shall be the duty of the general treasurer to report semi-annually to the general assembly, on the operation and execution of this act; and to cause prosecutions to be commenced for all neglects of the duties hereby imposed, and for all breaches thereof.

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*An Act in relation to the Providence and Pawtucket Turnpike Road, now belonging to the State.*

**SECTION**

1. An agent for said road to be annually elected—may employ sub-agents, keep road in repair, and pay over tolls received, quarterly to the general treasurer.
2. Compensation of agent fifty dollars per year.

**SECTION**

3. Agent may commute tolls.
4. Agent to prosecute for all violations of the rules of the road, and for tolls due.
5. Penalty for injuring road or obstructing free passage over it.

*It is enacted by the General Assembly, as follows :*

SECTION 1. At the annual general election in every year, an agent shall be chosen to superintend the Providence and Pawtucket Turnpike Road and all the business thereof. Such agent shall employ and pay such sub-agents as may be necessary, and shall keep said road and buildings belonging to it in repair, and pay over the income thereof to the general treasurer, quarterly.

SEC. 2. Said agent shall be allowed as compensation for his services the sum of fifty dollars ; he shall continue in office until his successor is qualified to act.

SEC. 3. The agent shall have power to commute the tolls chargeable on said road, with persons regularly travelling over the road, on such terms as he may deem best.

SEC. 4. The agent of the state for superintending said road shall prosecute for all violations of the regulations of said road, and for all sums due to said road for tolls or commutation of tolls.

SEC. 5. If any person shall hereafter pull down or in any way injure the gates or buildings erected upon or belonging to said road, or the appurtenances thereof, or shall in any manner obstruct the free passage of persons travelling over or using said road, or otherwise injure said road, such person shall be fined not exceeding six hundred dollars, or be imprisoned not exceeding six months ; and shall also be liable to pay to such agent to and for the use of the state, double the amount of the damage actually done, to be recovered in an action therefor.

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*An Act to provide for the safe keeping of the money received from the United States, by virtue of an act of Congress entitled " An Act to regulate the deposits of the public money," approved June 23, 1836.*

## SECTION

1. Commissioners of the funds deposited by the United States.
2. Commissioners may loan to banks upon bond.
3. May withdraw the loan if deemed insecure.
4. Deposite shall remain until otherwise ordered by the general assembly.

## SECTION

5. To be repaid when demanded by the United States.
6. If relinquished by bank or withdrawn, commissioners may loan to town—town treasurer to give bond therefor.
7. What proportion may be loaned to town.
8. Commissioners may invest in bank stock in certain case.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The governor, secretary of state and general treasurer for the time being, are hereby constituted commis-

sioners of the funds received by this state from the United States, by virtue of an act of Congress approved June 23, 1836, with full power to regulate the custody and safe keeping thereof according to the provisions of this act, and of such other acts as the general assembly may from time to time pass on the subject.

SEC. 2. Said commissioners may deposite in such of the banks as have complied and shall comply with the laws relating to banks, and shall assent to the provisions of this act, their rateable proportion of said sum, according to the capital actually paid in ; each bank obligating itself in writing to pay interest on the amount deposited with it, to the general treasurer, on the second Monday in April in every year, at the rate of five per cent. per annum, and to pay over said amount deposited, or any part thereof, to the order of the commissioners.

SEC. 3. Said commissioners, whenever they shall deem the deposite in any bank to be insecure, may require sufficient security of such bank, and in default of giving the same when required, or of paying the interest on the same, shall demand and receive payment of the sum deposited. In case of the refusal of any bank to make payment of said deposites when demanded, the said commissioners may issue a warrant of distress, directed to the sheriff or either of his deputies in the county in which such bank is located, commanding him to distrain the goods, chattels and effects of every kind belonging to such bank, and the same to sell and dispose of to an amount equal to that due from said bank, and the cost of such proceedings ; and to pay the proceeds over to said commissioners.

SEC. 4. The deposites made by said commissioners agreeably to this act, in any bank, shall remain therein until the general assembly shall order some other disposition thereof ; unless they shall be voluntarily relinquished by such bank or shall be called for by the secretary of the treasury of the United States, or shall be drawn out by reason of insecurity, or for non-payment of interest, or unless such bank shall be adjudged by the supreme court guilty of violating the law concerning banks.

SEC. 5. Whenever the money deposited with this state shall be demanded by the secretary of the treasury of the United States, notice thereof as soon as may be, shall be given by the said commissioners to the banks holding any part thereof, and they shall be required to make payment rateably if the whole amount shall not be demanded by said secretary.

SEC. 6. Whenever any bank shall voluntarily relinquish the deposite placed with it in pursuance of this act, and whenever any such deposite shall be withdrawn for any reason other than for payment to the United States, said commissioners may loan any portion of said fund to any town in this state ; but in that case the treasurer of said town shall give bond to said commissioners with condition to pay interest on the second Monday in April on the amount received, at the rate of five per cent. per annum ; to pay the whole or such part of the sum loaned as may be required by the commissioners for the purpose of repayment to the United States, when the same shall be demanded ; to pay the whole or such part thereof as shall be required by the general assembly, and when so required ; and to apply the money so received for the purposes of education exclusively.

SEC. 7. The sum so loaned to any town shall not exceed the proportion of the whole amount deposited with the state to which such town would be entitled according to the ratio of the white population of such town, under the age of fifteen years, and the colored population under ten years, and five-fourteenths of the colored population between the ages of ten and twenty-four years, to the whole population of the state, according to the census of the United States next preceding such loan.

SEC. 8. Whenever any monies returned or withdrawn as aforesaid shall not be applied for, in whole or in part as aforesaid, within five days of the time of return or withdrawal, the commissioners are hereby authorized, in their discretion, to place the same or the balance thereof in deposite with some other bank or banks, subject to the conditions and limitations mentioned in this act ; or to invest the same in the capital stock of some bank or banks within this state.

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*An Act to regulate the Inspection of Beef and Pork.*

## SECTION

1. Beef and pork to be inspected.
2. Inspector general to be annually appointed—give bond—be sworn—may appoint deputies—deputies may appoint assistants—death of inspector general not to abate their powers—vacancy how filled.
3. Deputies to make return to inspector—inspector to make return at May session.
4. Beef how to be packed and salted ; divided into three kinds, mess, prime, cargo.

## SECTION

5. Beef barrels how made, hooped, dimensions, &c.
6. Pork divided into three kinds, clear, mess, prime—how salted and packed—branded—refuse, what.
7. Pork barrels how made, hooped, &c.—dimensions.
8. Casks containing beef or pork to be branded.
9. Penalty on deputy or assistant for branding out of his precinct—on others, for unlawfully branding.

## SECTION

10. Fees of inspector, &c.
11. Penalty for fraud of inspectors, &c.
12. Penalty for intermixing or shifting beef or pork.
13. Master of vessel exporting, to produce to collector a certificate from inspector, &c.
14. Inspector's fee for certificate.
15. Beef in kegs may be exported—to be branded.
16. Penalty for exporting beef or pork not inspected.
17. Owners to provide store room for pack-

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- ing in case, &c.—penalty for using weights not sealed.
18. Certificate to accompany all beef or pork exported to be produced to collector—penalty for exporting without.
19. Beef or pork inspected in any other state may be exported without re-inspection, &c.
20. Penalty for selling before inspection.
21. Penalties how recovered.
22. City of Providence may appoint inspector, &c.
23. Beef and pork inspected under former laws may be exported.

*It is enacted by the General Assembly, as follows :*

SECTION 1. No person shall sell, ship or export for sale from this state, any salted beef or pork, except in casks of the quality and dimensions herein after provided, nor unless the contents thereof shall be inspected and packed and the casks containing the same branded, agreeably to the directions in this act.

SEC. 2. There shall be an inspector general of beef and pork appointed by the general assembly annually ; who, before he shall enter on the duties of his office, shall give bond with sufficient surety to the general treasurer, in the penal sum of one thousand dollars, for the faithful discharge of his duties, and shall be sworn faithfully to perform the same. He shall have power when so qualified, to appoint, and shall appoint a deputy inspector in each county, who shall be removable by him at pleasure, and for whom he shall be answerable. He shall take bonds from them to himself and successor in said office, with sufficient sureties, in the penal sum not exceeding five hundred dollars. The said deputy inspectors shall also be sworn to the faithful discharge of their duties ; and each of the deputy inspectors, when so appointed and qualified, shall appoint in the several towns in their respective counties such a number of assistant inspectors, surveyors or packers, as shall be necessary ; who shall give bonds with sureties to the deputy inspector from whom such assistant shall receive his appointment, in the penal sum of not less than one hundred dollars for the faithful discharge of his duties, and shall also be sworn faithfully to perform the same : *provided, always*, that in case of the vacancy of said office of inspector general by death, resignation or removal out of the state, his deputy inspectors and their assistants shall continue in their respective offices until the next annual election, unless sooner removed by the inspector general for the time being ; and that the governor be, and he hereby is authorized and em-



powered to appoint an inspector general to fill such vacancy until the next annual election.

SEC. 3. It shall be the duty of every deputy so appointed, to make return to the inspector general, once in every year, of the number of barrels of beef and pork inspected by them or their assistants, agreeably to the provisions of this act; and it shall be the duty of the inspector general annually to make return to the general assembly, at their May session, of the whole number of barrels of beef and pork inspected according to the directions of this act, by him or by his deputies, the year preceding, designating the different sorts of beef and pork and the places at which it was inspected.

SEC. 4. All beef put up in casks, for sale or exportation, shall be of fat cattle. It shall be cut in pieces as nearly square as may be, which shall not exceed eight pounds weight, nor be less than four pounds. All beef which the inspector, deputy inspector or assistant shall find on examination, to have been killed of a proper age, to be fat and otherwise good and merchantable, shall be sorted and divided by him into three different sorts for packing into casks, to be denominated mess, prime, and cargo. Mess beef shall consist of the choicest pieces of an ox or steer well fattened, not under three years old, and weighing six hundred pounds and upwards; the shin, shoulder clod and neck, shall be taken from the fore quarter, and the leg and leg round from the hind quarter; and each cask containing beef of this description shall be branded on one of the heads with the words "mess beef." Prime beef shall consist of choice pieces of oxen, steers, cows and heifers, not under the age of three years, nor under four hundred pounds weight, and to average five hundred pounds weight, without any necks or shanks; on one head of each cask containing beef of this description shall be branded "prime beef." All other fat cattle of two years old and upwards, and all other parts of cattle that are not above described, which shall be packed for exportation, shall be branded on one head "cargo beef." Every cask shall be well salted with seventy-five pounds of clean St. Ubes, Isle of May, Lisbon or Turks Island salt, or eighty pounds of coarse Liverpool salt, or other salt of equal quality, exclusive of pickle made of fresh water, as strong as salt will make it, for every two hundred pounds weight of beef that each cask may contain, and two ounces of salt petre for every one hundred pounds of beef.

SEC. 5. Every cask in which mess beef shall be packed, shall be made of good seasoned white oak or white ash staves,

and heading not less than five-eighths of an inch in thickness, free from sap and every defect; to be covered three-fourths of the length with good hoops, leaving one-fourth in the centre; the hoops to be well set and drawn together; but casks containing prime beef and cargo beef may be hooped with only twelve hoops, which shall be well secured with not less than three pins on each bulge; two hundred pounds of beef shall be considered and taken as a barrel.

SEC. 6. The following part of every hog shall be deemed refuse, and shall not be put into any cask of pork inspected, to wit: nose pieces, ears, brains, tails, feet, lard and faces when separated from the cheek. There shall be three qualities of pork distinguished by the name of "clear," "mess," and "prime." Clear pork shall consist of middling pieces taken from well fattened hogs weighing not less than two hundred and fifty pounds, excluding head, neck, shoulders, legs, the chine bone, the spareribs, the lean and the blades from the back and shoulders: mess pork shall consist of hogs well fattened, weighing not less than two hundred pounds, excluding the head, neck, legs and shoulders: prime pork shall consist of hogs well fattened, of not less than one hundred pounds weight including in each barrel three shoulders and one head and a half, not weighing more than twenty-four pounds, and excluding no part of a hog not declared refuse. Each barrel of pork shall be salted and pickled with the same weight of salt and the same kind of pickle as is in this act provided for packing and inspecting beef; and each cask when so inspected and packed or repacked, shall be branded in the same manner as is in this act prescribed for branding beef, designating the different qualities or denominations herein described. Two hundred pounds of pork shall be considered and taken as a barrel.

SEC. 7. Every cask in which clear or mess pork shall be packed, shall be made of good seasoned white oak or white ash staves, and heading, five-eighths of an inch thick, free from sap and every defect. Each cask shall in every respect be hooped in the same manner as is in this act provided for casks for packing and repacking of mess beef. Casks containing prime pork may be hooped with twelve hoops, which shall be secured with no less than three pins on each bulge.

SEC. 8. On the head of every cask in which beef or pork is packed for exportation, shall be branded the weight it contains, which shall be only even hundreds, with the first letter of the christian name and the surname at length of the inspector who has inspected the same, with the name of the

town where it was inspected, and "Rhode-Island," in legible letters not less than three-fourths of an inch long.

SEC. 9. No deputy or assistant appointed by this act shall inspect or brand any cask of beef or pork out of the town or county for which he shall be appointed, under the penalty of fifty dollars; and if any person other than the said inspector, his deputy or assistant, shall stamp or brand any cask of beef or pork in manner directed by this act, he shall forfeit the sum of twenty dollars for each and every cask so unlawfully branded.

SEC. 10. The inspector general shall have two cents for every barrel inspected by virtue of this act, and the deputy in each county shall have two cents for each barrel of beef or pork inspected as aforesaid in the county whereof he shall be inspector; and each assistant inspector shall have for his services in cutting, weighing, packing, salting, pickling, heading and branding each barrel of beef or pork, twenty cents; and for performing the same exclusive of cutting, he shall receive for each barrel twelve and a half cents, to be paid by the owner thereof; and any deputy inspector shall on any special occasion be authorized to send an assistant inspector from the town in which such assistant resides into an adjoining town, to perform the duties of his office in said town.

SEC. 11. If the inspector general or any deputy inspector or assistant, appointed by virtue of this act, shall be guilty of any neglect or fraud in inspecting any beef or pork contrary to the true intent and meaning of this act, or shall mark with their respective brands any cask containing beef or pork which has not been actually inspected, he shall forfeit and pay ten dollars for each and every offence.

SEC. 12. If any person shall intermix, take out or shift any beef or pork out of any cask inspected or branded as by this act is required, or put in any other beef or pork for sale or exportation, contrary to the intent of this act, he shall for each and every offence forfeit and pay the sum of twenty dollars.

SEC. 13. No salted beef or pork shall be exported out of this state for sale unless the master or owner of the vessel exporting the same produce to the collector, or any other officer authorized by the laws of the United States to clear vessels out, a certificate from the inspector general, his deputy or assistants, that the same has been inspected and branded according to the directions in this act; and each certificate shall express the number of barrels of beef and pork of each sort; and the master or owner of any vessel in which beef or

pork is so exported, producing said certificate, shall take and subscribe the following oath before the officer authorized as before, to wit: I            of            do swear, (or affirm,) that according to the best of my knowledge and belief, the certificate hereunto annexed contains the whole quantity of salted beef or pork on board the            master, and that no salted beef or pork is shipped on board said vessel, for the ship's company or freight, or as cargo, but what is inspected and branded according to law: so help me God; (or this affirmation I make on peril of the penalty of perjury.)

SEC. 14. For each and every certificate given by the inspector, deputy inspector or assistant, for beef or pork exported, he shall receive ten cents, to be paid by the shipper; and they are severally required to give such certificate whenever requested.

SEC. 15. Nothing in this act shall prevent the exportation of rounds of beef in kegs or tubs: *provided, however*, that the name of the owner or exporter and the town where he resides shall be branded on one head of each keg or tub, under the penalty of one dollar for each keg or tub not branded.

SEC. 16. If any person shall export or ship for exportation out of this state any salted beef or pork not inspected or branded as by this act is provided, every such exporter or shipper and the master of every vessel having on board such uninspected beef or pork shall, on conviction, respectively pay and forfeit the sum of six dollars, and the master of every vessel having the same on board, the sum of two dollars, for every cask exported or shipped for exportation.

SEC. 17. Whenever any inspector, surveyor or packer shall be requested to cut, pack or repack any beef or pork in any store, yard or place, other than his customary store or yard, the owner or owners of such beef or pork shall, without delay, furnish all materials and conveniences necessary to perform the same, excepting the tools of such inspector, surveyor or packer, who shall not be liable to any expense for the use of the store, yard or place wherein such beef or pork shall be deposited; and in case any inspector or packer shall in the discharge of his office use any steelyards or weights which shall not have been tried and sealed according to law, he shall for each offence forfeit and pay ten dollars.

SEC. 18. A certificate or certificates as is required by this act, shall accompany all beef or pork which shall be exported from this state to any of the United States: and in case the owner of any salted beef or pork shall export any beef or pork from this state into any of the United States in casks which

shall not have been marked or branded, and for which a certificate or certificates shall not have been given as is in this act provided, such owner shall for each cask forfeit and pay two dollars; and in case any salted beef or pork shall be taken on board any vessel for which a clearance shall be by law required, to be transported or exported coastwise, it shall be the duty of the owner or master of such vessel to produce to the collector or other officer authorized by law to give such clearance, a certificate or certificates as is in this act provided, together with a copy or copies thereof, and therein or annexed thereto to take and subscribe the oath as is in this act directed, and to lodge such copy or copies with such collector or other officer, and to retain such original certificate in his possession.

SEC. 19. Any beef or pork which may be brought into this state from any state in the United States, that shall have been inspected and branded in the state from which the same is brought into this state conformably to the law thereof, may be exported from this state without re-inspection: *provided*, such beef or pork shall be accompanied by a certificate from the inspector by whom the same was so inspected and branded, specifying the marks, numbers and quality of the same.

SEC. 20. If any person shall sell or offer for sale any salted beef or pork in casks, before it shall have been inspected and branded as aforesaid, he shall forfeit the sum of five dollars for each cask.

SEC. 21. All penalties and forfeitures arising by force of this act, shall be recovered in an action of debt before any court competent to try the same; one half thereof to the use of the state, the other half thereof to him who shall sue for the same.

SEC. 22. This act shall not be construed to repeal or to affect an act entitled an act authorizing the city of Providence to elect an inspector of beef and pork for said city, passed June 29th, 1833, nor the inspection of beef and pork in said city: *provided* the inspection be conformable to this act.

SEC. 23. Nothing in this act contained shall be construed to affect the exportation of any beef or pork that shall have been inspected agreeably to the laws in force before the passing of this act.

*An Act regulating the Inspection of Pickled Fish.*

**SECTION**

1. Packers of fish to see that they have been properly pickled, &c.
2. Fish to be sorted—casks well seasoned and hooped—capacity of casks—branded.
3. Penalty for offering for sale or exporting fish without inspection—exception.

**SECTION**

4. Penalty for shifting fish from cask, &c.—making false brand.
5. Penalty on packer for fraud or neglect.
6. Packer's fees.
7. Packer to give bond.
8. Penalties how recovered.

*It is enacted by the General Assembly, as follows :*

SECTION 1. In every town in which pickled fish are packed up for sale, or exportation from this state, the packers of such town shall see that the same have been properly pickled ; that they are properly repacked in casks, in good shipping order, with good salt, sufficient in each cask to preserve such fish from damage to any foreign port.

SEC. 2. Pickled fish, whether codfish, mackerel, menhaden, herrings, or other fish, shall be sorted, and one kind only be put into one cask. Each cask shall be well seasoned, and bound with twelve hoops ; those for menhaden and herrings, of the capacity to hold twenty-eight gallons ; and those for other fish, of the capacity, if a barrel, to hold two hundred pounds, and if a half barrel, one hundred pounds' weight of fish ; each cask to be full, and the fish sound and well cured. Each cask being first searched, examined and approved by a packer, shall, when packed or repacked for exportation, be branded legibly on one head, with the kind of fish it contains, and the weight thereof ; or the capacity of the cask, with the first letter of the christian and the whole of the surname of the packer, with the name of the town, and with the word " Rhode Island," in letters not less than three fourths of an inch long, to denote that the same is merchantable and in good order for exportation. In addition to the foregoing each cask of pickled codfish and mackerel offered for sale or for exportation from this state, shall also be branded No. 1., No. 2., or No. 3., to denote the quality of such fish : *provided, however,* that nothing in this act contained shall hinder any fisherman or owners of fish coming to this state from their fishing trips, from selling or reshipping their fish to any other of the United States, without being packed into barrels or half barrels.

SEC. 3. If any person shall offer for sale in or attempt to export from this state any pickled fish which have not been approved by a sworn packer, or in casks which are not brand-

ed as afore provided, he shall forfeit the sum of ten dollars for each offence.

SEC. 4. If any person shall shift any fish from any cask after the same have been branded by the packer, and shall offer to sell or export the same from this state, or shall brand any cask into which the same shall be shifted, or shall brand any cask with the branding iron of a packer, or with any iron made in imitation thereof, shall forfeit a sum not less than thirty dollars, nor more than one hundred and sixty dollars, for each offence.

SEC. 5. If any packer shall be guilty of any fraud or neglect in packing any fish contrary to this act, or shall brand any cask not thoroughly examined according to the provisions of this act, he shall forfeit the sum of sixteen dollars for each offence.

SEC. 6. The packers of fish shall be paid for opening, assorting, inspecting, weighing, pickling, packing or repacking, heading up, nailing and giving a certificate, if pickled codfish or mackerel, twenty cents for every barrel, and fifteen cents for every half barrel, by the owner thereof: *provided, however,* that for all pickled codfish or mackerel which have been inspected in some one of the United States, and which shall not in the judgment of the packer require repacking, the said owner shall pay to the packer eight cents only, for unheading, inspecting, reheading, branding, nailing and giving a certificate thereof; and for all other except codfish and mackerel, the owner thereof shall pay the packer twelve and a half cents for every cask.

SEC. 7. Every packer shall give bond to the town treasurer of the town in which he shall be appointed, in the sum of one thousand dollars, with sufficient surety or sureties, to the satisfaction of such town treasurer, for the faithful performance of the duties of his office.

SEC. 8. All penalties or forfeitures incurred under this act shall and may be prosecuted for and recovered by action of debt, before any court competent to try the same; one half thereof to and for the use of the person who shall sue for the same, and the other to and for the use of the state.

*An Act to regulate the Survey and Admeasurement of Lumber, brought by water or imported into this State.*

**SECTION**

1. Surveyor general for the city of Providence to be appointed annually—duty of—may appoint deputies—duties of.
2. Rules of inspection and admeasurement.
3. Surveyor general to appoint one deputy to survey ornamental woods—rules for the inspection of such woods.
4. Surveyor general to appoint one deputy to measure ship timber.
5. Fees for inspection how paid and divided.
6. Penalty for buying or selling lumber not inspected. Lumber purchased to be used by the purchaser, or to be exported from the state, not required to be inspected.

**SECTION**

7. Penalty for defacing surveyor's marks.
8. Penalty for fraudulently surveying, and for neglect of duty.
9. Person dissatisfied with survey of deputy inspector, may have a re-survey by inspector general.
10. Surveyor general to make report to city council annually, which shall be published by the council.
11. Town councils of other towns annually to appoint surveyors and measurers of lumber—duties of.
12. Each surveyor to preserve a record of all his surveys.
13. Lumber made in this state, not required to be measured.
14. All former laws repealed.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** There shall be a surveyor general of lumber for the city of Providence, who shall be well skilled in the surveying and admeasurement of lumber, to be appointed in the month of February annually, by the city council of said city, who shall hold his office for one year, and until a successor be chosen, unless sooner removed: before he shall enter upon the duties of his office he shall give bond with two sureties to the city treasurer in the sum of two thousand dollars for the faithful discharge of his duties; and he shall be sworn or affirmed faithfully to perform the same; and such surveyor general, when so qualified, shall have power to appoint such number of deputy surveyors as he may judge sufficient, not less than six, for whose official conduct he shall be answerable, the said appointments subject to the approval of the city council; and shall take bonds from said deputies for the faithful discharge of their duties in the sum of five hundred dollars each, with two sureties; and they shall be sworn or affirmed faithfully to perform the same; and shall be removable for neglect of duty by the surveyor general.

**SEC. 2.** In the survey and admeasurement of lumber brought by water, or imported, discharged or delivered in said city, whether on the land or into a boat or vessel, the following rules and regulations are hereby established: in the survey of all kinds of pine boards, planks and joists, they shall be divided into three sorts, namely: the first sort shall be denominated "clear," and shall include boards not less than one inch thick, free from rot, knots and shakes, and square edged; provided that such boards as may be clear and equal in qual-



ity to clear, but may be deficient in thickness as aforesaid, shall be received as clear by making such allowance for the deficiency in thickness as may be required to make them equal to one inch thick. The second sort shall be denominated "merchantable," and shall include boards not less than seven-eighths of an inch thick, nearly free from rot and nearly square edged, and suitable for covering buildings. The third sort shall be denominated "refuse," and shall include all boards, plank and joists not included in the other two denominations, with due allowance for rots. And plank and joists shall be surveyed as to quality and numbers the same as boards, and their contents measured and marked, what they may contain, board measure. All boards less than three-fourths of an inch thick shall be surveyed and measured in the same manner, as to quality, quantity and numbers, as though they were of the thickness of one inch.

In the survey of spruce, hemlock and juniper boards, plank, and sawed and hewed timber, there shall be two sorts; the first sort shall be denominated "merchantable," and shall include all boards, plank, joist and timber that are sound and square edged and well sawed; the second sort shall be denominated "refuse," and shall include all other descriptions, with due allowance for rot.

In the survey of ash, maple, and other hard wood boards, plank, joists and timber, there shall be two sorts; the first sort shall be denominated "merchantable," and shall include all boards, plank, joist and timber that are sound and free from bad knots, and free from shakes and rots; the second sort shall be denominated "refuse," and shall include all other descriptions, with due allowance for rots.

In the survey of all boards, plank, joists and timber, the contents of the same in board measure shall be truly marked thereon in plain and durable numbers, and all other marks, if not correct, shall be erased; and in marking the contents of any lumber, the board measure marks commonly used in marking boards shall be used, and no other; and the merchantable lumber shall be marked thus  $\Delta$ , and the refuse lumber shall be marked  $\blacktriangle$ , and shall be plainly and durably marked on each and every piece; deduction shall be made for splits not exceeding in any case one half the extent of the split. All boards, plank, joist and timber shall be received and sold according to the contents thereof, as fixed and marked under the aforesaid regulations; but all surveys shall be made under the inspection of the surveyor general or by his deputies, by his directions; and application shall be made by all persons

requiring surveys to the surveyor general, who shall direct his deputies to perform their respective duties in rotation.

SEC. 3. It shall be the duty of the surveyor general, agreeably to the first section of this act, to appoint one or more deputy surveyors, whose duty shall be to survey mahogany, cedar and cherry-tree boards, plank, joist and timber, and other ornamental wood and lumber. In the survey of mahogany and cedar timber, the following rules and regulations are hereby established: in the survey and admeasurement of mahogany and cedar timber, there shall be allowed, if the same is sound and free from wane, two inches on one side of the square and one inch on the other side, and two inches in length; and when the timber is wider on the one side than on the other, the two inches shall be taken from the narrow side; if waney, two inches on each side of the square; and for rots, shakes, &c., there shall be allowance made as the surveyor may deem expedient, not exceeding one half. All timber that is worm-eaten, much rotten, badly shaken, or very waney, shall be denominated "refuse," due allowance being made for rot. In the survey and admeasurement of mahogany, cedar and cherry-tree boards, planks, and joist, and other ornamental wood and lumber, such as are sound and free from bad knots and shakes shall be denominated "merchantable;" all others shall be denominated "refuse," and due allowance made for rots and shakes.

SEC. 4. It shall be the duty of the surveyor general, agreeably to the first section of this act, to appoint one or more deputy surveyors, whose duty shall be to survey oak and other hard wood used in ship building, whether brought by land or water.

SEC. 5. Fees for surveying and marking according to the foregoing provisions of this act, and to be paid by the purchaser, shall be as follows, viz: for pine, spruce, hemlock and juniper boards, plank, joist and sawed timber, twenty-five cents per thousand feet, board measure. For mahogany, cedar, cherry-tree timber, boards, plank and joist, fifty cents per thousand feet, board measure. For oak and other hard wood for ship building, twenty-five cents per ton. For ash, maple, birch, and other hard wood, forty cents per thousand feet, board measure; of which fees, three cents on every thousand feet of pine, spruce, hemlock and juniper boards, plank, joist, and sawed timber, four cents on every ton of oak and other ship timber, six cents on every thousand feet, board measure, of mahogany, cedar and other ornamental lumber, shall be paid over to the surveyor general for his use.

SEC. 6. It shall not be lawful for any person within the city of Providence to sell, purchase or take the delivery, whether purchased without the state or within it, or for their own personal use or otherwise, any boards, plank, joist or timber brought into said city, unless the same shall be surveyed, marked and numbered, conformably to the provisions of this act; except such as are bona fide intended to be exported beyond sea, and shipped for the purpose of such exportation within one year after the same shall have been sold and delivered to the person first purchasing or receiving the same in said city; and any person or persons importing or purchasing lumber for their own private use and benefit, to be used in building on their own or leased land, upon giving a certificate to that effect to the surveyor general, shall not be subject to have the same surveyed and measured according to this act; but should they dispose of it in any other manner than is provided in this section, they shall be liable to the same penalties as though said certificate had not been given; and all persons purchasing lumber without the state for the purpose of transshipping through this state to the state of Massachusetts or Connecticut, shall not be liable to have the same surveyed and measured, unless said lumber shall be disposed of within this state; and in that case shall be liable to all the provisions and penalties of this act; and any person or persons who shall sell, purchase, deliver or take the delivery of any boards, plank, joist and timber, not surveyed, marked or numbered, as herein is provided, subject only to the foregoing exceptions, shall forfeit and pay for all boards, plank, joist and timber so sold, purchased or delivered, one dollar per thousand feet, board measure, and the same for any less amount; to be sued for and recovered in any court of competent jurisdiction, by the surveyor general, whose duty it shall be to prosecute for all violations of this act that shall come to his knowledge; one half thereof to his use, and the other half to the use of the state.

SEC. 7. If any person or persons shall be guilty of crossing, altering, or wilfully defacing any of the marks affixed to any lumber by any deputy surveyor, he or they shall forfeit and pay a sum not less than five dollars, nor more than twenty dollars; to be prosecuted by the surveyor general, and the forfeiture to be sued for, recovered and applied, as is provided in the sixth section.

SEC. 8. If any person appointed to office under this act, or his deputies, shall be guilty of or connive at any fraud or deception in surveying, marking or numbering the contents

of any boards, plank, joist or timber, he shall forfeit and pay for every such offence a sum not less than ten dollars, nor more than twenty dollars ; and if the surveyor general or his deputies, on due notice and request, shall unreasonably neglect or refuse to perform the duties enjoined by this act, he or they shall forfeit and pay for every offence, such a sum, not less than ten dollars, nor more than twenty dollars ; one half of the aforesaid forfeiture to be recovered by him or them who shall sue for the same, to his or their use, and the other half to the use of the state, before any court of competent jurisdiction.

SEC. 9. If any person shall be dissatisfied with the survey and admeasurement of any lumber purchased or sold by him, by any deputy or deputies appointed by the surveyor general, he may require the surveyor general, with one or more deputies, at the option of the surveyor general, to reinspect the same ; and should they find an error in the survey, over and above the amount of five dollars, the deputy who surveyed the lumber shall receive no compensation for his services ; and shall be liable to the penalties provided in the eighth section of this act ; and the surveyor general and his deputy or deputies shall receive for their compensation twenty-five cents per thousand feet ; and if the surveyor general on the reinspection shall find the lumber correctly surveyed and measured in the first instance, he shall receive for his compensation and that of his deputy or deputies, twelve cents per thousand feet ; the first mentioned compensation in this section, to be paid by the purchaser, and the last mentioned by the complainant ; the expense of overhauling lumber for the purpose of reinspection, under the provisions of this section, shall be paid by the complainant ; and in all instances the compensation for the surveyor general and his deputy or deputies, shall be equally divided between them.

SEC. 10. It shall be the duty of the surveyor general to make return to the city council of the city of Providence, on the first Monday in February annually, of all lumber surveyed by himself or his deputies ; specifying the various kinds and qualities, and by whom surveyed, and the amount of all fees received by him and his deputies pursuant to this act. And it shall be the duty of the said city council to cause said returns to be published in one of the newspapers published in said city.

SEC. 11. The town councils of all other towns where boards, plank, timber, joist and scantling are imported for sale, shall annually, on or before the first day of March in each

year, appoint one or more persons, surveyors and measurers of boards, plank, timber, joist and scantling, who shall hold their offices for one year unless sooner removed by the town council; who for neglect of duty shall make such removal, and fill the vacancy caused thereby: and every surveyor and measurer so appointed, previous to entering upon the duties of his office, shall be duly sworn or affirmed to the faithful discharge of the same, and shall give bond with two sureties to the treasurer of the town in which he is appointed, in the sum of five hundred dollars, for the faithful performance of said duties, and shall be subject to all the duties, provisions and penalties contained in the foregoing sections.

SEC. 12. Each surveyor and measurer shall keep a true and faithful record of all surveys of lumber made by him, together with all figures made by him in taking an account of the same, and said record shall be open to the inspection of all persons.

SEC. 13. This act shall not be construed as requiring the survey or admeasurement of any lumber made in any town in this state.

SEC. 14. All laws heretofore passed for the survey and admeasurement of lumber are hereby repealed.

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*An Act to regulate the Inspection of Scythe-stones.*

## SECTION

1. Scythe-stones sold or exported, &c., to be inspected—except.
2. Inspector to be annually appointed, &c.—deputies.
3. Scythe stones to be sorted, packed and branded.

## SECTION

4. Inspector's fees.
5. Penalty for exporting, &c., without inspection.
6. Penalty for fraud of inspector.
7. Penalty for counterfeiting brand, &c.
8. Forfeitures, &c., how recovered.

*It is enacted by the General Assembly, as follows:*

SECTION 1. No person shall ship, sell or export from this state, any scythe-stones in any quantity exceeding ten dozen, except in boxes of suitable size, which have been inspected and branded agreeably to the provisions of this act.

SEC. 2. There shall be an inspector of scythe-stones for this state, appointed by the general assembly annually, who before he enters on the duties of his office shall give bond with sufficient surety to the general treasurer, in the penal sum of five hundred dollars, for the faithful discharge of his duties; and shall also be sworn faithfully to perform the same. And such inspector, when so qualified, shall have power to appoint one or more deputies, which appointments he may at

pleasure revoke ; for whose acts he shall be responsible. Each deputy shall give bond to the inspector with sufficient surety, in the penal sum of three hundred dollars ; and shall also be sworn to the faithful discharge of his duties.

SEC. 3. All scythe-stones, when the quantity exceeds ten dozen, shall be sorted or divided by the inspectors, or one of his deputies, into three different sorts, to be denominated No. 1., No. 2., No. 3. ; No. 1. shall consist of the best quality, and none less than nine inches in length ; No. 2. shall consist of the best quality of those less than nine inches in length, and the second quality more than nine inches in length ; No. 3. to consist of other qualities and sizes, but none except such as are merchantable. Such stones shall be packed by the officer inspecting them, in boxes, which shall be branded by him with the initials of his name, with the word " Inspected," and with No. 1., No. 2., No. 3., as the case may be, designating the quality of the same.

SEC. 4. The manufacturer of scythe-stones shall pay the inspector or his deputy, for inspecting, packing and branding, the sum of ten cents for each and every box, containing not more than twenty-five dozen, he may inspect, and twelve cents for each and every box containing more than twenty-five dozen.

SEC. 5. If any person shall sell or offer for sale, shall export or attempt to export at any one time, more than ten dozen of scythe-stones before the same shall have been inspected, boxed up and branded as aforesaid, such person shall forfeit and pay the sum of twenty dollars for each and every offence.

SEC. 6. If any inspector or deputy inspector shall brand any scythe stones contrary to the provisions of this act, he shall forfeit and pay the sum of five dollars for each and every box by him so branded.

SEC. 7. If any person shall counterfeit the brand of any inspector or deputy inspector, or shall imprint any box of scythe-stones with any inspector's or deputy inspector's brand without his consent, or shall fill any box which has before been filled and branded, without first causing the former brand to be cut out, he shall forfeit and pay the sum of twenty dollars for every offence.

SEC. 8. All penalties and forfeitures incurred under this act shall and may be recovered by action of debt before any court of competent jurisdiction ; one half thereof to and for the use of the state, and the other to and for the use of the person who shall sue for the same.

*An Act regulating the assize of Lime Casks, and the Inspecting of Lime.*

## SECTION

1. Size of casks—to be well filled and hooped.
2. Different qualities how designated and branded.
3. General inspector to be appointed—duties of—to be sworn.
4. Inspector's fees.

## SECTION

5. Penalty for selling or exporting unless branded.
6. Penalty for fraud of inspector.
7. Penalty for counterfeiting brand, &c.
8. Penalties how recovered.
9. Inspector to prosecute for breaches.

*It is enacted by the General Assembly, as follows :*

SECTION 1. All stone lime which shall be burnt in this state, shall be offered or exposed to sale in casks of the following dimensions, to wit: each cask shall be twenty-seven inches and three quarters of an inch in length between the heads, and the heads eighteen inches in diameter, and of sufficient bulge to contain thirty-six gallons, and hooped with not less than eight good hoops; and each cask shall be well filled with lime.

SEC. 2. The various qualities of lime shall be designated by the following names, viz: "jointa," "first quality," "second quality," "refuse;" and shall also be designated with the names of the present owners of the ledges of rock from which the same shall be burnt; and be so branded that the name of the owner of the ledge and the quality of the lime shall form one brand, and be made by one impression; which brand shall be used by the inspector or his deputies only. Each cask shall also be branded with the word "inspected," and with the initials of the name of the person branding the same.

SEC. 3. The general assembly shall annually appoint one general inspector, with power to appoint one or more deputies; which deputies shall hold their offices until the next election of general inspector, notwithstanding the death of such general inspector may happen before said election, unless removed by the general inspector. And it shall be the duty of such inspector or his deputies to see that the casks are of lawful size, and properly filled and branded as provided in the first section of this act. And before proceeding in the duties of his said office, the general inspector and each of his deputies shall take his engagement before a justice of the peace for the due performance thereof.

SEC. 4. The burner of lime shall pay the inspector or his deputy, for inspecting and branding, filling not included, the sum of two cents for each and every cask he may inspect, and for filling the same, two cents in addition.

**SEC. 5.** If any person shall offer for sale in or export from this state, any cask of stone lime burnt therein which shall not have been branded as required by this act, he shall forfeit the sum of ten dollars.

**SEC. 6.** If any inspector or deputy inspector shall brand any lime cask contrary to the provisions of this act, he shall forfeit the sum of five dollars for each cask so branded.

**SEC. 7.** Every person who shall counterfeit the brand of any inspector or deputy inspector appointed as aforesaid, or shall imprint any cask of lime with his brand without his consent first had and obtained in writing, or shall fill any cask a second time which has before been filled and branded, without first causing the former brand to be cut out, shall forfeit the sum of one hundred dollars for every cask so branded or so filled.

**SEC. 8.** Penalties incurred under this act shall and may be recovered by action of debt, before any court of competent jurisdiction.

**SEC. 9.** The inspector and each of his deputies are hereby enjoined to prosecute for every breach of this act which may come to their knowledge.

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*An Act to regulate the Measuring of Grain, Salt and Sea Coal.*

**SECTION**

1. Certain towns shall elect measurers—other towns may.
2. Measurers to be engaged—may appoint deputies—grain, &c., imported and sold from vessel, to be measured and certified if above certain quantity.
3. Measurers' fees.
4. To measure if sold from store, in case of dispute—fees.

**SECTION**

5. Penalty for selling from vessel without being measured—proviso, unless measured by custom-house inspector.
6. Penalty on measurer for refusal or neglect.
7. Grain sold by weight exempted from act.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** The towns of Newport, Bristol, Warren, Warwick, East-Greenwich, North-Kingstown and North-Providence shall, and any other towns may, at any annual meeting for the choice of town officers, elect in each of said towns not exceeding two persons, to be measurers of grain, salt, shorts and sea coal. The city council of the city of Providence at the time of the election of city officers, shall elect at least two such measurers for said city.

**SEC. 2.** Such measurers shall be engaged as other town officers are; and they shall measure or cause to be measured in their presence, and shall certify the measure of all corn, rye,



remainder, after paying thereout unto the viewer of such hoops his fees, shall be returned to the owner.

SEC. 3. All hoops shall be put up in bundles, to contain twenty-five each, and be sold by nett hundreds: when the officer viewing shall find any fraud in the bundles by their not containing the full number, every such bundle shall be condemned as forfeited, to be sold by the viewer in manner aforesaid; the money, after paying the viewer his fees, shall be by him lodged in the town treasury of the town where they are sold for the use of the town.

SEC. 4. If any person shall ship for exportation out of this state, any hoops which have not been duly surveyed and allowed to be merchantable agreeably to this act, he shall forfeit and pay the sum of three dollars and thirty-three cents for every thousand so shipped; to be recovered by any viewer of hoops in the town where they shall be so shipped, in an action of debt; one half to and for the use of the state, and the other to and for the use of the viewer who shall sue for the same.

SEC. 5. Viewers of hoops shall receive at and after the rate of twenty-five cents for every thousand they shall view and examine; and if the hoops shall be adjudged good and merchantable, the buyer shall pay the same.

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*An Act to prevent Frauds in the Tare of Butter Firkins or Tubs.*

SECTION

1. Butter firkins to be branded—in what manner.
2. No butter to be offered for sale in firkins, &c., unless branded.

SECTION

3. Penalty for offering for sale in firkin, &c., not branded—penalty for offering for sale in firkins, &c., over marked or branded.

*It is enacted by the General Assembly, as follows:*

SECTION 1. Every person who shall make or bring into this state any butter firkins or tubs, shall brand or mark each one of the same with the weight thereof, and with the initial letters of his name, in a plain and enduring manner, before he offers the same for sale.

SEC. 2. No person shall offer for sale any butter by the firkin or tub, unless each tub and firkin shall be branded or marked as afore provided.

SEC. 3. Every person who shall offer for sale any butter firkin or tub before the same shall be marked or branded as required in the first section of this act, or any butter by the firkin or tub, in any firkin or tub not marked or branded as aforesaid, or in any firkin or tub which shall weigh more than

the mark or brand on it, allowing two pounds additional in case, with the butter in it, it weighs less than sixty pounds, and three pounds if over sixty, for the brine absorbed by the same, he shall forfeit the sum of one dollar; to be recovered by action of debt, one half to and for the use of the state, and the other to and for the use of the person who shall sue for the same.

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*An Act regulating the Assize of Cider Barrels.*

Assize of cider barrels—penalty for exposing for sale in casks less than the assize—penalty how recovered.

*It is enacted by the General Assembly, as follows :*

If any cider or cider beer be exposed to sale in any cask containing less than thirty-one and a half gallons, the same together with the cask shall be forfeited; the one half to him who will inform or sue for the same, and the other half to the use of the state, to be recovered before any court proper to try the same; and it shall and may be lawful for any justice of the peace, on complaint to him made, to issue his warrant for seizing within his county and securing any cask and liquor declared to be forfeited by this act.

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*An Act substituting Nett Weight for Gross Weight, and ascertaining the Weight of certain Articles.*

**SECTION**

1. Nett weight substituted for gross.
2. Penalty for selling or weighing hay, except by nett weight.
3. What parts of cattle purchased or slaughtered, are weighable.
4. Penalty on weigher, &c., not accounting for all parts weighable.
5. Weighers to be annually appointed—to be sworn—duty of—fees of.
6. Hay-scales to be tried and sealed—in

**SECTION**

- Providence, &c., once in six months—in other towns once a year.
7. Penalty for weighing, unless hay-scale has been sealed.
  8. Weight of meal per bushel.
  9. Onions by the rope.
  10. Potatoes per bushel.
  11. Onions per bushel.
  12. Penalties how recovered and appropriated.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** In all contracts and sales of or relating to hay or any other article usually sold by weight, such contracts and sales shall be deemed to be made for nett weight and not for gross weight; and the custom heretofore in use of buying or selling one hundred and twelve pounds for a hundred, and two thousand two hundred and forty pounds for a ton is hereby abolished; and hereafter two thousand pounds shall be taken

and considered to be a ton, and all parts thereof in equal proportion.

SEC. 2. Every person who shall sell and deliver, and any person who shall weigh any hay or make out a bill of the weight thereof, except by nett weight, shall forfeit the sum of ten dollars.

SEC. 3. The following parts of all neat-cattle purchased by the hundred weight or slaughtered by any person, such person having contracted to account for the same to the owner or seller of the same, shall be denominated weighable, viz: the whole of the several four quarters, the hide, horns and tallow.

SEC. 4. Any person slaughtering or weighing any neat-cattle, and being obliged to account for the same to the owner or seller thereof as aforesaid, who shall not weigh and account for all those parts of such cattle denominated weighable as aforesaid, shall forfeit and pay for every offence the sum of twenty dollars.

SEC. 5. The board of aldermen of the city of Providence shall annually, in the month of April, appoint not less than six, and each town council in this state two persons, for the purpose of weighing all neat-cattle slaughtered in their respective towns, unless otherwise specially agreed between the seller and buyer. These officers shall take the oath prescribed for town officers, and shall weigh all parts of said cattle made weighable by the third section of this act, deducting therefrom for green weight not more than one pound for every hundred pounds of the weight thereof. The fees of such weigher shall be twenty-five cents per head for all cattle weighed; one half part of which shall be paid by the seller, and the other by the buyer thereof.

SEC. 6. Every person who shall keep hay-scales or platform balances for public use, shall cause the same to be tried and sealed, if in the city of Providence or in either of the towns of Newport, Bristol or Warren, at least once in every six months, and if in any other place at least once in every year, by a sworn sealer of weights and measures.

SEC. 7. Every person who shall keep hay-scales or platform balances for public use, or who shall weigh or suffer to be weighed in such scales or balances any article of merchandize, unless said scales or balances shall have been tried and sealed, as provided for in the preceding section, shall forfeit and pay for each and every offence the sum of twenty dollars.

SEC. 8. In the sale of Indian meal or rye meal by weight,

the same shall be estimated at and after the rate of fifty pounds per bushel. If any person shall sell a less number of pounds for a bushel, he shall forfeit and pay the sum of ten dollars.

SEC. 9. Every rope of onions which shall be offered for sale shall weigh three pounds. If any of less weight shall be offered for sale, the same shall be forfeited; and the person offering the same for sale shall forfeit and pay for every offence the sum of twenty dollars.

SEC. 10. In the sale of potatoes by weight the same shall be estimated at and after the rate of sixty pounds per bushel.

SEC. 11. In the sale of onions and of all other root crops by weight, the same shall be estimated at and after the rate of fifty pounds per bushel.

SEC. 12. All penalties and forfeitures incurred under this act shall and may be recovered by action of debt before any court of competent jurisdiction; one half thereof to and for the use of the state, and the other to and for the use of the person who shall sue for the same.

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*An Act establishing a Method of Guaging.*

SECTION

- 1. Guagers may be appointed—method of guaging—fees.
- 2. Mean diameter.

SECTION

- 3. Bung diameter.
- 4. Penalty for selling without guage.

*It is enacted by the General Assembly, as follows :*

SECTION 1. No rum, gin, molasses, wine, cider, beer, brandy, or any other liquid whatever, usually sold by measure in casks, or any other commodities sold by the gallon, shall be guaged in any other way and method than that which is commonly called “guaging by Gunter;” for which purpose proper persons shall be chosen guagers of casks, in each town where there shall be occasion for it, who shall be sworn as other officers. The fees for guaging a single cask shall be six cents, and for guaging any number of casks not exceeding ten, three cents for each cask, and for any number above ten, two cents for each cask; and the guager who shall guage any cask shall fairly mark the initial letters of his name and the quantity of the guage or contents of such cask, with branding or marking irons, on the head or bulge of each cask.

SEC. 2. The rule and method to be used to find the mean diameter of any cask, in order to give the true guage thereof, shall be by multiplying the difference between the head and bung diameter, with 0—65, and adding the product to the

head diameter; or, which is the same, otherwise expressed, by adding six-tenths and a half of the difference between the diameter at the bung and head, to the diameter at the head.

SEC. 3. In ascertaining the bung diameter of a cask the following shall be observed, viz: the diameter of the heads of the cask shall be taken in a horizontal and perpendicular direction, the bung being uppermost, the mean diameter of which shall be taken for the diameter of the heads; if the perpendicular diameter of the heads of the cask exceed the horizontal diameter of the same, then one half of the difference shall be deducted from the measure at the bung or bung diameter; and in case the heads measure more horizontally than perpendicularly, then one half of said difference to be added to the actual measure at the bung, as the true bung diameter.

SEC. 4. Whosoever shall sell any commodity which ought to be gauged, or any commodity whatsoever in casks by gauge, gauged in any other manner than is herein directed, shall forfeit the value of all the commodities so sold; one half to him who shall inform or prosecute for the same, and the other half to the use of the state; to be recovered by action of debt before any court of competent jurisdiction.

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*An Act regulating Millers in their taking Toll.*

## SECTION

1. Miller may take two quarts toll per bushel—penalty for taking more.

## SECTION

2. Duty of millers.

3. Penalties how recovered.

*It is enacted by the General Assembly, as follows:*

SECTION 1. No miller or person taking corn or grain to grind, shall take more toll for grinding the same than two quarts out of every bushel of grain brought to be ground, upon the penalty of one dollar; excepting where any miller or person erecting a mill shall contract with any town or person for a greater toll. In such case the penalty aforesaid shall accrue only when a greater toll than that contracted for shall be taken.

SEC. 2. Every miller and person tending a mill shall make good meal, according to custom; and grind for each person bringing corn or grain to be ground, in his turn, upon the penalty of one dollar.

SEC. 3. The penalties in this act prescribed shall be recoverable by action of debt, before any justice of the peace in

the town where the same shall be incurred ; one half to and for the use of said town, and the other half to and for the use of the person who shall sue for the same.

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*An Act to prevent fraud in Fire-wood and Charcoal exposed for sale.*

## SECTION

1. Measure of fire-wood sold by the cord.
2. Towns shall annually choose corders of wood—fees of.
3. Penalty for fraud in seller.
4. Coal baskets—dimensions of—to be sealed—penalty.

## SECTION

5. Town councils may appoint persons to seize baskets, &c.
6. Penalty for fraud in sealer.
7. Forfeitures how recovered.

*It is enacted by the General Assembly, as follows:*

SECTION 1. All fire-wood offered for sale by the cord shall measure in quantity equal to a cord of eight feet in length, four feet in width and four feet in height, including one half of the kerf, and be well stowed and closely laid together.

SEC. 2. Every town shall annually choose one or more persons to be corders of wood, who shall take the same engagement as other town officers do ; and shall have for cording and measuring not exceeding twelve cents per cord, to be paid by the purchaser of such wood.

SEC. 3. If any person shall sell any fire-wood by the cord in any quantity not well stowed and closely laid together, or shall fraudulently and falsely represent any quantity of fire-wood by him offered for sale to be greater, or shall sell the same for a greater quantity than the same shall actually measure, or shall otherwise commit any fraud in the sale of fire-wood, he shall forfeit and pay for each offence the sum of five dollars.

SEC. 4. All baskets used in measuring charcoal brought into any town for sale shall be of the following dimensions, to wit: nineteen inches in breadth in every part thereof, and seventeen and one half inches deep, measuring from the highest part of the bottom of the basket perpendicularly to a level with the top of the basket ; and every basket shall be sealed by the sealer of weights and measures of the town where the person so using the same shall usually reside, or of the town where such coal shall be so measured for sale, and shall also be well heaped ; and every person who shall measure charcoal offered for sale in any basket of other dimensions than as aforesaid, or not sealed as aforesaid, shall forfeit and pay for each offence fifty cents.

SEC. 5. The town councils in the several towns shall have power to appoint, as occasion may require, some suitable person or persons to seize and secure within their respective towns, all baskets used for measuring coal that shall not be of the dimensions aforesaid and sealed as aforesaid, and to prosecute every person who shall be guilty of a breach of this act: *provided, however,* that no person shall be obliged to measure charcoal where the quantity shall be agreed on by the buyer and seller.

SEC. 6. Any sealer of weights and measures who shall seal any basket not being of the lawful dimensions, shall forfeit and pay the sum of five dollars.

SEC. 7. All forfeitures accruing under this act shall be recovered by action of debt before any court of competent jurisdiction; one half thereof to and for the use of the person suing for the same, and the other half to and for the use of the state.

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*An Act relative to certain Fisheries.*

## SECTION

1. Penalty for setting seine, &c., in the river in Barrington.
2. Penalty for ditto in Easton's pond, &c.
3. Penalty for ditto in Kekemuit river.
4. Penalty for ditto in Puncatest alias Nomquit pond.
5. Same subject.
6. Same subject.
7. Penalty for ditto in Seekonk river.
8. Penalty for ditto in Palmer's river.
9. Same subject.
10. Penalty for taking clams, &c., in waters of Warren, except, &c.
11. Penalty for setting more than two lobster pots, &c.
12. Penalty for raising lobster pots without permission.

## SECTION

13. No weir, &c., to be set at certain seasons near Point Judith ponds beach, &c.
14. Nor in Point Judith ponds.
15. Nor in Petasquamscut river.
16. Same subject.
17. Smelt fishery allowed.
18. Mill cove, Warwick.
19. Same subject.
20. Same subject.
21. Certain breaches prosecuted by indictment.
22. Penalty on conviction.
23. Other forfeitures recovered by action of debt.

*It is enacted by the General Assembly, as follows :*

SECTION 1. If any person shall set or draw any seine in any part of the river running from Warren river through the town of Barrington to the dividing line between the said town of Barrington and the town of Rehoboth, he shall forfeit and pay the sum of twenty dollars.

SEC. 2. If any person shall set or draw any seine or net in the pond called Easton's pond, in Newport, or in the creek adjacent to or in any of the inlets or rivers belonging thereto, he shall forfeit and pay the sum of eighteen dollars.

SEC. 3. If any person shall set or draw any seine or net in Kekemuit river, within half a mile from the place called The Narrows, he shall forfeit and pay the sum of fifteen dollars.

SEC. 4. If any person shall erect or make any weir, pot or other contrivance, to obstruct the course of fish across Puncatest, alias Nomquit pond, or any part thereof, or in any river or stream leading in or out of said pond, at any time, he shall forfeit and pay the sum of ten dollars.

SEC. 5. If any person shall haul any net or seine within Puncatest, alias Nomquit pond, or in the rivers leading into said pond, or in the breach from said pond into the sea, or within half a mile of said breach, he shall forfeit and pay the sum of ten dollars.

SEC. 6. If any person shall set any hanging or mesh net in Puncatest, alias Nomquit pond, or in any river leading in or out of said pond, from the first day of January to the first day of August, in every year, he shall forfeit and pay the sum of ten dollars.

SEC. 7. If any person shall at any time from the fifteenth day of June to the fifteenth day of January, in each year, set, or draw, or haul any net or seine, except scoop or sweep nets, through the ice, or shall erect any weir or net in Seekonk river, from Washington bridge to Pawtucket, he shall forfeit the net, seine or weir, so set, drawn or erected; to be seized and taken by warrant issued by any justice of the peace in the county of Providence, or by any competent court, upon complaint made under oath, to and for the use of the complainant; and he shall also forfeit and pay the sum of twenty dollars.

SEC. 8. If any person shall erect or continue in Palmer's river, above Kelly's bridge, any weir, dam or other obstruction to prevent the free passage of fish up said river, he shall forfeit and pay the sum of fifteen dollars for the first offence, and ten dollars for every twenty-four hours any such weir or dam or other obstruction shall be continued after the first twenty-four hours.

SEC. 9. If any person shall set or draw any seine or net in Palmer's river, above Kelly's bridge, on Sunday, Thursday, Friday or Saturday of each week, or between the setting and rising of the sun on any day, he shall forfeit and pay the sum of fifteen dollars for every offence.

SEC. 10. If any person not an inhabitant of this state at the time shall take or carry away from the shores or waters in the town of Warren, any clams or other shell fish in any larger quantity than one bushel in any one day, he shall forfeit the sum of ten dollars.



SEC. 11. If any person not at the time an inhabitant of this state shall set or keep, or cause to be kept or set, within any of the waters, or upon or within three miles of any shore of this state, more than two pots or nets for the catching of lobsters, at any one time, he shall forfeit and pay the sum of twenty dollars for each offence.

SEC. 12. If any person shall lift or raise any pot or net set for the catching of lobsters, without permission of the owner thereof, he shall forfeit and pay the sum of ten dollars.

SEC. 13. No person shall at any time from the fifteenth day of April to the fifteenth day of June, or from the fifteenth day of August to the fifteenth day of December, in every year, erect any weir, or set or draw any net or seine for the obstructing, catching or hauling of fish, within half a mile from Point Judith ponds breach into the sea, or within said breach, or within any channel leading to said ponds from the sea, or within a quarter of a mile from the entrance of any such channel into said ponds.

SEC. 14. No weir shall be erected nor any stationary seine or net set across the channels, nor in Point Judith ponds, within a quarter of a mile from the five following places, viz : Alder Point, near where Saucatucket river vents itself into said ponds ; Prince's Narrows, which connect the upper with the lower ponds ; Strawberry Hill, on Great Island ; High Point, so called, on land of the heirs of Joseph Sherman, and Goose-berry Hole, so called.

SEC. 15. No person shall at any time from the fifteenth day of April to the fifteenth day of June, in every year, erect any weir or draw any seine or net for the obstructing, catching or hauling of fish at the breach or entrance of Petaquamscut river, nor within one mile thereof.

SEC. 16. No weir shall be made or erected across Petaquamscut river at any time, nor shall any standing seine be set across the same.

SEC. 17. Nothing in either of the next preceding four sections shall be construed to prohibit any person from using such nets or fishing craft for the catching of smelts as are commonly used in the smelt fishery, from the first day of February to the first day of April, in every year.

SEC. 18. If any person shall erect any dam or weir across Mill Cove, in Warwick, or from the mouth of said cove to the pond of fresh water which runs into said cove, or shall keep up any dam or weir already therein made, at any time between the first day of April and the first day of June in every year, without leaving open through such dam or weir a suffi-

cient way for the fish to pass, he shall forfeit and pay the sum of ten dollars for the first offence, and five dollars for every twenty-four hours such dam or weir shall be continued without such sufficient way therein.

SEC. 19. No person shall fish in any way in said Mill cove, or in the stream leading from said pond into said cove, on Sundays, nor on Saturdays or Mondays, save with a hook and line ; nor shall any person catch or hinder any alewives coming down said Mill cove or brook at any time. If any person shall be convicted of the breach of any provision of this section, he shall forfeit and pay the sum of three dollars.

SEC. 20. If any person shall set or draw any seine or net in said Mill cove, or from the mouth thereof to the pond of fresh water which empties into the same, he shall forfeit and pay the sum of fifty dollars.

SEC. 21. Every violation of the thirteenth, fourteenth, fifteenth and sixteenth sections of this act, shall be proceeded against by indictment before any court competent to try the same.

SEC. 22. Every person who shall be convicted of a violation of the thirteenth, fourteenth, fifteenth or sixteenth section of this act, shall be fined not less than twenty nor more than fifty dollars ; and shall also forfeit the boat, seine, net or other apparatus by him used, in violating any provision of the thirteenth or fourteenth sections of this act ; one half of said fine and forfeiture shall be to the use of the person complaining, and the other half to and for the use of the state.

SEC. 23. All the forfeitures in this act contained, unless where other provision is made, shall and may be recovered by action of debt before any justice of the peace in the town where the same shall be incurred, if the same do not exceed twenty dollars ; and if it exceed that sum, before the court of common pleas in the same county ; one half thereof to the person who shall sue for the same, and the other half to and for the use of the town in which the offence shall be committed.

*An Act to prevent the taking of Sea-weed from the shore of Dutch Island.*

Sea-weed not to be unlawfully taken from Dutch Island. Penalty for taking the same.

*It is enacted by the General Assembly, as follows :*

Any person who shall be convicted before any court competent to try the same, of unlawfully taking or removing from the shores of Dutch Island in Narragansett Bay any sea-weed, rock-weed, or any other sea manure, shall forfeit and pay the sum of five dollars for every cart-load so taken, to any person who shall sue for the same.

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*An Act to regulate the Measure of Fish sold for Manure.*

SECTION

1. Fish manure—how measured, &c. measure to be sealed.
2. Penalty on sealer for fraud.

SECTION

3. Penalty for selling by measure not sealed.
4. Penalties how recovered, &c.

*It is enacted by the General Assembly, as follows :*

SECTION 1. When fish are sold by measure for manure, they shall be measured in a barrel or half barrel; the barrel containing twenty-eight gallons, and the half barrel fourteen gallons; which shall be sealed by the sealer of weights and measures of the town in which the same shall be used, or of some other town.

SEC. 2. If any sealer of weights and measures shall seal any barrel or half barrel which shall contain a less quantity than prescribed in the next preceding section, he shall forfeit the sum of fifty dollars.

SEC. 3. If any person shall measure any fish sold by measure, in any barrel or half barrel not sealed according to the provisions of this act, he shall forfeit the sum of ten dollars for each offence.

SEC. 4. All penalties incurred under this act shall be recovered by action of debt, before any court of competent jurisdiction; one half thereof to and for the use of the state, the other half to and for the use of the person who shall sue for the same.

*An Act to regulate the taking of Sea-weed from Hyde's Hole Beach, in Barrington.*

## SECTION

1. When sea-weed may be taken from the public beach—in what quantity and manner.

## SECTION

2. Inhabitants of the town only, to carry away.  
3. Penalty for taking and carrying off contrary to provisions of the act.

*It is enacted by the General Assembly, as follows :*

SECTION. 1. The inhabitants of the town of Barrington may at all times hereafter, between the rising and the setting of the sun, take up and carry off from the public beach in said Barrington, extending west from Hyde's Hole to land of the heirs of John Watson, with their teams, carts or wagons, not exceeding two loads of sea-weed each in any one day : *provided, always*, that no person shall take more than one load of sea-weed in any one day, until all who shall have repaired to said beach with their teams shall have obtained one load each.

SEC. 2. No person other than an inhabitant of the town of Barrington shall be permitted to take or carry off from said beach any sea-weed, in any manner whatever.

SEC. 3. Any person who shall take or carry off from said beach any sea weed contrary to the provisions of this act, shall forfeit and pay the sum of ten dollars for each and every load of sea-weed so carried off ; to be recovered in an action of debt, before any justice of the peace in the county of Bristol ; one half part thereof to the use of the complainant, and one half part thereof to the use of the town of Barrington.

*An Act confirmatory of the Tenure of Lands belonging to the Narragansett tribe of Indians, and for other purposes therein mentioned.*

## SECTION

1. Tenure of Indian lands established.  
2. Penalty for cutting wood on their lands.

## SECTION

3. Tribe not suable for debts contracted after passage of this act.

Whereas the tenure of lands belonging to the Narragansett tribe of Indians in this state is derived to them from their ancestors, and depends upon tradition and usage among themselves : and whereas it is proper that said tenure should be secured to them by statute :

SECTION 1. *Be it therefore enacted by the General Assembly, and by the authority thereof it is enacted,* That said tenure as evidenced by their tradition and usages be and hereby is declared the legal tenure of said lands, and be and is hereby confirmed accordingly.

SEC. 2. *And be it further enacted,* That it shall not be lawful for any person whomsoever, except the members of said tribe, to cut down, take or carry away from any of the lands belonging to said tribe any tree, timber or wood of any kind whatever, nor aid or assist therein; and if any person or persons shall commit any such trespass, he, she or they shall be liable to an action of *quare clausum fregit*, to be commenced and prosecuted by and in the name of the treasurer of said tribe for the time being, before any court competent to try the same; and if found guilty shall pay four times the value of the trees, timber or wood by him, her or them so cut down, taken or carried away as aforesaid, and double costs.

SEC. 3. *And be it further enacted,* That no writ or process at law shall be brought against the said tribe or any individual thereof, for the recovery of any debt contracted subsequently to the passing of this act: that it shall be the duty of all courts and justices in the state, in case any such writ or process be brought, to dismiss the same, and to adjudge double costs against the plaintiff.

Passed 1822.

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*An Act in relation to the Indian Tribe in this State.*

SECTION

1. Commissioner to be annually appointed—his duties.
2. Commissioner to be engaged—term of office—compensation.

SECTION

3. Power to sue in his own name.
4. Enforce laws for protection of tribe, &c.

*It is enacted by the General Assembly, as follows:*

SECTION 1. There shall be appointed annually by the governor a commissioner of the Indian tribe, who shall give bond with surety or sureties to the satisfaction of the governor, for the faithful performance of the duties of his appointment; whose duty it shall be to superintend and oversee the affairs of said tribe; to settle all controversies among them as to real or personal estate, or for other causes subject to appeal to this general assembly; and to ascertain and report to the general treasurer from time to time the situation of said tribe, and any facts relating thereto.

SEC. 2. Such commissioner shall continue in office until his successor is qualified to act; he shall be commissioned and engaged, and shall receive out of the general treasury as compensation for his services such sums as may from time to time be allowed by the general assembly.

SEC. 3. The commissioner may bring, in his name, all actions in behalf of said tribe which might formerly have been brought by the treasurer of said tribe.

SEC. 4. It shall be his duty to enforce all laws heretofore made for the protection and security of said tribe, and for preventing the sale of spirituous liquors among them.

*An Act confirming the Grants heretofore made by the inhabitants of the towns of Newport, Providence, Portsmouth, Warwick and Westerly.*

## SECTION

1. Indian grants of lands in Newport, Providence, &c., confirmed—common lands how divided.

## SECTION

2. Proprietors to choose clerk and surveyor.

Whereas in the fifteenth year of the reign of Charles the second there was a charter granted to this state of Rhode-Island and Providence Plantations, in which were contained many privileges to the free inhabitants thereof; and among other of the said privileges there was granted to the general assembly of said state full power and authority to make and ordain laws suiting to the nature and constitution of the place, and in particular to direct, rule and order all matters relating to the purchases of land of the native Indians; and whereas the lands of the several towns of Newport, Providence, Portsmouth, Warwick and Westerly, were purchased by the several inhabitants thereof of the native Indians, chief sachems of the country before the granting of the said charter, so that an order or direction from the said assembly could not be obtained therein; and it being thought necessary and convenient for the reasons aforesaid that the lands of the said towns be by an act of the general assembly of this state confirmed to the inhabitants thereof, according to their several and respective rights and interests therein:

SECTION 1. *Be it enacted by the General Assembly, and by the authority thereof it is enacted,* That all the lands lying and being within the limits of each and every of the aforesaid towns of Newport, Providence, Portsmouth, Warwick and

Westerly, according to their several respective purchases thereof made and obtained of the Indian sachems, be and are hereby allowed of, ratified and confirmed to the proprietors of each of the aforesaid towns, and to each and every of the said proprietors the several and respective rights and interests therein, by virtue of any such purchase or purchases as aforesaid; to have and to hold all the aforesaid lands by virtue of the several purchases thereof, with all the appurtenances, privileges and commodities thereunto belonging, or in any wise appertaining to them, the aforesaid proprietors, their heirs and assigns forever, in as full, lawful, large and ample manner, to all intents, constructions and purposes whatsoever, as if the said lands and every part thereof had been purchased of the Indian sachems, by virtue of any grants or allowances obtained from the general assembly of this state after the granting the aforesaid charter: and whereas there is within several of the towns within this state considerable of lands lying yet common or undivided, and for the more orderly way and manner of the several proprietors, their managing the prudential affairs thereof, and for the more effectual making of just and equal division or divisions of the same, so that each and every of the proprietors may have their true and equal part or proportion of land, according to his or their proportion of right; and that the exact boundaries of each man's allotment when laid to him may be kept in perpetuum:

SEC. 2. *It is further ordained and enacted by the authority aforesaid,* That it shall and may be lawful for the proprietors of each and every such town within this state, being convened by a warrant from under the hand and seal of an assistant or justice of the peace in such town, the occasion thereof being specified in the warrant, for them or the major part of them so met to choose and appoint a clerk and a surveyor or surveyors, and such and so many other officers as they shall judge needful and convenient for the orderly carrying on and management of the whole affairs of such community, and in like manner to proceed from time to time as often as need shall require.

Passed May, 1682. Re-enacted 1822.

*An Act quieting Possessions and establishing Titles of Land within the towns of Bristol, Tiverton, Little Compton, Warren and Cumberland.*

## SECTION

1. Grants of New-Plymouth, &c., confirmed.

## SECTION

2. Distribution of intestate estates.

3. Deeds and conveyances confirmed.

SECTION 1. *Be it enacted by the General Assembly, and by the authority thereof it is enacted,* That all grants and conveyances of land heretofore made by the general assemblies of the late colony of New-Plymouth, the late colony of the Massachusetts, or by the province of the Massachusetts Bay, or by any commissioners, agents or persons by them or any of them duly appointed and authorized, or by any other authority derived from them or any of them, lying within any of the towns aforesaid, shall be as good, valid and effectual, to all intents and purposes whatsoever, to the grantees, their heirs or assigns, as if the lands so granted had really been situated in the colony or province by whom or by whose authority the same were made, and shall forever hereafter be so adjudged and construed in all courts of judicature in this state.

SEC. 2. *And be it further enacted,* That all estates both real and personal left by persons who have died intestate before the publication of this act, and which lie or are within the bounds of the aforesaid towns, shall be distributed and settled among the children or legal representatives of such intestates, agreeably to the laws of the province of the Massachusetts Bay in force at the time of such intestates' death; which laws shall have the same force and effect in this state, in the trial of and settling and distributing such intestates' estates, as if the same were laws of this state duly made, and shall be so adjudged, construed and understood by all judges and ministers of justice in this state: and that the several town councils of the above mentioned towns be and they are hereby fully empowered and required to complete the distribution and settlement of such intestates' estates as aforesaid, which yet remain unsettled, in the same manner and as fully and effectually in all respects as the same could have been by the courts of probate had the said towns still remained within the province of the Massachusetts Bay.

SEC. 3. *And be it further enacted,* That all grants, deeds, conveyances and land evidences whatsoever, that have heretofore been made of any lands within any of the aforesaid



towns, and which were executed and registered according to the laws in force there at the time of making the same, shall be adjudged and deemed as good, valid and effectual, to all intents and purposes whatsoever, as if the same had been made, executed and recorded within and according to the laws of this state: and copies of all such grants, deeds, conveyances and land evidences, produced from and attested by such offices and officers where the same are registered, shall be received as lawful evidences by all courts in this state.

Passed January, 1746. Re-enacted 1822.

*An Act to secure and appropriate the Touro Jewish Synagogue Fund.*

**SECTION**

1. Legacy and trust accepted—fund to be invested.
2. Town council of Newport to keep synagogue in repair—freedom of religious exercises secured.

**SECTION**

3. Town council to recommend from time to time proper investment of fund.—Town council to repair wall and burying ground—may draw for interest of fund.

Whereas it has been made to appear to this general assembly upon the representation of Titus Weeks, Esq., executor of the last will and testament of Abraham Touro, Esq., of the city of Boston, in the state of Massachusetts, that the said Abraham by his last will bequeathed a legacy in the following words, viz: "Item. I give ten thousand dollars to the legislature of the state of Rhode-Island for the purpose of supporting the Jewish Synagogue in that state; in special trust to be appropriated to that object in such manner as the said legislature together with the municipal authority of the town of Newport may from time to time direct and appoint:" Therefore,

**SECTION 1.** *Be it enacted by the General Assembly, and by the authority thereof it is enacted,* That said legacy and trust be and hereby are accepted by the general assembly; and the general treasurer is authorized and directed to apply for and receive from said executor the said legacy or donation of ten thousand dollars, to give all proper receipts and acquittances therefor upon receipt thereof, and as soon as possible to vest the same entire in the stock of some substantial bank or banks or in some of the United States stocks; and the certificates or evidences of such stock shall be carefully kept by said general treasurer in his office; and it shall be the duty of said general treasurer once in every year to report to the general assembly the state of said fund.

SEC. 2. *And be it further enacted,* That the town council of the town of Newport may, and it shall be their duty to cause all repairs to be made upon said synagogue, buildings and premises, which in their opinion may be necessary and proper; and whenever there shall be no person of the Jewish persuasion residing in Newport, and qualified and authorized to have the care and superintendence of said synagogue, said town council shall appoint some suitable person or persons for that purpose, with such compensation as said council with the approbation of the general assembly shall think reasonable: *provided,* that all accounts and charges for expenditures of every kind out of said fund shall be presented to the general assembly, and if approved of by them shall be paid by the general treasurer upon their order out of the interest or profits accruing on said fund: *provided also,* that nothing in this act shall be construed to authorize said town council or any other person whatever in any manner to interfere with or restrain the full and free exercise of the Jewish religion in said synagogue, by any individual of that faith residing in Newport, or to interrupt the possession, control and management with which the proprietors of said synagogue and premises, or any other persons according to the laws and customs of the Jews, may be invested.

SEC. 3. *And be it further enacted,* That it shall be the duty of said town council from time to time as occasion shall present, to recommend to the general assembly such disposition of the profits of said fund, and such measures and provisions as in their opinion shall be best calculated to promote and fulfil the object and intention of the donor, the said Touro, as expressed in his said will, in supporting and advancing said Jewish institution.

Passed June, 1823.

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*An Act in addition to the act to secure and appropriate the Touro Jewish Synagogue Fund.*

*Be it enacted by the general assembly,* That it shall be the duty of the town council of the town of Newport from time to time as occasion may require, to cause all necessary repairs to be put upon the wall or fence enclosing the Jewish burying ground in Newport, appurtenant to said synagogue; and that said town council be authorized to draw upon the general treasurer for so much of the interest of said fund as may from time to time be necessary for that object.

Passed June, 1827.

*Resolved*, That the town council of the town of Newport be and they are hereby authorized from time to time, as occasion may require, to draw on the general treasurer for the interest of the Touro Jewish Synagogue Fund, or so much thereof as may be necessary to keep said synagogue and the premises in complete repair; and that said town council make report of their expenditures to the general assembly annually at the May session thereof.

Passed June, 1834.

*An Act to regulate the Fishery in Pawcatuck River.*

SECTION

1. No weir, &c., to be erected in Pawcatuck river.
2. Times of fishing.
3. Passages to be opened in mill dams.
4. Weirs, &c., not to be erected on the flats.

SECTION

5. Times of fishing with nets.
6. Offences where triable—penalties to whose use.
7. This act, a compact with Connecticut.

SECTION 1. *Be it enacted by the General Assembly, and by the authority thereof it is enacted*, That no weir or pound or other obstructions shall be erected or continued in the channel of Pawcatuck river, dividing the states of Rhode-Island and Connecticut, so as to interfere with the main channel of said river; upon penalty of twenty dollars for the first offence, and seven dollars for every twenty hours, or any less space of time any such weir or other obstruction shall be continued in the main channel of said river after the first offence.

SEC. 2. *And be it further enacted*, That no person or persons be permitted to draw any seine or seines in said Pawcatuck river from the twentieth day of March to the first day of June annually, excepting between the rising of the sun on Monday morning and the rising of the sun on Thursday morning in each week; upon penalty of twenty dollars for each and every time such seine shall be set or drawn otherwise than as aforesaid; that no person or persons shall be permitted to throw any stone or stones into said river, upon penalty of seven dollars for each and every such offence.

And to the end that the fish may more freely pass to the various sources of the river aforesaid:

SEC. 3. *And be it further enacted*, That yearly and every year, from the twentieth day of March to the first day of June, there be a passage opened in the mill-dam below Pawcatuck bridge, from the bed or bottom of said river, twenty feet in length, to extend ten feet easterly, and ten feet west-

erly from the middle of said river; that similar passages be opened in manner aforesaid in all the other mill-dams in said river, of fifteen feet in length, excepting Sanford Taylor's mill-dam which shall be opened twenty feet in length, ten feet between the middle of said river and the easterly shore, and ten feet between the middle and the west shore, in the most convenient place for the fish to pass in said river; and the owner or owners, occupier or occupiers of any of the dams aforesaid, who shall neglect or refuse to open the passage or passages as aforesaid on or before the said twentieth day of March, annually, shall forfeit the sum of twenty dollars for every such refusal or neglect; and for every succeeding day's neglect or refusal to open a passage as aforesaid from the said twentieth day of March to the first day of June, annually, the offender or offenders shall forfeit one other sum of seven dollars: no person or persons shall be permitted to erect and continue any weir or other obstructions within sixty feet of the fish gaps in said mill-dams, under penalty of seven dollars for the first offence, and four dollars for every succeeding day or less space of time said obstruction shall continue in said river, from the twentieth day of March to the first day of June annually.

SEC. 4. *And be it further enacted,* That no weir or pound shall be erected or continued upon any flat or other part of the bottom of said river, eastward or westward of the aforesaid channel of said river, between the first day of June and the twentieth day of March, annually, upon penalty of fourteen dollars for the first offence, and seven dollars for every succeeding day such weir or pound shall be continued in said river, from the first day of June to the twentieth day of March, annually.

SEC. 5. *And be it further enacted,* That no person or persons be permitted to fish with mesh or scoop nets in Pawcatuck river or any of its branches, after sunset on Friday until sunrise on Monday in each week, from the twentieth day of March to the first day of June, annually; and that no person use more than one net at a time, upon penalty of five dollars for every offence.

SEC. 6. *And be it further enacted,* That all offences against this act shall and may be heard and finally determined before any court proper to try the same in the county where the same is committed: that all penalties incurred thereby shall accrue, the half thereof to and for the use and benefit of him or them who shall inform and prosecute the same to effect, and the other half shall be paid into the town

treasury where the offence is committed, to and for the use of said town.

SEC. 7. *And be it further enacted*, That this act shall be considered as forming a compact with the state of Connecticut, and from which this general assembly will not depart until the legislature of the state of Connecticut shall agree with the legislature of this state to a repeal thereof, alterations therein or additions thereto.

Passed 1798.

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*An Act to enforce an act entitled "an act to regulate the Fishery in Pawcatuck River."*

Weirs, &c., not to be erected on flats, &c., by adjoining owners. Penalty on owner for violation.

Whereas divers owners of land adjoining Pawcatuck river in this state, having leased or let privileges to divers persons to fish in said river, who are regardless of the penalties annexed to a breach of the fourth section of said act, and unable to respond for the same by whom the provisions of said section have been frequently violated :

*Be it therefore enacted by the General Assembly, and by the authority thereof it is enacted*, That if any owner or owners of land adjoining Pawcatuck river in this state shall hereafter permit any weir or pound or other obstruction to be erected or continued upon any flat or bottom of said river, whether done, erected or continued by themselves, servants, lessees, or any other person by their privity or consent, such owner or owners shall be liable for any such breach or violation of said fourth section of the said act, in the same manner as though the same had been committed by such owner or owners in person.

Passed 1822.

THE FOLLOWING ACTS WERE PASSED AT JANUARY SESSION,  
A. D. 1844.

*An Act to regulate the Election of Civil Officers.*

## SECTION

1. Town council to be board of canvassers.
2. Person claiming to vote on the performance of military duty, what evidence required.
3. Commanding officer to make return of all persons in his regiment, &c., qualified to vote.
4. Captains to make return to colonel of regiment, &c.
5. Taxes to be paid to collector only, except highway taxes—certificate of payment required, and from whom.
6. Same subject.
7. Penalty for collector, &c., refusing a certificate.
8. Town clerk to provide a registry book ; who shall be registered—penalty on clerk for neglect, &c.
9. Non-residents, &c., not to be deemed as registered—penalty for striking off name, &c.
10. Town clerk to deliver to assessors a list of all persons registered—assessors to impose a tax on each and return it to town clerk—town clerk to deliver copy of registry with the assessments, to collector—penalty on clerk and assessors for neglect.
11. Collector or his agent to be in town clerk's office to receive registry tax—town clerk may receive the tax in certain cases—penalty on collector, &c., for neglect.
12. Town clerk to give certified copy of list of voters, &c.—collector to give list of those who have paid taxes—penalty for neglect.
13. Collector to furnish town clerk a list of all registered persons who have paid their taxes, &c.—town clerk to furnish town council a list of all persons registered, &c.—also list of freeholders—penalty for neglect.
14. Town council to make out list of all persons qualified to vote, and cause the list to be posted up—in Providence, in each ward.
15. Town council to be in session to correct the list—notice of how given.
16. Corrected list to be posted up, and council to be in session—proceedings preparatory to election for members of Congress, &c.—corrected list to be delivered to town clerk and by him to moderator.

## SECTION

17. Penalty for fraudulently admitting or rejecting name.
18. Same subject.
19. Paupers, who considered.
20. Clerk to record votes of council upon admitting or rejecting name.
21. Town council may examine on oath, &c.
22. Town council not liable for certain omissions on list.
23. Moderator to receive votes of all persons on the list, and no other—general assembly may admit or reject—in Providence voter changing his ward may vote.
24. Penalty for fraud in voting.
25. Voting for general officers, &c., permitted during the day—town meetings when opened and closed.
26. Penalty on moderator for fraudulently receiving vote, &c.
27. Bribery.
28. Names of candidates to be on one ticket—name of voter to be written at length.
29. Moderator or warden only to receive votes—clerk to keep a register of all persons voting—clerk to return certified list to general assembly, &c.
30. Ward clerks to keep registry of voters for senator, &c.
31. Moderator, &c., to return list to clerk's office.
32. Penalty on clerk, moderator, &c., for neglect of duty.
33. Town clerk shall appoint a deputy in case of absence.
34. Grand committee, what business shall be transacted in.
35. Penalty on clerk for neglect to furnish senator, &c., with certificate.
36. Senator, &c., refusing to serve, town clerk to issue warrant, &c.
37. Officers to be commissioned and engaged.
38. Officers not re-elected may act twenty-four days unless, &c.—re-elected, may act twenty-four days without oath.
39. Electors protected from arrest.
40. Penalties how recovered.
41. Secretary to furnish returns.
42. Acts repealed.
43. When this act takes effect.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The town councils of the several towns shall be boards of canvassers of voters in their respective towns,

as herein after provided ; and the town clerks of the several towns shall act as clerks of said boards in their respective towns, and shall produce to their respective councils such returns, documents and records as the councils may require for the performance of their duties herein after set forth.

SEC. 2. If any person claims a right to vote on account of having done military duty in the militia, or in any chartered or legally authorized volunteer company not attached to a regimental company or regiment under the militia law of the state, the proof thereof shall be a certificate from the colonel or commanding officer of the regimental company or regiment to which such person belongs or is attached, or from the captain or commanding officer of the chartered or legally authorized volunteer company not attached as aforesaid, that he has within the year next preceding his claim, and on or before the thirty-first day of December of said year, been enrolled, and in what company, and that he has done duty therein for at least one day, and been equipped according to law ; and every commanding officer of a regimental company or regiment, or captain or commanding officer of a chartered or legally authorized volunteer company not attached as aforesaid, who shall wilfully refuse to grant such certificate to any person properly demanding and entitled to the same, or shall knowingly grant any such certificate to one not entitled thereto, shall for each and every such offence forfeit the sum of one hundred dollars.

SEC. 3. Every colonel or commanding officer of a regimental company or regiment, and every captain or commanding officer of a chartered or legally authorized volunteer company not attached as aforesaid, shall on or before the last Monday of February in every year, make return, by him certified and sworn to before some judge, justice of the peace, or public notary, of all persons, arranging their names alphabetically, belonging or attached to his regimental company or regiment, or belonging to his chartered legally authorized volunteer company not attached as aforesaid, as the case may be, qualified to vote by military service as aforesaid, to the clerk's office of the several towns in which such persons reside ; and every colonel or commandant of a regimental company or regiment, captain or commanding officer of a chartered or legally authorized volunteer company, who shall wilfully neglect or refuse to make such returns, or shall knowingly make a false or imperfect return, shall forfeit not less than twenty-five, nor more than five hundred dollars.

SEC. 4. The colonels or commanding officers of the sev-

eral regimental companies and regiments, shall have full power, and it shall be their duty, to require from the captains and other officers and privates under their command, all such returns and evidences under oath as may be necessary to enable them to comply with the provisions of the constitution and of this act; and every captain or other officer or private refusing to make such returns, or to give such evidence when thereunto duly required, or wilfully making false returns, or giving false evidence, shall forfeit not less than twenty-five dollars, nor more than three hundred dollars.

SEC. 5. All registry and other taxes shall be paid to the collector of taxes only: *provided, however*, that in case of a highway tax where by law the same may be paid in labor or money to a surveyor of highways, the receipt of such surveyor of such payment shall be sufficient evidence thereof, on settlement with the collector. No person who claims a right to vote upon the payment of a tax or taxes assessed, for any other officer than mayor, aldermen, or common councilmen of the city of Providence, or upon any other proposition than one to impose a tax, or for the expenditure of money in any town or city, shall by the boards of canvassers be admitted to vote, unless upon the production of a certificate from the collector of taxes of some town in this state, that on or before the last day of December, in the year next preceding, he has paid such tax assessed for, and within such year, at least to the amount of one dollar. If he claims a right to vote upon the payment of a registry tax, such payment shall be certified as aforesaid by the officer of the town in which he resided at the time such tax was assessed, authorized to receive the same; and if his name has been registered for more than one year, two registry taxes for the two years next preceding the canvass having been assessed against him, and he claims a right to vote upon the payment of his registry tax, the certificate of the officer of the town in which he resided at the time such tax was assessed, authorized to receive the same, shall be produced before the canvassers, that on or before the last day of December next preceding the canvass, he has paid such registry tax for each of the two years next preceding the time of voting; or that one of the same, if the other has been paid, has been remitted by the town council of the town in which he resided at the time of the assessment of said tax, in conformity with article two, section three, of the constitution.

SEC. 6. No person claiming a right to vote upon the payment of a property tax, in the election of the city council



of the city of Providence, or of any member of the same, or upon any proposition to impose a tax, or for the expenditure of money in any town, shall in such case be admitted by the canvassers to vote, unless upon a certificate from the collector of taxes of such town that he has on or before the last day of December, in the year next preceding, paid a tax assessed for and within such year, upon his property therein, valued at least at one hundred and thirty-four dollars.

SEC. 7. Any collector of taxes or other officer authorized to receive the taxes in either of the two preceding sections mentioned, who shall wilfully refuse to grant the certificate therein prescribed, to any person demanding the same, and legally entitled thereto, or shall grant such certificate to one not entitled thereto, shall forfeit the sum of one hundred dollars for each and every offence.

SEC. 8. Every town clerk shall provide a suitable book for the registry of the names of all persons who, in order to vote, are required by the constitution to be registered ; which book shall be kept in the office of the town clerk, for the purpose of such registry only, and shall always be open to the inspection of any elector of such town ; and every town clerk in this state is hereby required to register in said book the name of every male inhabitant of the town, who shall demand such registry, and who shall declare that he is qualified by birth, and is or will be within a year qualified by age and residence, to vote in such town, together with the date of the registry ; and shall also register therein the name of every such inhabitant demanded to be registered by any elector of such town, who shall declare that such inhabitant is qualified by birth, and is or will be within a year qualified by age and residence to vote therein ; in which case, besides the date of the registry, he shall also register opposite the name of such inhabitant the name of the elector demanding the same. Every town clerk who shall neglect to provide and keep such book, or who shall refuse at all suitable times to permit such inspection of the same, or who shall refuse or neglect to register the name of any person, upon demand and declaration as aforesaid, or shall register a name without a date, or with a false date, or shall fraudulently erase from the registry the name of any person duly registered thereon, shall forfeit the sum of one hundred dollars for each and every such offence.

SEC. 9. No person whose name is upon the registry of any town shall be deemed to be registered therein who shall have died, or who for the space of one year shall have ceased to reside in such town ; and it shall be the duty of the town

council of each town, on the second Monday of June in each year, carefully to examine the registry of such town, in open meeting, and to purge the same, by placing against the names of all persons thereon who are dead, or who for the space of one year shall have ceased to reside in such town, the word "dead," or "non-resident," as the case may be, and to correct the registry where the same person is registered more than once thereon; and if the name of any person shall be wilfully or fraudulently stricken from the registry as aforesaid, whose name should be retained thereon, every member of the town council wilfully and fraudulently concurring in the same, shall forfeit the sum of one hundred dollars for every name so stricken off as aforesaid.

SEC. 10. On, or before the first Monday of December and in the month of December in each year, the town clerk of every town shall deliver to the assessors of taxes for their respective towns a certified copy from their registry of the names of all persons then registered in the town, alphabetically arranged, placing opposite the name of every person thereon the amount of his assessed property tax for and within said year; and such assessors of taxes shall within five days thereafter, in every year, assess upon every person whose name shall have been registered as aforesaid, as his registry tax, a tax of one dollar, or such sum as with his other taxes shall amount to one dollar, and return to the clerk's office of the town said copy of the registry by them duly certified, with the registry tax assessed against each person placed against his name thereon, which copy so returned it shall be the duty of the town clerk to put on file in his office. The town clerk shall, within ten days after the first Monday of December in each year, deliver a duly certified copy of the registry, with the assessments aforesaid, to the collector of taxes for such town. Every town clerk neglecting or refusing to deliver such certified copy to the assessors as aforesaid, or wilfully delivering a false or imperfect copy, shall forfeit the sum of three hundred dollars; and if any assessors of taxes shall wholly neglect or refuse to make such assessments, each and every such assessor so neglecting or refusing, shall forfeit the sum of one thousand dollars, and be liable to imprisonment for one year; and if any assessors shall wilfully neglect or refuse to assess as aforesaid any person registered as aforesaid, each and every assessor so neglecting or refusing, shall forfeit the sum of one hundred dollars for each and every person whom he shall so neglect or refuse to assess as aforesaid.

SEC. 11. It shall be the duty of the collector of taxes in each town to be and remain in the town clerk's office, and in the town of Newport and city of Providence, to be and remain at his own or at the town clerk's office, from and after the day of his receiving the copy of the registry in the last section mentioned, for at least six hours in each day, to wit : from twelve o'clock to six o'clock, during the last six days of December, Sunday excepted, in each year ; or in case of absence to appoint some one as his agent, there to remain as aforesaid, during the period aforesaid, to receive the registry tax : *provided, however,* that the certificate of such payment shall, in case of payment to the agent, be under the hand of the collector, in order to avail as proof before the board of canvassers. If the collector shall die, resign, be unable, or neglect or refuse to do his duty herein before required, the town clerk of each town shall receive and certify the payment of the registry tax with the same effect that the collector might do. Any wilful neglect or refusal of duty on the part of the collector or town clerk, under this section, shall be punished by a fine of not less than twenty-five, nor more than one thousand dollars.

SEC. 12. Every town or ward clerk, upon payment or tender of his legal fees, which shall be the same for the ward clerks as for the town clerks, shall furnish to any person demanding the same, a certified copy of any list of voters whose votes have been given in at any election. Every town clerk shall, upon like payment or tender, furnish to any person demanding the same, a certified copy of any registration of voters, and shall also, upon the request of any person and tender of legal fees, and without unreasonable delay, examine the records, and certify to the estate of any person, and shall furnish copies of any instrument or writing which may be on record, or in the files of his office. Every collector of taxes shall, upon like request and payment or tender, and without unreasonable delay, furnish to any elector a certified list of those who have paid to him, state, town and registry taxes, and the amounts and times of such payments ; and shall grant certificates setting forth whether a certain person or persons have or have not paid to him such taxes, and if paid, to what amount, and at what time ; and every town, ward clerk or collector of taxes, who shall refuse or unreasonably delay to furnish such lists or certificates upon payment or tender as aforesaid, shall for every such offence, forfeit not less than twenty-five dollars, nor more than two hundred dollars.

SEC. 13. On or before the last Monday of February, in

every year, every collector of taxes, or other officer authorized to receive the same, shall furnish to the town clerks of their respective towns, duly certified alphabetical lists of all persons registered on or before the last day of December next preceding, in their respective towns, who shall have paid such officer on or before the last day of December next preceding, their taxes assessed for and within said year preceding, together with the amount of the payment by each, specifying whether the tax was a registry tax or a tax on property, valued at least, at one hundred and thirty-four dollars. On or before the last Monday in February, in every year, every town clerk shall furnish to the town councils of their respective towns, a duly certified alphabetical list of all persons registered therein on or before the last day of December next preceding, for the purpose of voting; and separately therefrom, correct alphabetical lists of the names of all persons entitled to vote under article second, section first, of the constitution; and every town clerk, and every collector of taxes, or other officer authorized to receive the same, who shall wilfully refuse or neglect to deliver such lists as aforesaid within the time above limited, or who shall wilfully deliver false or imperfect lists, shall forfeit not less than five hundred, nor more than one thousand dollars, or be imprisoned not less than six months, either or both, at the discretion of the court who shall try such offenders.

SEC. 14. The town councils of the several towns shall, on or before the last Monday of February in every year, make out correct alphabetical lists of all persons qualified to vote generally, to wit: of all persons entitled to vote under article second, section first, of the constitution; and of all persons entitled by registry and payment of registry, and other taxes, or by the performance of military duty, to vote in their respective towns; and separately from such lists, correct alphabetical lists of all persons entitled to vote upon any proposition to impose a tax or expend money in their respective towns, to wit: of all persons entitled to vote under article second, section first, of the constitution; and of all persons who, on or before the last day of December next preceding, have paid assessed taxes to the amount of one dollar, and upon whose property in their several towns, valued at least at one hundred and thirty-four dollars, a tax or taxes have been assessed and paid, within the year next preceding, and on or before the last day of December therein; and shall cause such lists to be posted up in three or more public places in their respective towns, and one in the town clerk's office, which last

list shall be open to the examination of any elector of the town at all reasonable hours : *provided, however,* that separate lists of the voters in each ward of the city of Providence, shall be made out by the mayor and aldermen of said city, and the lists for each ward shall be posted up in some public place in the ward, and in the office of the city clerk ; and any person who shall take down, destroy or deface such lists so posted up, shall forfeit the sum of one hundred dollars, or may be imprisoned three calendar months.

SEC. 15. On or before the third Monday of March, in every year, the town councils of the several towns shall be in session at some convenient place or places for a reasonable time, in their respective towns, for the purpose of correcting such lists ; and the notice of the time or times, and place or places of holding said sessions shall be given by the town councils upon the lists posted up as aforesaid. The members of the town councils, and the town clerks of the several towns, shall be paid by their respective towns one dollar each for every day's attendance in the discharge of their duties under this act ; and the town clerks shall in addition be paid legal fees for their recording and making out the several lists and returns in this act required.

SEC. 16. At least ten days previous to the first Wednesday in April, said town councils shall cause to be posted up as aforesaid, lists of persons entitled to vote in their respective towns so by them corrected as aforesaid ; and shall, on the Monday preceding the first Wednesday of April, hold a session for the purpose of further correcting said lists, which session shall be holden for at least two hours. Said board of canvassers shall also, at least two days previous to any election of representatives to congress, or of electors of president and vice president of the United States, and to the election of any state, town or city officers, hold a session for the purpose of further correcting the town and ward lists of voters ; in which case the lists need not be posted up as aforesaid, but notice of the time and place of such session shall be given, for at least ten days previous thereto, by posting up notices thereof in three or more public places in every town, and one in each ward in the city of Providence, and one in the town or city clerk's office ; or instead of such notice, by publication in one or more newspapers published in such town. The lists of voters so corrected shall be by said town councils certified by their presiding officer, and on the same day delivered to the town clerks of their respective towns, to be delivered by said town clerks to the moderators of town meeting in their respective

towns; and the city clerk of the city of Providence shall, from the list of voters so corrected, make out separate lists of the voters of each ward in said city, and send such lists, by him certified, to the clerks of the respective wards before the time fixed for the opening of the ward meetings. Any wilful neglect to hold the sessions, to post up the lists, or to deliver the same, as herein before required, on the part of any town council or town clerk, shall be punished by a fine not exceeding five hundred dollars, to be forfeited by every member of the town council, and by every town clerk so wilfully neglecting his duty as aforesaid.

SEC. 17. If any town council of any town shall at any session holden for the purpose of correcting the list of voters for the said town as is herein before provided, wilfully and fraudulently place the name of any person upon the list of voters for such town who is not entitled to vote, or shall wilfully and fraudulently reject and cause to be erased from said lists the name of any person entitled to vote, every member of the town council so offending, who shall concur in said offence, shall forfeit not less than one hundred dollars, nor more than five hundred dollars.

SEC. 18. If any town clerk shall at any time wilfully and fraudulently add a name to any list of voters, or erase any name therefrom after the same has been corrected and certified as aforesaid, he shall forfeit the sum of one hundred dollars for each and every name so added or erased as aforesaid.

SEC. 19. Any person who shall have received aid or assistance from any town for the support of himself, or whose wife, or child under lawful age, shall have received such aid, or assistance at any time within one year from the time of the election at which he proposes to vote, shall be deemed and considered a pauper; and the name of any and all such persons shall be stricken from the list of voters by the board of canvassers.

SEC. 20. It shall be the duty of the clerk of every town council to record the votes of the members of said town councils upon admitting or rejecting the name of any person from the list of voters, when he shall be requested thereto by any member of said council, or by any qualified elector of said town present at the time of canvassing; a certified copy of which record shall be conclusive evidence of the facts therein stated; and any wilful neglect upon the part of said clerk to make said record, when requested as aforesaid, shall be punished by a fine not exceeding five hundred dollars.

SEC. 21. Said town councils may, at their sessions, holden

either for the purpose of revising the registry or canvassing the votes as aforesaid, examine under oath, any person present, and any other evidence offered, or that they deem necessary, respecting the right of any person to have his name upon the registry or to vote, and decide upon the same; and any person refusing to answer, or giving a false answer upon such examination, shall forfeit a sum not less than twenty-five dollars, nor more than three hundred dollars, for such refusal, or for each false answer so given.

SEC. 22. The town councils in case they shall have entered on said lists the names of all persons returned to them by said town clerks, shall not be held answerable for any omissions in said lists, nor for refusing to place in their list the name of any persons omitted in the lists to them delivered as aforesaid, unless at one of their said sessions they shall be furnished with sufficient evidence of such omission, and of the qualifications as a voter, of the person omitted, and shall have been requested to insert his name on their list.

SEC. 23. The moderator or warden of any town or ward meeting shall receive the votes of all persons whose names are upon the lists of voters, so to him delivered and certified as aforesaid, and he shall reject the votes of all persons claiming to vote whose names are not on said lists: *provided, however,* that nothing herein contained shall be construed to impair the right of either house of the general assembly to judge of the election of its members, or of the grand committee to count legal, and refuse to count illegal votes: and *provided further,* that if any voter whose name is upon any ward list in the city of Providence, shall have removed to another ward after the making out of the ward list, or if the name of any voter shall have been placed upon the wrong ward list, every such voter shall be admitted to vote in the ward in which he resides, upon producing the certificate of a ward clerk that his name is upon another ward list, duly prepared for the election in which he claims to vote. The certificates mentioned in this section shall, with the votes, be returned by the several ward clerks to the officer or body by law provided to receive the votes; and if any ward clerk shall refuse to give such certificate to one entitled to and demanding the same, or shall wilfully give a false one, he shall forfeit the sum of one hundred dollars for each and every offence.

SEC. 24. If any person in any election shall fraudulently vote, not being qualified, or having voted in one town or ward, shall vote in another town or ward without having withdrawn the vote first given, he shall be fined one hundred dol-

lars ; and no person after conviction of such offence shall ever after be permitted to exercise the privilege of voting for any civil or military officer.

SEC. 25. In the election of general officers, representatives to congress, and electors of president and vice-president of the United States, and when the vote is taken by ballot in the election of senators and representatives to the general assembly, the town meetings of the several towns, and the ward meetings in the city of Providence, shall be kept open for voting during the whole time of voting for the day. Town and ward meetings for the election of general officers, senators and representatives to the general assembly, representatives to congress, and electors of president and vice-president of the United States, shall be opened at ten o'clock in the forenoon on the day of election ; and all town meetings for such elections, except in case of the election of senators and representatives to the general assembly where the vote is not taken by ballot, in any town having five hundred electors or upward, shall be kept open at least until five o'clock in the afternoon on said day ; and in all towns having less than five hundred electors, shall be kept open at least until three o'clock in the afternoon on said day ; and the ward meetings in the city of Providence, in all such elections, shall be kept open until eight o'clock in the evening, and no longer.

SEC. 26. If any moderator, warden, or person whose duty it is to receive votes, shall fraudulently receive any unlawful vote, or shall fraudulently reject the vote of any voter whose name is on the town or ward lists, he shall forfeit the sum of one hundred dollars for every offence, and be ever after disqualified from voting.

SEC. 27. If any person shall directly or indirectly give or offer, or agree to give to any elector, or to any person for the benefit of any elector, any sum of money, or other valuable consideration, for the purpose of inducing such elector to give in or withhold his vote at any election in this state, or by way of reward for having voted or withheld his vote, or if any person shall directly or indirectly accept or receive, or offer or agree to accept or receive any sum of money or other valuable consideration as an inducement to give in or to withhold his vote, such person so offending shall upon conviction thereof, be fined the sum of five hundred dollars, or be imprisoned not exceeding three months, or both, at the discretion of the court.

SEC. 28. If senators and representatives to the general assembly be voted for by ballot, the names of the candidates



in any town voted for by any one elector, shall be written or printed on one ticket ; and in all such cases where the voting is by ballot and in the election of general officers, representatives to congress and electors of president and vice-president of the United States, the christian and surname of the voter shall be written at length on the back of his vote.

SEC. 29. In all elections the votes shall be received by the moderator or warden, and by no other person ; and the electors shall, one by one in their own proper persons, deliver their votes to the moderator or warden, who shall forthwith publicly declare the name of the person voting, and shall cause his name to be checked on the town or ward lists. The town and ward clerks shall keep a fair register of the names of all persons voting for general officers, representatives to congress and electors of president and vice-president of the United States ; and shall before such votes are sealed up, carefully compare the votes with their lists so taken ; and on the copy of the list which at each election is forwarded to the general assembly, or to the officer by law designated to receive the same, they shall certify the number of votes for each of the candidates. The original lists shall be kept in the town clerk's office.

SEC. 30. In the city of Providence the ward clerks shall keep a fair registry of all persons voting for senator, representatives and justices of the peace, and shall deliver a copy thereof with the votes to the city clerk.

SEC. 31. At the close of each election, the moderator or warden shall return to the town or ward clerk, the corrected lists of those entitled to vote at such election ; which lists shall be by him placed on file in the town or city clerk's office, and there kept for at least one year.

SEC. 32. Any town or ward clerk who shall neglect to keep the registry, and any moderator, warden or town or ward clerk, who shall neglect to seal up and direct the votes, or to send the same with the lists, as herein before or by the constitution provided, and any town or ward clerk who shall knowingly keep a false or imperfect registry, and every moderator or warden, town or ward clerk, who shall knowingly seal up, direct and send a part only of the votes, or with false or imperfect lists, shall be fined not less than one hundred dollars, nor more than three thousand dollars, or be imprisoned not more than three years ; either or both, at the discretion of the court who shall try such offenders.

SEC. 33. If any town clerk shall necessarily be absent from his office between nine o'clock in the forenoon and

twelve o'clock at noon, or between two and five o'clock in the afternoon, of any day except Sunday, within thirty days next preceding any meeting held for the annual election of state or town officers, representatives to congress, or electors of president and vice-president of the United States, it shall be his duty to appoint a deputy clerk, according to the provisions of law in such case made, whose duty it shall be to attend the office during such absence, and perform all the duties thereof; and if any town or city clerk shall refuse or wilfully neglect to appoint a deputy as aforesaid, he shall forfeit the sum of one hundred dollars.

SEC. 34. All business of the annual general election shall be done by the general assembly in grand committee, and not in separate houses.

SEC. 35. If any town clerk shall neglect or refuse to furnish any member of the senate or house of representatives elect, with a proper certificate of his election, as soon as may be after his election, he shall be fined not less than fifty dollars, nor more than five hundred dollars, or be imprisoned not exceeding six months, either or both, at the discretion of the court trying such offender.

SEC. 36. If any person elected senator or representative shall, at any time between his election and the expiration of his term, refuse to serve, and shall declare the same to the town clerk of the town for which he is elected, or shall die, resign or remove out of said town, the town clerk shall forthwith issue his warrant for an election to fill such vacancy, unless a special election for that purpose shall be ordered by the house in which the vacancy happens.

SEC. 37. Every officer chosen by the general assembly, and every military commissioned officer shall be commissioned by the governor, and before he enters on the duties of his office shall take an engagement before a senator, judge, justice of the peace, public notary or town clerk, to support the constitution and laws of this state and the constitution of the United States, and faithfully to discharge the duties of his office, which shall be certified upon his commission by the person administering the engagement.

SEC. 38. All officers of annual appointment who shall not be re-elected or continued in office at the annual general election by the general assembly, may continue to officiate for the space of twenty-four days after the first Tuesday in May, unless their successors are sooner qualified to act. All such officers who may be re-elected, may continue to officiate for the same length of time without taking any new oath of office.

SEC. 39. All persons entitled to vote shall be protected from arrest in civil cases on the days of election for the choice of city or town officers, and the election for state officers, representatives to congress, or the electors of president and vice-president of the United States; and on the day preceding and the day following such election.

SEC. 40. All fines and forfeitures provided by this act shall be to and for the use of the state, and shall, together with all other punishments herein prescribed, be enforced by indictment in the supreme court, or courts of common pleas: *provided always*, that all complaints for the same shall be made within one year after such fines, forfeitures and punishments have been incurred, and not afterwards.

SEC. 41. The secretary of state shall, at least ten days previous to the day of election of general officers, representatives to Congress, or electors of president and vice-president of the United States, furnish each town or ward clerk with printed forms of returns, certificates and directions, together with any advice he may deem necessary to secure proper returns.

SEC. 42. The following acts are hereby repealed: "an act in relation to the election of general officers," passed at May session, A. D., 1834.

"An act revising the act entitled an act regulating the manner of admitting freemen, and directing the method of electing officers in this state," passed at January session, A. D. 1836.

"An act to regulate the election of civil officers, and for other purposes therein mentioned," passed at January session, A. D., 1843; and the several acts in addition to, or in amendment thereof, and all other acts so far as inconsistent herewith: *provided*, that this repeal shall not be construed to revive any act, or part of an act, repealed by any of the acts mentioned in this section.

SEC. 43. This act shall take effect immediately after the rising of the general assembly.

*An Act enabling Town Councils to grant Licenses for retailing Strong Liquors, and for other purposes.*

**SECTION**

1. Town councils may grant licenses.
2. To tavern keepers, &c. ; to temperance houses.
3. Penalty for keeping tavern, &c., without license.
4. Penalty for retailing without license.
5. Penalty for selling by dumb waiter.
6. Penalty for selling on board vessel, &c.
7. License to specify person and place—limitation of.
8. Licensed persons to maintain good order—not to sell on Sunday—nor to drunkards—nor suffer gaming.

**SECTION**

9. Bond required.
10. Penalties how recovered.
11. Indictment may be general in its terms.
12. Debt for liquor sold under a quart not recoverable.
13. License may be revoked.
14. Town clerk to make annual return to general treasurer of licenses granted.
15. Town council to pay over license money.
16. Town council to designate officer to prosecute for breaches.

*It is enacted by the General Assembly, as follows :*

**SECTION. 1.** The town councils of the several towns shall have power to regulate the retailing of ale, wines and strong liquors, and the keeping of taverns, ale houses, victualling houses, cook shops, oyster houses and oyster cellars, in their respective towns, by granting or refusing to grant licenses therefor.

**SEC. 2.** Town councils shall and may demand for licenses to be granted under this act, the following sums, to wit : for every license for keeping a tavern, ale house, victualling cellar, cook shop, oyster house or oyster cellar, with the right of retailing therein ale, wine and strong liquors, in quantities less than ten gallons, which may be drank therein, a sum not exceeding fifty dollars, nor less than twelve dollars. For every license to retail ale, wine and strong liquors, in quantities less than ten gallons, which may be drank in the building or room licensed, a sum not exceeding fifty dollars, nor less than twelve dollars. For every license to retail ale, wine or strong liquors by the quart or a greater quantity, not exceeding ten gallons, not to be drank in the building or room licensed, a sum not exceeding twenty-five dollars, nor less than ten dollars. For every license for retailing ale, wine and strong liquors, for medical purposes only, and not to be taken in the building or room licensed, a sum not exceeding twenty-five dollars. Licenses for keeping taverns, victualling houses, cook shops, oyster houses and oyster cellars, without the privilege of selling ale, wine or strong liquors therein, may be granted without compensation therefor, bond being taken as provided in the ninth section.

**SEC. 3.** If any person in any town shall open or keep open any tavern, ale house, victualling house, cook shop,

oyster house or oyster cellar, without license first had and obtained from the town council of such town, or in any place other than that specified in such license, such person shall forfeit and pay the sum of fifty dollars for every offence.

SEC. 4. If any person shall sell, or suffer to be sold by any person in any town, any ale, wine or strong liquor by retail, in any less quantity than ten gallons, all liquors so sold, to be delivered at one time, without license first had and obtained from the town council of such town, or in any building other than that specified in his license, unless as an agent or servant of a person, and in a building duly licensed, he shall forfeit and pay the sum of fifty dollars for every offence; nor shall any person be excused as the agent or servant of another, unless that other be usually present in said licensed building, superintending the business transacted therein.

SEC. 5. If any person licensed or not licensed shall sell or suffer to be sold, in any place licensed or not licensed, any ale, wine or strong liquor, either by a dumb waiter, revolving stand, slide or drawer, or by any other secret way, so that the buyer or seller may not be distinctly and plainly seen, the owner of such place shall forfeit the sum of fifty dollars.

SEC. 6. If any person shall sell or cause to be sold any ale, wine or strong liquor in less quantity than ten gallons, to be drank at the place of sale, from on board of any vessel, boat, scow or raft lying in the harbor of Providence, or in any of the public waters of Providence cove, or of Providence and Seekonk river, as far north as Pawtucket bridge, or in any of the waters of Narragansett bay, north of a line drawn from the mouth of Pawtuxet river, to the northernmost part of the town of Barrington, or from or upon any stage, platform, wharf or bridge erected or floating upon any of the waters aforesaid, he shall forfeit and pay the sum of fifty dollars for every offence, to and for the use of the state.

SEC. 7. Every license granted in pursuance of this act, shall specify the person licensed, the business licensed and the building or room in which he shall pursue the same, and shall continue and be in force until the Thursday next following the first Wednesday in April, unless revoked for cause as is herein after provided. No license shall be granted for the sale of ale, wine or strong liquors in any tent, stand, or in any wagon, or other vehicle, or in any jail, asylum or workhouse, or in any street, highway or common.

SEC. 8. Every licensed person shall maintain good order in the building licensed, shall not sell, or suffer to be sold, any ale, wine or strong liquor in said licensed building on

Sunday, nor by retail in any place, at any time, to any habitual drunkard or person intoxicated, nor suffer any person in said licensed building to become intoxicated, nor shall he under any circumstances take in pawn or pledge any article whatever: neither shall he suffer said licensed building to become frequented by any common drunkard, or person addicted to the intemperate use of ale, wine or strong liquors, or by any person who is a disturber of the peace, or who is wasting his property or earnings and means of supporting himself and family, or by any person under lawful age: nor shall he suffer or permit any person to play at any game of chance or skill for ale, wine or strong liquor, money, or other valuable consideration, within any of his possessions. Any violation of either of the provisions of this section shall be punished by a fine of fifty dollars.

SEC. 9. Every person licensed according to the provisions of this act shall give bond in the sum of one hundred dollars, to the town in which said license shall be granted, with surety satisfactory to the town council of such town, conditioned to comply with the terms of his license and with this act.

SEC. 10. Penalties imposed by this act may be recovered by indictment in the county where incurred; and shall enure one half thereof to and for the use of the town in which the offence shall have been committed, and the other half to and for the use of the state, except as provided in the sixth section.

SEC. 11. In any prosecution for a breach of the third, or fourth, or fifth, or sixth section of this act, it shall not be necessary to set forth the kind or quantity of ale, wine or strong liquors sold, or the time of sale; but proof of any sale of ale, wine or other strong liquor, made or suffered within the times mentioned therein, by the person complained of, contrary to any provision in either of those sections, shall be sufficient to convict such respondent.

SEC. 12. No debt contracted for ale, wine or strong liquor sold in any quantity less than one quart, shall be recoverable in any court; and whenever any action shall be brought for any such debt, in whatever form it may be presented, or upon any security given for such debt, the defendant shall be a competent witness to testify therein, and the plaintiff likewise; and if upon the whole evidence produced, it shall appear that any part of said debt arose from the purchase of ale, wine or strong liquor, in quantities less than one quart, the defendant shall have judgment and execution for

his costs, and the plaintiff shall have judgment and execution for the part of his debt not so contracted; but if it shall appear that the whole debt arose from such purchase, then the defendant shall have judgment and execution for his costs.

SEC. 13. In case any person licensed according to the provisions of this act shall be convicted of keeping a disorderly house, or in case judgment shall be rendered against any such person in a suit on his bond, the town council shall forthwith withdraw and annul his said license; and he shall not be licensed during the two years next following his conviction.

SEC. 14. The town clerk of every town is hereby required, annually, within thirty days next preceding the first Tuesday in May, to make return to the general treasurer of the number of licenses granted under this act by the town council of the town of which he is clerk, and of the amount of money demanded and paid therefor, by the persons so licensed; any town clerk neglecting to make said return shall forfeit and pay the sum of twenty dollars for every offence; to be recovered by action of debt by the general treasurer, before any justice of the peace in the county where such neglect shall take place.

SEC. 15. Every town council shall pay one half of the money received by virtue of this act to the town treasurer of the town, and the other half, after deducting therefrom two and one-half per cent. for their services in receiving and paying over the same, they shall pay to the general treasurer for the use of the state. The payment to the general treasurer shall be once a year, within the thirty days next preceding the first Tuesday in May.

SEC. 16. It shall be the duty of the town councils of every town, on the Monday next following the annual election of town officers in their respective towns, to designate some officer of the town whose duty it shall be diligently to inquire into all breaches of this act, and forthwith to prosecute for the same.

*An Act appointing the time when the act entitled " An act enabling the town councils in this State to grant Licenses for retailing Strong Liquors, and for other purposes," shall go into effect.*

**SECTION**

1. When license act shall take effect.
2. Former act repealed—licenses granted

nor prosecutions for breaches, not affected.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** The act entitled " An act enabling the town councils in this state to grant licenses for retailing strong liquors, and for other purposes," shall take effect immediately upon the rising of the general assembly at the present session.

**SEC. 2.** The act by the same title now in force, shall be repealed at the same time: *provided, however,* that such repeal shall not affect any license granted under said act, nor any prosecution which has been or may be commenced for the breach of any of its provisions.

*An Act imposing a Duty upon Licensed Persons and others, and Bodies Corporate.*

**SECTION**

1. Tax—on civil commissions—clerks of courts—banks—insurance companies.
2. Tax when and to whom payable—on counsellors at law.
3. Agent of foreign insurance company to be licensed.

**SECTION**

4. Bank or insurance company neglecting to pay, how collected.
5. Same subject.
6. Act when to take effect.

*It is enacted by the General Assembly, as follows :*

**SECTION 1.** There shall be annually paid by the persons and bodies corporate herein named, to and for the use of the state, the following sums, to wit :

By every person accepting a civil commission under the state, the sum of one dollar, to be paid the sheriff at the time of receiving the commission ; by every clerk of the supreme court, and by every clerk of any court of common pleas, twenty per cent. on all fees by them received over four hundred dollars ; by every bank, the sum of twenty-five cents on each and every hundred dollars of the capital stock actually paid in ; by every insurance company incorporated by this state, one twentieth of one per cent. upon their capital stock ; by every person transacting business in this state, as the agent, partner or branch of any insurance company not incorporated by this state, two hundred and fifty dollars ; by



each mutual insurance company incorporated in this state, one hundred dollars.

SEC. 2. Clerks of courts, banks, insurance companies, and agents, partners or branches of foreign insurance companies, shall severally pay the tax and duty hereby imposed on them to the general treasurer ; said clerks and insurance companies, on the first Tuesday in May ; said banks, one half part thereof on the first Monday in June, and the other half part thereof on the first Monday in December ; and said agents, partners or branches of foreign insurance companies, at the time of receiving their licenses herein after provided for. In addition to the foregoing, every bank incorporated in this state, which is authorized by its charter to increase its capital stock, shall pay to the general treasurer two per cent. upon the amount of such increased capital stock, which shall be hereafter actually paid in on the first Monday of June, next after such increase of capital stock ; and every person who shall be admitted and sworn a counsellor or attorney in the courts of this state shall, at his admission, pay to the clerk of the supreme court in the county where he shall apply to be admitted, the sum of twenty dollars, to be by such clerk paid over to the general treasurer.

SEC. 3. No person shall act or transact business in this state as the agent, partner or branch of any insurance company not incorporated by this state, without first obtaining from the general treasurer a license therefor, upon penalty of four hundred dollars for every offence ; and the general treasurer is hereby authorized in his discretion to grant licenses for such purpose, to continue in force one year from the date thereof.

SEC. 4. If any bank or insurance company shall neglect for the space of thirty days to pay the duty imposed on banks and insurance companies by this act, the general treasurer shall issue his warrant of distress against the same, directed to the sheriff or his deputy of the county in which such bank or insurance company is located, for the amount of such duty, commanding him in the name of the state to collect of said delinquent said amount, with interest thereon, from the time the same was payable to the time of its actual receipt by such officer, with his lawful fees ; and to make return thereof within ninety days from the date of the same.

SEC. 5. The officer who shall be charged with the service of such warrant shall levy and collect the sum therein named, by attachment and seizure of the real and personal estate of the bank or insurance company against which the same has

issued; and shall sell the property so attached and seized at public auction, giving ninety days previous notice thereof, by two advertisements posted up in the town in which such bank or insurance company is located; and a deed of such estate made by such officer shall vest in the purchaser all the right, title and interest said bank or insurance company had therein at the time of the attachment and seizure thereof.

SEC. 6. The foregoing act shall take effect on the first Monday of May next.

### *An Act to regulate the Militia.*

## SECTION

*Enrollment.*

1. Who shall be enrolled and when.
2. Absolute exempts.
3. Conditional exempts.
4. Assessors annually to prepare list of persons liable to be enrolled and deliver it to town clerk. Town clerk to record and transmit it to adjutant general, and adjutant general to the president of the United States.
5. Assessors to assess a commutation tax on enrolled militia. How collected.
6. Commutation, part of registry tax, may be remitted by town council.
7. When collected and to whom paid.
8. House-keepers to give the names of all residing with them, liable to be enrolled.
9. Paupers, &c., to be disenrolled.

*Of the Active Militia.*

10. Active militia how composed and drilled. To be first called into service.
11. Artillery, infantry and cavalry corps, how organized.
12. Corps of the active militia twice refusing to elect officers, &c., may be disbanded.
13. Volunteer corps how organized; officers to be commissioned.
14. Volunteer corps to be attached to regiment.
15. Volunteer corps when to train or do duty. May vote on certificate of having done military duty.

*Organization.*

16. Militia, how organized;— division — brigades, &c.
17. Brigades to consist of regimental companies, &c. Companies to be numbered according to date of charter. To be paid for their services.
18. Non-commissioned officers and privates to be exempt after seven years service.

## SECTION

*How Officered.*

19. General staff— division — brigade — regimental—and company officers.
  20. In cases of vacancy, sickness or absence, officer next in rank to command. Vacancy in office of adjutant or quarter-master general may be filled by assistant.
  21. Companies without officers, how commanded.
  22. Same subject.
- Election and Appointment of Officers.*
23. Officers of the line and staff, how elected.
  24. Major general to signify his acceptance.
  25. Regiment to consist of eight companies. Officers of, how appointed.
  26. Persons on duty, &c., exempt from arrest.

*Of Commissions.*

27. All commissions shall be signed by the commander-in-chief and countersigned by secretary of state—term of—warrants for regimental staff by colonels— of non-commissioned officers by commander of company.
28. Rank of officers how determined— what day commissions shall bear date.
29. Officer losing his commission shall be entitled to duplicate.
30. Commissions shall be delivered to adjutant general, and by him distributed.
31. Brigade and field officers to signify their acceptance or refusal within thirty days—neglecting it, office to be vacant.

*Officers how qualified.*

32. Each commissioned officer shall be engaged on his commission.

*Officers how discharged.*

33. Officer having held commission five years, &c., may be discharged by the commander-in-chief.

## SECTION

34. Resignations shall be in writing—to whom made, and how approved.

*How armed and equipped.*

35. Non-commissioned officers and privates of chartered or volunteer corps, of cavalry—of artillery and infantry—uniform necessary part of equipment.
36. Chartered regimental company of light infantry—grenadiers—riflemen—cavalry—how armed and equipped—to be furnished by quarter-master general on certain conditions.
37. Regimental company of artillery to be provided with field pieces, powder and equipments, by quarter-master general.
38. In time of war, &c., commander-in-chief shall equip new levies out of state arsenal.

*Discipline, Inspection, Training and Review.*

39. System of discipline.
40. Inspection and drill of regimental companies on third Monday in May, annually.
41. Brigade training in September or October annually—time and place of reviews.
42. Rank of brigades, &c., when in the field—senior officer to command.
43. Bounds of parade may be fixed—punishment for intrusion—for abuse.
44. Brigadier generals, inspectors, &c., to attend reviews.
45. Arms loaded with ball prohibited on parade, except, &c.
46. Military duty prohibited on town meeting day, &c. No election of civil officers shall be holden on third Monday of May.
47. Chartered or volunteer company may meet at any time.
48. Orders—general—division—brigade—regimental, and company—by whom distributed.
49. Commander-in-chief may order out whole or part of militia for review, &c.

*Rolls and Returns.*

50. Rolls and orderly book to be kept by adjutant of regimental company.
51. Commanding officer shall make out roll of men and equipments and deliver it to brigade inspector. Brigade inspector to make like return to adjutant general. Adjutant general to make duplicate abstracts of active militia, for commander-in-chief and major general. Commanding officer of regimental company to make like returns, &c., to general treasurer. Volunteers not to be included.
52. Adjutant general to furnish blanks, &c.
53. Regimental companies to be uniformed—officers how equipped.
54. Arms, &c., exempt from attachment.

## SECTION

*Of Drafts and calling the Militia into Service.*

55. In case of war, &c., the commander-in-chief may order a draft from the enrolled militia. Order to whom directed and how executed. Officers to be commissioned, &c.
56. In case of invasion, riot, &c., commander-in-chief or major general may call out militia in whole or in part. Senior officer to command.
57. In actual service, military to be subject to articles of war, &c. Drafts for the service of the United States to be by lot.
58. Company without officers being ordered to march, &c., officer shall be detailed to command.
59. Officers and men neglecting to repair to rendezvous, &c., shall be punished.
60. In case of riot, &c., in any county or city of Providence, sheriff, &c., may order out militia.
61. Officer to whom order above is directed shall forthwith obey—refusal, to be punished.

*Surgeons and Assistant Surgeons.*

62. Surgeons, &c., to examine all applicants for certificates of disability, without fee.
63. Any respectable physician may grant a certificate in certain cases. Persons may be exempt on presentation of certificate, not exceeding one year.

*Of Fines and Penalties of Officers, and the manner of enforcing them.*

64. Offences of general, field, commissioned and staff officers and surgeons, shall be punished by courts martial. Fines imposed shall be collected by warrant—imprisonment enforced by mittimus.

*Other Fines and Penalties.*

65. Soldiers guilty of contempt—disobedience—riot, &c., shall be put under guard—may be fined or imprisoned. Fines and penalties in chartered companies to be governed by the charter, &c. Fine for non-attendance brigade training, six dollars—volunteers not included.
66. In case of war, insurrection, riot, &c., soldier neglecting to appear at place of rendezvous, &c., may be fined and imprisoned.
67. Penalty on assessors of taxes, town or city clerk, collector of taxes, town treasurer and town councils, for neglect, &c. How recovered and appropriated.
68. Penalty on house-keepers, &c., refusing to give information concerning those liable to be enrolled.
69. Penalty on spectator for abusing or assaulting officer or private when on parade, and how collected. For intruding on parade.

## SECTION

70. Penalty on surgeon receiving fee for certificate of inability—or granting certificate without proper examination.

*Courts Martial.*

71. What officers shall be liable to trial by courts martial—for what offences—court how composed—senior officer to preside—how appointed—no court to be called without the approval of the commander-in-chief—no expenses to be paid unless by order of general assembly—form of orders for calling court—detailing members—furnishing copy of charges—organizing court—mode of proceeding.
72. Judge advocate to be appointed and sworn.
73. Accused may challenge members of the court for cause—if number of court be thereby reduced to less than five, court shall adjourn, that others may be detailed—sentence of court to be concurred in by two-thirds, and approved by commander-in-chief—offi-

## SECTION

cer under arrest refusing to appear, shall be fined and cashiered.

74. Witness refusing to attend may be committed—fees of court, witnesses, &c.,—commander-in-chief may approve, disapprove, mitigate or remit sentence—record to be deposited with adjutant general.

*Board of Officers and Courts of Enquiry.*

75. Commander-in-chief may call boards of officers.
76. Courts of Enquiry how composed and organized—vacancies how filled—oath of—witnesses before—record of, to be transmitted to officer who ordered the court.
77. Pay and fees same as in courts martial.
78. Acts repealed—penalties accruing under them saved—charters of companies—not accepting provisions of the act, unimpaired—property of chartered companies accepting its provisions, not impaired.
79. When act shall take effect.

*It is enacted by the General Assembly, as follows :*

## OF THE ENROLLED MILITIA.

SECTION 1. Every able bodied white male citizen in this state, who is or shall be of the age of eighteen years, and not exceeding the age of forty-five years, excepting persons absolutely exempted by the provisions of this act, and idiots, lunatics, common drunkards, paupers, vagabonds, and persons convicted of any infamous crime, shall be enrolled in the militia, as herein after provided.

SEC. 2. The following persons shall be absolutely exempted from military duty in this state :

Those exempted by the laws of the United States, to wit : the vice-president of the United States ; the officers, judicial and executive of the government of the United States ; the members of both houses of congress and their respective officers ; all custom-house officers with their clerks ; all post officers and stage drivers, who are employed in the care and conveyance of the mail of the post office of the United States ; all ferry men employed at any ferry on the post road ; all inspectors of exports ; all pilots, and all mariners actually employed in the sea service of any citizen or merchant within the United States : also, all persons who have holden the office of governor, or lieutenant governor ; all persons who, after the last day of February, A. D. 1796, shall have holden any military commission or commissions, or staff office with the rank of an officer of the line, for the space of five years successively, and who shall have been engaged thereon accord-

ing to law, and been honorably discharged ; and also, all persons who shall have holden any such military commission or commissions, or staff office aforesaid, for a less term than five years, and who have been superseded without their consent.

SEC. 3. Persons of the following descriptions, as long as they shall remain of said description, shall be exempted from the performance of military duty, to wit: the justices and clerks of the supreme court, the justices and clerks of the courts of common pleas, the secretary of state, the attorney general, the general treasurer, the sheriff of each county, one ferryman at each stated ferry who usually navigates the boat, the keepers of light-houses within this state, all settled or ordained ministers of the gospel, the president, professors, tutors, students and steward of Brown University, the town councils of the several towns, the mayor and aldermen of the city of Providence, town and city treasurers, town and city clerks, practising physicians, practising surgeons—not including the pupils of either—preceptors and ushers of academies and schools, and engine men ; *and provided* that no engine shall have more than twenty men, unless otherwise provided by special enactment ; the members of fire hook and ladder companies, and chartered fire hose companies ; all persons belonging to the Society of Friends, commonly called Quakers, and the inhabitants of the towns of New-Shoreham and Jamestown, and of the island of Prudence ; and such others as shall make oath or affirmation that they are conscientiously scrupulous against bearing arms, which fact shall appear by certificate of the magistrate before whom said oath or affirmation was given.

SEC. 4. It shall be the duty of the town assessors of taxes in each town in this state, and in the city of Providence, annually to prepare a list or roll of all persons liable to be enrolled in the militia, as provided in the first section, living within their respective limits, whether such persons be or be not attached to any chartered or regimental companies ; and on or before the first Monday of October in each year, to place the same in the hands of the town clerk of such town, and of the said city of Providence ; and it shall be the duty of every such clerk to record such list or roll of names in a proper book of record, to be kept for that purpose, in every town in this state, and in the city of Providence. Annual returns of the militia, thus enrolled, shall be transmitted to the adjutant general in the month of October, in each and every year, by the clerks aforesaid, and by him to the president of the United States.

**SEC. 5.** It shall be the duty of said assessors in each year, if possible at the time of assessing the town taxes, and at least before the time shall expire prescribed by law for the assessment of the registry tax, to assess upon all the persons enrolled in the militia as aforesaid, except the persons mentioned in the third section of this act, and persons holding military commissions, and members of regimental companies, or of volunteer companies actually doing duty in this state, and except in the towns of New-Shoreham and Jamestown, and that portion of the town of Portsmouth forming the island of Prudence, a tax of fifty cents each; distinguishing said tax in their assessment as a tax in commutation of military duty, and to deliver said assessment to the collector of the town taxes; and said tax shall be collected in the same manner as is by law provided for the collection of town taxes. Such assessment shall for all purposes, and before all courts, and in any action, matter or thing arising out of the assessment or collection of said tax, be final and conclusive as to the enrollment of the person taxed, and upon his liability to be enrolled and assessed as aforesaid; and no assessor or collector shall in any manner be called in question for the same. The warrants for the collection by legal process of such tax shall be issued in the name of the town treasurer, and any number of delinquents may be included as defendants in the same warrant.

**SEC. 6.** The tax aforesaid is hereby declared to be an assessed tax within the meaning of the constitution, the payment whereof, in accordance with the constitution, shall, to the amount thereof, so far qualify the person so paying to vote; and the town councils of the several towns are hereby authorized to remit such tax to any persons in their respective towns, who in the opinion of said town councils are unable through extreme poverty to pay the same.

**SEC. 7.** The collectors of taxes in the several towns are hereby required to collect said tax before the first Monday of April in each year, next succeeding the calendar year in which the same was assessed, of all persons against whom the same was assessed, except those to whom the same may have been remitted as aforesaid; and after retaining from the amount by them collected the expenses of collection, and six per cent. in full compensation for their services in collecting the same, shall on or before said first Monday of April in each and every year pay over the same to the general treasurer.

**SEC. 8.** Every keeper of a tavern or boarding house, and

every master or mistress of a family or dwelling house, shall, upon application of the assessors of taxes of the town or city within which such tavern or house is situated, or on application of any person acting under the direction and authority of such assessors, give information of the names of all persons residing in such tavern or house, liable to enrollment, or to do military duty.

SEC. 9. If any non-commissioned officer or private shall become a pauper, vagabond, or common drunkard, or be convicted of any infamous crime, he shall be forthwith disenrolled from the militia.

OF THE ACTIVE MILITIA.

SEC. 10. The active militia of this state shall consist and be composed of the several chartered corps now existing who have voluntarily accepted by vote the provisions of an act to regulate the militia, passed June, 1843, and communicated the same to the adjutant general, or who may hereafter accept by vote the provisions of this act and communicate the same to the adjutant general, which acceptance shall be irrevocable; and of all military companies which may be hereafter chartered, and of such volunteer companies as in pursuance of the thirteenth and fourteenth sections of this act may be raised, officered and attached to the chartered companies. The chartered companies shall be drilled and disciplined as battalions as well as companies; and as the peace establishment of the state, and as nurseries of officers, shall be called regimental companies, or reduced regiments. The active militia shall in all cases be first ordered into service in case of war or invasion, or to prevent invasion, or to suppress insurrection, riot or tumult, or to aid civil officers in the execution of the laws of the state.

SEC. 11. Whenever forty men or more shall have enrolled themselves as a corps of artillery or infantry, or thirty-two men or more as a corps of cavalry, and have been uniformed as herein after required, and it shall be made to appear to the general assembly that they are desirous to serve the state as a portion of the military force thereof, they shall be entitled to a charter in conformity with the system by this act established: *provided, however*, that the number of such companies shall not exceed thirty; and that hereafter they shall be formed in the proportion of one regimental company to five hundred enrolled militia in the several towns or districts where such companies may be located, including in such proportion the existing companies: and *provided further*, that every such regimental company may admit members to the number of

five hundred, any thing in the charters of said companies to the contrary notwithstanding.

SEC. 12. Whenever any corps of the active militia hereafter chartered shall at any time be destitute of commissioned officers, and having been twice ordered to fill vacancies shall neglect or refuse to fill them, or shall be reduced to a less number than twenty privates in a corps of cavalry, or thirty in a corps of infantry or artillery, and remain so reduced for three months, such corps may be disbanded by the general assembly.

SEC. 13. Whenever twenty men or more shall have enrolled and equipped themselves as a volunteer corps, it shall be the duty of the governor to appoint and commission such and so many officers for the same as he may deem necessary, so that the commanding officer of any such corps shall in no case hold a higher commission than that of captain; and all the commissioned officers of every such corps shall be equipped and uniformed as the governor shall prescribe.

SEC. 14. It shall be the duty of the governor to place every such volunteer corps under the command of the commanding officer of such regimental company or regiment as he may select within the brigade, for the purpose of training, disciplining and improving them in martial exercises, at the brigade training herein after prescribed: and such volunteer corps shall for the purpose of such brigade training be considered as attached to the regimental company or regiment of such commanding officer, and shall in all respects during the day of such brigade training be subject to his lawful commands. Notice of the time and place of the brigade training need be given by the commanding officer of the regimental company or regiment to the commanding officer of the volunteer company only.

SEC. 15. The members of every such volunteer corps shall train or do military duty according to law, within the meaning of the constitution and of this act, only on the day of the brigade training, and when attached and commanded as aforesaid; and the certificate or return of the commanding officer of the regimental company or regiment to which their corps is attached that they have been enrolled, equipped and have done duty on the day of the brigade training according to law, shall alone be sufficient evidence to enable them to vote on account of the performance of military duty.

#### ORGANIZATION.

SEC. 16. The whole militia of this state shall be arranged in one division; the militia of the county of Newport shall



form the first brigade; the militia of the county of Providence the second; the militia of the county of Washington the third; the militia of the county of Kent the fourth; and the militia of the county of Bristol the fifth brigade.

SEC. 17. The brigades shall consist of the several regimental companies or reduced regiments, in their respective limits, now existing or hereafter to be raised. The said regimental companies or regiments shall be numbered through the division according to the dates of their respective charters. In compensation for their services, every member of the active militia, being also a member of a chartered company, who shall be returned to the general treasurer, as herein after provided, as having done military duty four times in the year next preceding the return, in any regimental company in this state, shall be entitled to an equal proportional part of the tax for militia duty collected and paid into the general treasury as aforesaid, not exceeding the sum of five dollars a year to each man. In the month of April of each year, the general treasurer shall apportion the sum received as a tax for militia duty as aforesaid, amongst the active militia; and issue certificates to the members of the several regimental companies returned as herein after provided, payable to their individual order, for their proportional part of the whole amount of said tax by him received, not exceeding five dollars per man, as aforesaid: *provided, however, the members of no existing chartered company of this state who shall not accept the provisions of this act and conform thereto shall be entitled to receive the compensation aforesaid.*

SEC. 18. Every non-commissioned officer and soldier of any regimental company who shall have done duty therein according to law for the term of seven years from the time of his enlistment, and shall have received an honorable discharge, shall not be compelled to do duty in the militia, except in time of war or invasion, or to prevent an invasion, or of insurrection, riot or tumult. Such discharge upon the completion of the term of service aforesaid shall be given by the commanding officer of the brigade, upon the application of the commanding officer of the regimental company to which such private or non-commissioned officer may belong. Nothing in this section contained shall be construed to apply to the members of a volunteer corps raised and attached under the provisions of this act.

#### HOW OFFICERED.

SEC. 19. The officers and non-commissioned officers of the militia shall be as follows, to wit: the governor for the

time being shall be captain-general and commander-in-chief; and he shall command, except when the militia shall be called into the service of the United States; and he shall be entitled to appoint his own aids, with the rank of colonel. There shall be one major general, two aids of the major general, with the rank of major, and a military secretary, with the rank of captain; one division inspector, with the rank of lieutenant colonel; one adjutant general, with the rank of brigadier general; one quarter-master general, with the rank of brigadier general, the adjutant general and the quarter-master general, with the assent of the commander-in-chief, to appoint a sufficient number of assistants with the rank of captain; one commissary general, with the rank of colonel; one paymaster general, with the rank of colonel; one surgeon general, to appoint with the assent of the commander-in-chief a sufficient number of assistants; one purveyor general of hospitals. To each brigade there shall be one brigadier general, one aid, with the rank of captain; one brigade inspector, who is also to serve as brigade major, with the rank of major; one brigade quarter-master, with the rank of captain. To each regimental company or regiment, there shall be one colonel, one lieutenant colonel, one major, one adjutant, with the rank of captain, one quarter-master, one paymaster, each with the rank of lieutenant; one surgeon, one chaplain, one sergeant major and one sergeant quarter-master, one drum major and one fife major, and the necessary number of non-commissioned officers. In time of war or insurrection, when new levies are drafted into said regimental companies or regiments, as herein after provided, to each company of infantry, light infantry, and riflemen, there shall be one captain, one first lieutenant, one second lieutenant, and one third lieutenant, five sergeants and four corporals; to each company of artillery there shall be one captain, one first lieutenant, one second lieutenant, and one third lieutenant, five sergeants, four corporals, and three drivers; to each company of cavalry there shall be one captain, one first lieutenant, one second lieutenant, one third lieutenant, five sergeants, four corporals, one saddler, one farrier, and one or more trumpeters.

SEC. 20. Whenever the office of major general, brigadier general, colonel, lieutenant colonel, major, commandant or captain, shall be vacant, or such officer be sick or absent, the officer next in rank shall command the division, brigade, regiment, battalion or company, as the case may be, until the vacancy be supplied; and whenever the office of adjutant

general and quarter-master general shall be vacant, or such officers from any cause shall be unable to perform the duties of their offices, the duties thereof shall be performed by the senior assistant adjutant general, and senior assistant quarter-master general, until the same be filled, or such inability be removed.

SEC. 21. Whenever a company belonging to a regiment or regimental company, filled up by drafts or levies, shall have neither commissioned nor non-commissioned officers, the commanding officer of the regiment to which such company belongs, shall appoint suitable persons of said company to be non-commissioned officers of the same; and the senior non-commissioned officer of a company without officers shall command the same, except upon parade, and except as provided in the following section.

SEC. 22. Whenever any such company shall, from any cause, be without officers, the commanding officer of the regiment to which such company belongs may detail some officer of the staff, or of the line of the regiment, to train and discipline said company, until some officer shall be elected or appointed by the commander-in-chief, as provided in the nineteenth section; and such officer, so detailed, shall have the same power and authority, and be subject to the same liabilities as if he were captain in said company; and he shall keep the records of the company.

OF ELECTIONS AND APPOINTMENTS OF COMMISSIONED AND NON-COMMISSIONED OFFICERS.

SEC. 23. The officers of the line and general staff of the militia shall be elected as follows, to wit: division inspector, adjutant general, quarter-master general, commissary general, paymaster general, surgeon general, purveyor general of hospitals, by the general assembly; the officers of regimental companies, as by their charters is or may be provided; brigadier generals, upon the nomination of the colonels, lieutenant colonels and majors of their respective brigades, by the general assembly; the major general, upon the nomination of the several brigadier generals, by the general assembly; brigade inspectors and brigade quarter-masters, by the general assembly, upon the nomination of their respective brigadier generals; or if there be no such nominations, or improper nominations, the above offices shall be filled by the general assembly; aids to the commander-in-chief shall be appointed by the commander-in-chief; aids and military secretary of the major general, by the major general; aids to the brigadier generals, by the respective brigadier generals; adjutants, paymasters, quarter-masters, and chaplains of regi-

ments, by the respective colonels ; surgeons and assistant surgeons of regiments, by the respective colonels with the approval of the surgeon general.

SEC. 24. Any person elected major general, shall be forthwith notified of his election by the secretary of state ; and shall, within twenty days after such notice, signify to the secretary his acceptance of said office, or shall be considered as having declined.

SEC. 25. Whenever any regimental company is filled up by drafts or otherwise, to a regiment, it shall consist of eight companies of sixty men each ; and the commander-in-chief shall have power to appoint a sufficient number of commissioned officers therefor, from such regimental companies ; and in case of such filling up of regimental companies, the captains of the respective companies therein shall have power to appoint a sufficient number of non-commissioned officers for their respective companies.

SEC. 26. No officer, non-commissioned officer or private, shall be arrested on any civil process, while going to, or returning from, or remaining at any place which he shall have been ordered to attend, for the election of any military officer, or the performance of any military duty.

#### OF COMMISSIONS.

SEC. 27. All commissions for officers shall be signed by the commander-in-chief, and countersigned by the secretary of state ; and shall be for the term of five years, except in case of regimental companies already chartered, who shall be governed as to the returns of their officers elected, and terms of the commissions of their officers, by their charters ; warrants for regimental, staff, and non-commissioned officers shall be signed and issued by the colonels of the regimental companies or the regiments respectively ; and of non-commissioned officers of companies, by the commander thereof.

SEC. 28. All commissioned officers of the same grade shall take rank according to the respective dates of their commissions ; and when two or more of the same grade bear an equal date, their rank shall be determined by lot, to be drawn by them before the commanding officer of the division, brigade, regimental company or regiment, company or detachment, or the president of a court martial, as the case may be. The day of election or appointment of any officer shall be the date of his commission ; and whenever he shall be transferred to another corps or station of the same grade, the date of his original commission or appointment shall be the date of his commission : *provided, however,* that the first commis-

sions issued under this act to officers of companies who shall, within sixty days from and after the rising of this general assembly, voluntarily accept the provisions of the same, shall, for the purpose of rank and command, bear date on the same day.

SEC. 29. Whenever any officer shall lose his commission, he shall be entitled to a duplicate commission of the same grade and date, on his affidavit made before a justice of any court in this state, on application to the commander-in-chief.

SEC. 30. All commissions shall be delivered to the adjutant general, and by him to the persons for whom they are intended.

SEC. 31. All brigade or field officers to whom commissions shall be sent or delivered by the adjutant general, shall signify to him their acceptance or refusal of such office, within thirty days after the receipt of the commissions. In case the person elected shall refuse his commission, or neglect to return any answer, that office shall be deemed vacant, and a new election or appointment may take place.

#### OFFICERS HOW QUALIFIED.

SEC. 32. Each commissioned officer, before he shall enter on the discharge of the duties of his office, shall take and subscribe the following oath and declaration, before some justice of the peace or other magistrate, or town clerk: on the back of each commission the following form of the oath shall be printed, to wit: "I do solemnly swear, (or affirm,) that I will bear true faith and allegiance to the state of Rhode-Island and Providence Plantations; that I will support the constitution and laws thereof, and the constitution and laws of the United States; and that I will faithfully and impartially discharge all the duties incumbent upon me as to the best of my abilities and understanding, according to the laws of this state and of the United States: so help me God." (Or, "this I promise on the pains and penalties of perjury.") On the back of each commission the following form of certificate shall be printed, and signed by the person before whom such officer shall be qualified, to wit: "This may certify, that commissioned within named, appeared before me this day of A. D. and took and subscribed the oath and declaration prescribed by the laws of this state, before me."

#### OFFICERS HOW DISCHARGED.

SEC. 33. Any officer who shall have holden any commission or commissions in the militia of this state during the term of five years in succession, and faithfully performed the

duties of the same, shall be honorably discharged, on his application to the commander-in-chief; and shall forever after be exempt from the performance of military duty, except in time of war, invasion of, or insurrection, riot or tumult within this state; and no officer shall be discharged unless on his own application, or unless in cases herein after provided.

SEC. 34. All resignations shall be in writing, and shall be approved and certified as follows: the resignation of the major general shall be made to and approved by the commander-in-chief; the resignation of a brigadier general shall be approved by the major general; the resignation of a field officer shall be approved by the brigadier general of the brigade to which such field officer belongs; and the resignation of a captain or subaltern officer shall be approved by the commanding officer of the regimental company or regiment to which such captain or subaltern shall belong or be attached. And the major general, brigadier general, or commanding officer of a regimental company or regiment, who shall approve of any resignation aforesaid, shall certify the same to the commander-in-chief, who shall have the power to allow or disallow thereof, at his discretion. And no officer shall be considered as having resigned his commission unless the same shall have been approved and certified as aforesaid, and allowed by the commander-in-chief.

#### HOW ARMED AND EQUIPPED.

SEC. 35. No person shall be deemed to be equipped for military duty within the meaning of the constitution or of this act, unless, if a non-commissioned officer or private of a cavalry corps, whether chartered or volunteer, he shall be provided with a serviceable horse, at least fourteen hands and a half high, with a good saddle, bridle and crupper, holsters, boots and spurs, sabre, belt and pistols; if a non-commissioned officer or private of an artillery or infantry corps, whether chartered or volunteer, with a good musket, carrying eighteen balls to the pound, with cartridge box, capable of containing at least twenty-four cartridges, suited to the bore of his musket, bayonet sheath, priming wire and brush; or instead thereof, with a good rifle, knapsack, shot pouch, and powder horn or flask, or in case of a non-commissioned officer or private of an artillery corps, whether chartered or volunteer, with a good sword and belt. The uniform of his corps shall form a necessary part of the equipment of every commissioned or non-commissioned officer or private of a chartered regimental company or regiment; and the uniform and arms

prescribed by the governor, of the equipment of every commissioned officer of a volunteer corps.

SEC. 36. Each chartered regimental company of light infantry, grenadiers and riflemen, raised at large, shall be furnished with muskets or rifles, and every such company of cavalry, with sabres, belts and pistols, and every such company of artillery, with muskets, if applied for, or with swords and belts, on application to the quarter-master general, and on delivering to him a sufficient bond, signed by the commissioned officers of such company, for the safe keeping and return of the same when required by the commander-in-chief, and producing to him satisfactory evidence that a suitable armory or place of deposite for such muskets or rifles has been provided in the town or city within which said company is situated; which arms so furnished shall be carefully kept for the use of such company for military purposes only. The bond above required shall bind said officers and their successors during their continuance in office only. The commander-in-chief may, from time to time, require any officer to examine the armory or place of deposite provided as aforesaid, and report to him the condition thereof, and of the arms therein deposited. Whenever any arms are furnished as aforesaid to any regimental company formed from different towns, the same shall be deposited in the town within which the greatest number of said company may vote to establish their armory, or place of deposite.

SEC. 37. Each regimental company of artillery shall be provided by the quarter-master general or officer acting as such, with two good brass field pieces, of such calibre as the commander-in-chief shall direct, with carriages and apparatus complete; with an ammunition cart, forty round shot, forty rounds of cannister shot, tumbrils, harness, implements, laboratory and ordnance stores, which may, from time to time be necessary for their complete equipment for the field; and a quantity of powder, annually, not exceeding one hundred pounds, to be expended on days of inspection and review, and in experimental gunnery; and the commanding officer of each regimental company shall be accountable for the preservation of the pieces, apparatus and ammunition aforesaid, and for the proper expenditure of the ammunition.

SEC. 38. In case of new levies in time of war or insurrection, the commander-in-chief shall arm, equip, and furnish them out of the state's arsenal.

#### DISCIPLINE, INSPECTION, TRAINING AND REVIEW.

SEC. 39. The system of discipline and field exercise from

time to time ordered for the army of the United States, shall be the system of discipline and field exercise for the militia of this state.

SEC. 40. Each commanding officer of a regimental company shall order out his company on the third Monday of May, annually, at nine o'clock in the forenoon, for inspection and drill, and shall keep his company under orders at least until four o'clock, P. M., and longer if he deems it necessary; and he shall inspect, examine and take an exact account of the equipments of his men, note all delinquencies of appearance and deficiencies of equipments, and correct his roll, in order that a thorough inspection may be made of all the militia in this state; and every commanding officer of a regimental company shall faithfully train and discipline his company on said day, as well as inspect them.

SEC. 41. The active militia of this state shall, in the month of September or October of each year, meet by brigade, for the purpose of training, disciplining and improving them in martial exercises; the places of brigade rendezvous shall be appointed by the brigadier general, and the days of the brigade rendezvous by the major general. The trainings above mentioned are to be included in the number of trainings prescribed by the charters of the regimental companies: *provided, however*, that the major general shall have power to divide any brigade, for the purpose of the brigade training, in such manner as from their position the convenience of the regimental companies therein may from time to time require.

SEC. 42. Each brigade when in the field, shall take rank according to its number, beginning at the lowest number as highest in rank; and each regimental company shall form according to the rank of the officers present commanding them, having due regard to the arm of the service to which said corps belongs; and when such regiment is filled up by drafts or levies, according to the number of each regiment; and when distinct corps shall parade, join or do duty together, the senior officer present shall command, without regard to corps.

SEC. 43. Every commanding officer, when on duty, is hereby authorized to ascertain and fix necessary bounds and limits to his parade, not including any road on which people travel, so as to obstruct the same or prevent their passing, within which no spectator shall have a right to pass or enter, without leave from such commanding officer; and the commanding officer of any battalion or regimental company may put under guard every person who shall encroach upon the



parade ground; and also any spectator or bystander who shall abuse, molest or strike any one when on parade or under arms.

SEC. 44. The brigadier generals, brigade inspectors and brigade quarter-masters, shall attend the inspections and reviews of their respective brigades; shall inspect their arms, ammunition and equipments; superintend their exercises and evolutions, and introduce and enforce the system of discipline required by law and by the orders of the commander-in-chief.

SEC. 45. No non-commissioned officer or private shall unnecessarily or without orders from his superior officer, come on to any place of parade with his musket, rifle or pistol loaded with balls, slugs, shot or other dangerous substance, or shall so load the same while on parade.

SEC. 46. No officer, non-commissioned officer, or private, shall be compelled to do military duty on any day appointed for town, city or ward meetings, or for the election of any civil officer in the town or city in which he shall reside, except on the third Monday in May, unless it be in case of invasion, insurrection, riot or tumult threatened; and no doings of any town, city or ward meeting, and no election of civil officers holden on the third Monday in May, shall be valid or of any legal force.

SEC. 47. Nothing in this act contained shall prevent any chartered or volunteer company from meeting at any time for drill, funeral or any other voluntary duty, nor impair the corporate privileges of any chartered company, nor any lawful articles of agreement adopted by any company so far as relates to those who have voluntarily signed the same, not inconsistent herewith.

SEC. 48. All general orders shall be distributed by the adjutant general; all division orders, by one of the aids of the major general; all brigade orders, by the brigade major; all regimental orders, by the adjutant; and company orders, by any non-commissioned officer or private, when required by the commanding officer: *provided, however,* that if the adjutant general or brigade major shall be sick, absent, or unable to distribute such orders, or either of such offices shall be vacant, the orders may be distributed by any other officer detailed for that purpose by the officer issuing the order.

SEC. 49. The commander-in-chief shall have power to order out the whole or any part of the militia, as may seem to him expedient, for review, the performance of escort, and other duties.

## ROLLS AND RETURNS.

SEC. 50. A fair and correct roll of each regimental company shall be kept by the adjutant, with the state of the arms and equipments belonging to each man; and said officer shall keep an orderly book of all orders received or issued, and all accounts of all fines, from whom received, and when and for what cause.

SEC. 51. Each commanding officer of a regimental company shall, on or before the fifteenth day of November, in each and every year, make out a fair and correct roll of his company, containing the christian and surname of all the men belonging thereto, or to any volunteer corps attached thereto, alphabetically arranged; and place opposite the name of each the equipments and the quality of the equipments of each, whether good or bad, and which of said men had done military duty within the year, for one or more days, and on what days, and at what trainings; and shall on or before said fifteenth day of November, deliver the same to the brigade inspector. The brigade majors and inspectors shall make a like return of the state of their respective brigades to the adjutant general, annually, on and before the twentieth day of December. And the adjutant general shall make duplicate abstracts of the active militia, one to be delivered to the commander-in-chief, who shall present the same to the general assembly, and the other to be delivered in the month of January, to the major general. Each commanding officer of a regimental company shall make a like return under oath to the general treasurer, on or before the first Monday of April in each year, of all the members of his company who have been duly equipped and have done military duty according to law, for at least four days, including the days appointed for regimental and brigade training, and any other two days which such commanding officer or his superiors may order for parade, discipline or escort, in the year preceding the time of such return. The members of any volunteer corps which may be attached to his command shall not be included in such return.

SEC. 52. The adjutant general shall furnish blank forms of rolls, and of the various returns that may be required, at the expense of the state; and explain the principles on which they are to be made out; and the roll shall be kept as prescribed.

SEC. 53. Every regimental company shall have an appropriate uniform. Every officer of the line, and every staff officer, shall provide himself with a good sword and belt, and

a uniform complete, which shall be such as the commander-in-chief shall prescribe, and subject to such limitations, restrictions and alterations as he may order.

SEC. 54. Every officer, non-commissioned officer and private, shall hold his uniform, arms, ammunition and equipments, free from all suits, distresses, executions, or sales for debt or taxes.

OF DRAFTS AND CALLING THE MILITIA INTO SERVICE.

SEC. 55. Whenever in case of war, invasion, threatened invasion, or insurrection, the commander-in-chief shall deem it necessary to increase the active militia of this state, he shall have power to order a draft or levy to be made from the enrolled militia in any town or city, into any or all of the regimental companies thereof, of such number of men as he may judge the exigency of the case requires; or if there be no regimental company in such town or city, may order them into any of the regimental companies of the brigade in the limits of which such town or city may be situated; directing his order therefor to the town council of the town, or to the mayor and aldermen of the city in which such draft is to be made. Whenever such order is made and directed as aforesaid, it shall be the duty of the town council, or mayor and aldermen, to appoint a time and place of parade for the enrolled militia in each town or city, and to order them to appear at the time and place, either by leaving a written notice, or orally, and then and there proceed to draft as many thereof, or to accept as many volunteers as are required by the commander-in-chief; and the mayor and aldermen or town council shall notify the commander-in-chief forthwith, that they have performed the aforesaid duty. Whenever the said regimental companies shall be filled up by drafts or levy as aforesaid, the commander-in-chief may arrange the regiment so filled up, into companies, as he may think fit, and commission the officers of the same as provided in the twenty-fifth section.

SEC. 56. Whenever any invasion of the state or any insurrection, riot or tumult shall be made in any part of the state, the commander-in-chief shall call out the militia, or any part thereof, as he may deem expedient or necessary, to suppress or repel the same; and he may order out the division or any brigade, brigades, regimental companies, regiments, companies or company, or any portions of the same, or cause any number of men to be detached or drafted from them, and cause officers to be detailed, which, with those attached to the troops, shall be sufficient to organize the forces; and if such invasion or insurrection, or any imminent danger

thereof, be so sudden in any part of the state that the commander-in-chief cannot be informed and his orders received and executed in season to suppress or repel the same, the major general may order out the division or any part thereof, as the commander-in-chief might do ; and when any troops are in the field for such purposes, the senior officer of said troops present shall command, until the commander-in-chief or some officer detailed by him, shall appear to take the command.

SEC. 57. Whenever the military force of this state or any part thereof shall be called into actual service, it shall be subject to the articles of war prescribed by congress for the government of the troops of the United States, or such other articles as shall be prescribed by the general assembly ; and when any draft from the militia into the service of the United States shall be ordered, the non-commissioned officers and privates, except so many as shall voluntarily offer to serve, shall be drafted by lot from the company, and the officers detailed from the roll.

SEC. 58. If any company without officers be ordered to march, or any draft or detachment therefrom ordered, the commanding officer of the regiment to which said company belongs, shall detail some officer to command them ; who shall have the same authority to command them to appear, and to command them in the field, and to make any draft or detachment therefrom, as though he were captain of said company, and shall have the same responsibility.

SEC. 59. Every officer who, when ordered to march to the place of rendezvous, shall unnecessarily neglect to do so, or who shall otherwise disobey any lawful order, shall be punished as is herein after provided ; and every soldier ordered out, drafted or detached, who shall not appear at the time and place appointed, armed and equipped as commanded, shall be punished as herein after provided ; and each non-commissioned officer and private shall take with him provisions for at least three days, when so ordered.

SEC. 60. When in any county in this state there shall be any tumult, riot, mob or any body of men acting together, with intent to commit felony, to offer violence to persons or property, or in any other way to resist the laws of the state by force of arms, or by violence, or when any of said acts shall be threatened, and the fact made to appear to the commander-in-chief, or to the sheriff of said county, or to either of the justices of the court of common pleas in such county, or, if in the city of Providence, to the mayor of said city in

the first instance, or in his absence, to the board of aldermen, the commander-in-chief shall issue his order, or such justice, sheriff, mayor or board of aldermen, shall issue his or their precept, properly signed, directing the commanding officer of the division, brigade, regimental company or companies, as the case may be, to order out his command or any part of the same, to suppress such riot, tumult or mob, and to prevent the perpetration of any such felony or act of unlawful violence.

SEC. 61. The officer to whom any such order or precept shall be directed, as named in the foregoing section, shall forthwith order out the troops therein required to parade at the time and place appointed; and if he shall refuse to obey such order or precept, or if any officer under his command shall refuse to obey an order issued under such order or precept, he shall be punishable as herein after provided; and any non-commissioned officer or private who shall neglect or refuse to appear at the time and place of parade, or to obey any lawful order issued in such case, shall suffer the penalty herein after provided.

#### SURGEONS AND ASSISTANT SURGEONS.

SEC. 62. No surgeon or assistant surgeon, nor any physician, shall take any gratuity whatsoever from any person, for a certificate of inability to perform military duty on account of bodily infirmity; and it shall be the duty of such, to examine critically the cases of all applicants for such certificates, and not to grant any certificate of bodily infirmity or inability unless such infirmity or inability be beyond all doubt, such as to render the applicant unable to perform military duty; and any surgeon, assistant surgeon, or physician, who shall violate the provisions of this section, shall be liable to be punished as herein after provided.

SEC. 63. Whenever any regiment may be without a surgeon, or assistant surgeon, or when any person may claim to be exempt from military duty by reason of bodily infirmity or disability, and shall not reside within ten miles of the surgeon or assistant surgeon of the regiment, any respectable physician within said distance may grant him a certificate, subject to the restrictions contained in the preceding section; and the commanding officer of any regimental company is authorized to exempt any person of his company from military duty, on the presentation of such certificate from the surgeon or assistant surgeon, or a physician as aforesaid, either for a longer or shorter period, not exceeding one year, as in the judgment of the commanding officer the case may demand.

**OF FINES AND PENALTIES OF OFFICERS AND OF THE MANNER OF ENFORCING THE SAME.**

**SEC. 64.** All offences committed by general, field, commissioned and staff officers and surgeons, whether consisting in disobedience of orders, or unofficer-like conduct while on duty or during any day appropriated to military exercise, inspection or review, or in neglect or violation of any duty imposed upon them by law as officers of the militia, and whether committed in times of quiet, or of invasion, insurrection, riot or tumult, shall be punished by courts martial, according to the usage and practice of war, by a fine not exceeding five hundred, nor less than twenty dollars; by imprisonment not exceeding six months; cashiering, with or without disability of ever after holding any military office in the state; or reprimand; either or all, with costs, at the discretion of the court; said fines and costs to be collected for the use of the state, by warrant of distress, under the hand and seal of the president of the court martial imposing the same, directed to the sheriff of the county in which the convicted officer shall reside; who shall pay over the fine so collected to the general treasurer. The president of the court martial which shall impose upon any officer the penalty of imprisonment shall, by a mittimus in common form, under his hand and seal, have power to commit the convicted officer to the jail of the county in which he shall reside, for the term of his sentence; and all sheriffs, deputy sheriffs and jailers are directed to govern themselves accordingly.

**OTHER FINES AND PENALTIES.**

**SEC. 65.** Any non-commissioned officer or private of a regimental company or of a volunteer corps attached thereto, who shall while under arms or on duty behave himself with contempt of any officer, disobey any order, or who shall conduct in a disorderly manner, join in or excite any riot or tumult, or appear in any fantastical dress, or with other arms and accoutrements than what the law requires, or who shall be guilty of any other unsoldierly conduct, shall be put under guard by the officer commanding the field, or by his order, for a time not exceeding the time the troops shall be under arms, and shall in addition thereto be liable to a fine of twenty dollars; to be recovered by complaint and warrant before any justice of the peace, one half thereof to and for the use of the complainant, and the other half to and for the use of the state; or be imprisoned, at the discretion of the court trying such offender, not exceeding ten days. The ordinary fines and penalties of non-commissioned officers and privates

for non-attendance or neglect of duty, in every regimental company, will be regulated by and collected according to the charter of such company ; and if no mode be prescribed by such charter, then by warrant of distress, to be issued under the hand and seal of the commanding officer of such regimental company, directed to the sheriff, his deputy, or to any town sergeant or constable within the county where such regimental company is located, or to the quarter-master, or either of the sergeants of said regimental company. The fine for non-attendance at any brigade training shall be six dollars, to be recovered in manner aforesaid. But no fine for non-attendance at the brigade training shall be imposed upon or recovered from any officer or private of a volunteer corps attached to a regimental company or regiment for the purpose of such training.

SEC. 66. In case of war, invasion, threatened invasion, insurrection, mob, riot or tumult, any militia soldier below the rank of a commissioned officer, ordered out, volunteered, detached or drafted, who shall neglect to appear at the time and place designated by his commanding officer, or in case of the enrolled militia, at the time and place designated by the town council or mayor and aldermen, or to place himself under the command of the officers of the regimental company into which he may have been drafted or have volunteered, shall forfeit the sum of one hundred dollars, or be imprisoned three months, either or both at the discretion of the court who shall try such offender ; said punishment to be enforced by indictment or other criminal process proper to the court, in any court of competent jurisdiction in the county in which the offender may reside ; or in time of actual war may be otherwise dealt with, as the articles of war then established may direct.

SEC. 67. Any assessor of taxes who shall neglect or refuse in due time to perform the duty of preparing a list or roll of all persons liable to be enrolled in the militia within the limits of the town or city of which he is an assessor, or of placing the same in due time in the hands of the town or city clerk of such town or city for record and return, or who shall neglect or refuse in due time to assess a tax of fifty cents upon all persons enrolled in the militia, in commutation of military duty as herein before prescribed, or to deliver the assessment of such tax to the collector, shall be individually liable for every such refusal or neglect to the penalty of fifty dollars ; to be recovered by indictment or other criminal process, in any court of competent jurisdiction in the county in

which the offence may be committed. Any town or city clerk who shall refuse or neglect to record said list or roll of names, or to make due return of the same to the adjutant general, shall for every such refusal or neglect be liable to the penalty of fifty dollars, to be recovered by indictment or other criminal process as aforesaid. Any collector of taxes who shall neglect or refuse in due time to collect, return or pay over to the general treasurer the tax assessed in commutation of military duty, shall be liable to the penalty of fifty dollars for every such neglect or refusal, to be recovered in manner aforesaid; and in addition thereto shall, if he doth not pay over the said taxes collected, be liable to pay double the amount of the same, with double costs, in an action of the case to be brought against him by the general treasurer. Any town treasurer who, upon the request of the collector, shall neglect or refuse forthwith to issue his warrant or warrants for the collection of said tax in commutation of military duty, shall be liable to a penalty of fifty dollars for each neglect or refusal, to be recovered in manner aforesaid. If any town council shall wilfully and fraudulently remit said tax in commutation of military duty to any person or persons liable to pay the same, each member of the town council so wilfully and fraudulently remitting as aforesaid, shall be liable to a penalty of fifty dollars for each wilful and fraudulent remitting to such person or persons, to be recovered in manner aforesaid. The penalties in this section mentioned shall, when received or recovered by the general treasurer, be by him applied in the same manner as the taxes by him received in commutation of military duty.

SEC. 68. When information is required by persons lawfully ordered or authorized to make enrolment of those liable to do military duty, or by those acting under them, any person refusing to give information of his name or age, or giving false information concerning the same; and also any keeper of a tavern or boarding-house, any parent, master or mistress of a family refusing to give the required information, or giving false information, shall forfeit and pay the sum of twenty dollars; to be recovered by complaint and warrant for the use of the state, before any justice of the peace in the county in which such offence may be committed.

SEC. 69. Any spectator or by-stander who shall abuse, molest or strike any commissioned or non-commissioned officer or private when on parade or under arms, shall, in addition to all other remedies or penalties by law provided, forfeit and pay the sum of twenty dollars; to be recovered, if a



field or staff officer, upon the complaint and to the use of such field or staff officer; and if a company officer, whether commissioned or non-commissioned, or a private, upon the complaint of the commanding officer of the company, and to the use of the company to which such officer or private belongs, by ordinary complaint and warrant before a justice of the peace. Every spectator or by-stander who shall intrude upon the bounds and limits of parades shall pay the sum of ten dollars, to be recovered upon complaint of the officer in command at the time of such intrusion, in like manner as last aforesaid, to and for the use of the state.

SEC. 70. Any physician or assistant surgeon who shall take any gratuity whatsoever from any person for a certificate for inability to perform military duty on account of bodily infirmities, or shall grant any such certificate unless after critical examination, and unless such infirmity or inability be beyond all doubt such as to render the applicant unable to perform military duty, shall be liable to the penalty of fifty dollars; to be recovered by indictment, or other criminal process proper to the court, in any court of competent jurisdiction in the county in which such offence may be committed.

#### COURTS MARTIAL.

SEC. 71. General, field, commission and staff officers, shall be subject to trial by court martial, according to the usage and practice of war, for disobedience of orders, unofficer-like conduct while on duty or during any day appropriated to military exercise, inspection or review, and for neglect or violation of any duty imposed upon them by law, as officers of the militia; which court martial shall consist of not less than five, nor more than seven members; and the senior officer, who shall always be of a rank superior to that of the officer on trial, shall preside. The court martial for the trial of an officer under the grade of a field officer, shall be appointed by the commanding officer of the brigade to which he belongs; for the trial of an officer of the grade of field officer, by the commanding officer of the division; and for the trial of a general officer, by the commander-in-chief. In every court martial there shall be a judge-advocate, who shall discharge the duties of that office according to the usage and practice of courts martial; and no other person shall be admitted to prosecute or defend an arrested officer. Whenever a court martial shall be ordered, the order shall designate the time and place of holding the same, the name of the officer to preside, and the names and ranks of the other officers of which the court is to be composed: *provided*, that

no court martial shall be called without the approval of the commander-in-chief, and no expense of any court martial shall be paid unless allowed by the general assembly.

If the court shall be ordered by the commander-in-chief, the orders shall be as follows, to wit :

STATE OF RHODE-ISLAND, SC.

*General Orders.*

A general court martial is ordered to assemble at on the day of A. D. for the trial of such persons as may be brought before them ; to consist of members to be taken from the division, to wit : the major general brigadier general or generals, colonel or colonels, lieutenant colonel or colonels. Major general will preside. The adjutant of the regimental company or regiment will furnish an orderly sergeant to attend and execute the orders of the court. (To be signed by the commander-in-chief, or by the adjutant general, by his order.)

If a court martial be ordered by the major general, the orders shall be as follows, to wit :

STATE OF RHODE-ISLAND, SC.

*Division Orders.*

A general court martial of the division will assemble at on the day of A. D. for the trial of such persons as may be brought before them ; to consist of members, to wit : brigadier general or generals, colonel or colonels, lieutenant colonel or colonels, major or majors. Brigadier general will preside. The adjutant of the regimental company or regiment will furnish an orderly sergeant to attend and execute the orders of the court. (To be signed by the major general, or by the division inspector, by his order.)

If the court be ordered by a brigadier general, the orders shall be as follows, to wit :

STATE OF RHODE-ISLAND, SC.

*Brigade Orders for the Brigade of Rhode-Island Militia.*

A general court martial for the brigade will assemble at on the day of A. D. for the trial of such persons as shall be brought before them ; to consist of members, to wit : colonels, lieutenant colonels, majors, (and if any,) captains, subalterns. Colonel will preside. The adjutant of regimental company or regiment will furnish an orderly sergeant to attend and execute the orders of the court. (To be

signed by the brigadier general, or the brigade major, by his order.)

For a general court martial, the adjutant general shall notify all general officers, and give notice of the other officers detailed, to the division inspector or brigade majors, who shall notify said officers, and make return thereof to the adjutant general. In a division court martial, the division inspector, or an aid-de-camp, under the direction of the major general, shall notify the general officers, and give notice of the other officers detailed, to the respective brigade majors, who shall notify the field officers required of their brigades, and make return thereof to the major general. For a brigade court martial, the brigade major shall notify the field officers required to serve on said court martial, and notify the respective adjutants, of the other officers detailed; and the adjutant of each regimental company or regiment shall notify them, and make return thereof to the brigade major; and if the officer to be tried be a general officer, he shall be furnished with a copy of the order for said court, and a copy of the charges against him by the adjutant general, or by the division inspector, or by a brigade inspector, as the commander-in-chief shall direct, thirty days before the sitting of said court; who shall make return thereof, with the names of the officers composing said court; and the officer to be tried, if under the rank of a field officer, shall be furnished with like copies twenty days before the sitting of the said court, by a brigade major or inspector, or by the adjutant of the regimental company or regiment to which he belongs, or to which, if an officer of a volunteer corps, his corps is attached, as the officer ordering the court martial shall direct; who shall return the same, and the names of the officers composing the court, to the judge-advocate of the court; and it shall be the duty of the said judge-advocate to summon, or cause to be summoned, such witnesses on the part of the state as may be necessary, by subpoena signed by the officer ordering the court, or by the president thereof, or by said judge advocate; and the accused shall be entitled to like process, to procure the attendance of his witnesses; which process shall be served by the judge-advocate, or by any disinterested person deputed by him. All charges shall be made out in due form, by way of complaint, and signed by the party complaining, and addressed to the officer whose duty it is to order the court; specifying the act or neglect of which the accused is supposed to be guilty, and praying due process, before said officer shall

order a court martial for the trial of the officer accused. The members of the court shall appear in full uniform, and before they enter upon the trial of any person accused shall take the following oath, to wit: "You swear, (or affirm,) that you will truly try and determine according to the evidence given in court, the matter depending between this state and the officer, (or officers,) now to be tried; and that you will not divulge the sentence of the court until the same has been approved or disapproved, pursuant to law; and that you will not at any time disclose the vote or opinion of any member of this court, unless required to do so in due course of law: so help you God. (Or, this affirmation you make and give upon the peril of the penalty of perjury.)" And the foregoing oath shall be administered by the judge-advocate; but all other oaths which it may be necessary to administer during the continuance of the court, may be administered either by him or any general or field officer.

SEC. 72. There shall be appointed by the officer ordering the court martial, a judge-advocate for each court martial, who shall perform all the duties of that office, and who shall take the following oath, to wit: "You swear, (or affirm,) that you will not, at any time whatever, disclose the vote or opinion of any member of this court martial, unless required by due course of law, nor divulge the sentence of the court until the same has been approved or disapproved according to law; and that you will faithfully and impartially discharge the duty of judge-advocate, according to the best of your abilities: so help you God. (Or, this affirmation you make and give upon the peril of the penalty of perjury.)" And said oath may be administered by a judge of any court, or any justice of the peace in the state; and a certificate thereof shall be made on the warrant of the judge-advocate by the person administering the oath.

SEC. 73. If, on trial, the accused shall object to any one or more members of the court, he shall state the ground of his objection, and if it appear to the court sufficient, the member or members objected to shall leave their seats; and if the number remaining be less than five, the court shall be adjourned for a reasonable time, that the officer ordering the court may detail others to supply the place or places vacated by such member or members. No sentence of a court martial shall be carried into effect unless passed by the concurrent vote of two-thirds of the court, and approved by the commander-in-chief. In case an officer under arrest shall refuse or neglect to attend a court martial, according to or-

ders and notice given him, he shall, by said court, be sentenced to pay a fine not exceeding two hundred dollars, and be cashiered, with disability of ever after holding any military office in the state; unless he be prevented from attending such court martial by reason of sickness, or some other reasonable cause; in which case the court shall have power to adjourn; and notice thereof shall be given to the arrested officer, by the judge-advocate, at least ten days before the day to which the court shall have been adjourned. In all cases in which a fine and costs or imprisonment shall be awarded by a court martial, and the sentence of such court shall be approved by the commander-in-chief, and the president of such court shall die, be discharged or promoted, without having issued a warrant of distress or mittimus for such fine and costs or imprisonment, it shall be the duty of the member of said court next in rank to said president, to issue said warrant or mittimus.

SEC. 74. If any witness duly summoned shall refuse to obey such summons, he shall be committed to the jail in the county in which he resides, by a warrant from the president of the court, directed to the sheriff or a deputy sheriff of said county; there to be held at his own expense until he will conform and give evidence in the case, or until discharged by due course of law. All witnesses summoned on the part of the state, and the judge-advocate or other person for summoning them, shall, for travel and attendance, have the same fees that are allowed in civil causes, to be taxed by the president of the court; expenses shall be paid to the judge-advocate by the state, and when received by him, be paid over to the persons to whom they are due. If the sentence of the court be against the accused, and the same shall be approved by the commander-in-chief, the said expenses shall, by warrant under the hand and seal of the president of the court, directed in the manner aforesaid, be collected of the delinquent, and paid into the general treasury. The members and officers of said court shall be allowed nine cents per mile travel to and from the place of holding said court, and one dollar for each day during its sitting; and there shall be allowed to the person in whose house said court shall be held, not exceeding two dollars per day in full of all expenses for room-rent, fuel and lights; and which shall be paid from the state treasury after the same shall have been allowed by the general assembly. The judge-advocate shall be allowed twenty-five cents for each legal page of the copy of the proceedings and records of the court martial, to be taxed and paid in the same manner. The commander-in-chief shall

have power to approve or disapprove all sentences passed by courts martial, and mitigate or remit any punishment or punishments awarded by them, or any part thereof; and the record of all proceedings and sentences of courts martial, and of the approval, mitigation or remission by the commander-in-chief, shall be deposited by the respective judge-advocates in the office of the adjutant general.

BOARD OF OFFICERS AND COURTS OF ENQUIRY.

SEC. 75. The commander-in-chief, whenever in his opinion it shall be necessary, may call boards of officers, for settling military questions, or for other purposes relative to good order and discipline.

SEC. 76. General, division and brigade courts of enquiry, shall consist of three officers and a judge-advocate, to be appointed by the commander-in-chief; and they may be ordered and organized in the like manner as courts martial, and under the same regulations, may examine into the nature of any transaction, or any imputation or accusation against any officer made by an inferior.

All vacancies shall be filled as in courts martial.

The judge-advocate shall administer to each of the officers composing a court of enquiry, the following oath or affirmation:

You, A. B., do swear, or affirm, that you will well and truly examine and enquire into the matter now before you, without fear, favor, partiality, prejudice, or hope of reward: so help you God. Or, this affirmation you make and give upon the penalty of perjury.

After which the president shall administer to the judge-advocate the following oath:

You, A. B., do swear, that you will impartially record the proceedings of the court, and the evidence to be given in the case now in hearing: so help you God. Or, this affirmation you make and give upon the penalty of perjury.

Witnesses shall be summoned in the same manner, take the same oath, and be examined and cross-examined by the parties in the same way as on trials before courts martial; but the court shall not give their opinions on the merits of the case unless specially required so to do. All the proceedings therein shall be recorded, and with the papers and documents used therein, authenticated and transmitted by the judge-advocate, to the officer who ordered the court.

SEC. 77. The pay and fees of boards of officers and courts of enquiry shall be the same as in courts martial.

SEC. 78. All acts heretofore passed in relation to the militia of this state which are inconsistent with the provisions of this act, shall be and the same are hereby repealed: *provided*, that all penalties or punishments which have been incurred under the act entitled "an act to regulate the militia," passed at June session, 1843, may be prosecuted and proceeded for and inflicted in the same manner as if this act had not been passed: *provided, however*, that the charters and corporate rights of the existing chartered companies of this state, who shall not accept the provisions of this act, shall be wholly unimpaired thereby: and *provided further*, that the rights of property of the existing chartered companies, who do accept the provisions of this act, shall in no case be impaired or affected thereby, and the corporate name of such company shall be retained in business transactions therewith, and that upon the repeal of this act, they shall be remitted to all the corporate rights and privileges heretofore by them enjoyed.

SEC. 79. This act shall go into operation immediately after the rising of the general assembly at the present session.

—

*An Act in amendment of an act entitled "An Act to regulate the Militia."*

SECTION

1. Repeals in part the fortieth section of the act amended—captain of regimental company may order out his company on any day in the month of May.

SECTION

2. Only names of officers of regimental company to be returned to governor and senate.

*It is enacted by the General Assembly, as follows:*

SECTION 1. The fortieth section of said act is so far amended that each commanding officer of a regimental company may order out his company on any day during the month of May in each year, for inspection and drill, at the hour and during the period of the day of said inspection and drill in said section mentioned or permitted; instead of being required to inspect and drill his company on the third Monday of May in each year, as is by said section required.

SEC. 2. Nothing in said act shall be so construed as to require a return to the governor and senate by a regimental company, of other than the names of the officers elected, for the purpose of entitling the officers elect to their commissions.

Passed May session, 1844.

*An Act in amendment of an act entitled "An Act to regulate the Militia."*

## SECTION

1. Each regimental company may elect one captain and one lieutenant in ad-

## SECTION

- dition to their other officers.  
2. When act shall take effect.

*It is enacted by the General Assembly, as follows :*

SECTION 1. In addition to the commissioned officers by law provided for each regimental company on the peace establishment, each regimental company is hereby empowered, at the time by its charter or by law provided, to elect one captain and one lieutenant, to be commissioned by the governor, for the term by the charter of such regimental company or by law required; who shall not necessarily be appointed adjutant, quarter-master or paymaster of such regimental company by the colonel thereof.

SEC. 2. This act shall go into effect immediately after the rising of the general assembly; and the first election of a captain and lieutenant under the same may be made by the several regimental companies at any time within the term of sixty days after the rising of the general assembly; and upon return of such elections made to the governor, he is hereby authorized and requested to issue commissions to the officers so elected.

Passed June session, 1844.

*An Act for the preservation of Oysters and other Shell Fish within this State.*

## SECTION

1. No oysters to be taken from the common fisheries between the 15th May and 15th September.
2. No quahaugs or clams from Long Bed or West Bed during said time.
3. No person to take more than three bushels of oysters within twenty-four hours, except, &c., nor plant on private bed, oysters taken from common fishery.
4. Dredges, &c., on board vessel or otherwise, prohibited.
5. Vessel using dredge may be seized and forfeited. Oysters may be taken

## SECTION

- in Point Judith Ponds by under-rake.
6. Inhabitants of this state only allowed to take oysters, &c. Citizen of Massachusetts may take quahaugs and clams.
7. Penalty for breaking up oyster bed.
8. Commissioners of shell fishery annually appointed.
9. Duty and power of commissioners.
10. Same subject.
11. Penalty for destroying, &c., bounds of oyster beds.
12. Penalty for taking oysters from private bed.
13. When act shall take effect, &c.

*It is enacted by the General Assembly, as follows :*

SECTION 1. No person shall take any oysters from the free and common oyster fisheries in any of the waters of this state, or expose any oysters for sale taken therefrom within this



state, at any time between the fifteenth day of May and the fifteenth day of September in each year, on pain of forfeiting the sum of twenty dollars for each offence ; to be recovered by complaint and warrant before any justice of the peace, one half thereof to and for the use of the complainant, and the other half to and for the use of the state.

SEC. 2. No person shall take any quahaugs or clams from Long Bed, West Bed, or from Great Bed, so called, in Providence river, between the fifteenth day of May and the fifteenth day of September in each year, on pain of forfeiting the sum of twenty dollars for each offence ; to be recovered in the manner and to the uses aforesaid.

SEC. 3. No person shall take from any of the free and common oyster fisheries within the waters of this state, excepting the free and common oyster fisheries in Point Judith ponds in the town of South-Kingstown, during each twenty-four hours, more than three bushels of oysters, including shells, for each person actually engaged in taking the same, on pain of forfeiting the sum of twenty dollars for every bushel so taken over and above said three bushels ; and no person shall plant upon any private bed any oysters taken from the free and common oyster fisheries of this state, on pain of forfeiting twenty dollars for every bushel so planted ; each penalty of twenty dollars to be recovered by separate complaint and warrant in the manner and to the uses aforesaid.

SEC. 4. No person shall within any of the waters of this state take any oysters with dredges, or with any other instrument, or by any other method more destructive to oyster beds than the usual method of taking them by oyster tongs, or shall with such dredge or other instrument as aforesaid rake over any oyster bed under any pretence or for any purpose whatever, or shall have such dredges or other instrument as aforesaid on board any boat or vessel employed in taking oysters within the waters of this state ; on pain of forfeiting the boat or vessel with its tackle, apparel and furniture, and all implements thereto belonging, on board of which such dredge or other instrument aforesaid may have been used, or may be or may have been found ; and in addition thereto, each and every person on board such boat or vessel shall forfeit and pay the sum of three hundred dollars. Said forfeiture and penalties shall be recovered by indictment before any court of competent jurisdiction, in which indictment all or any of the persons on board such boat or vessel may be joined ; the one half part of the price of such boat or vessel with its tackle, apparel, furniture and implements, upon sale ordered by the court, and

of said penalties, to be recovered to and for the use of the state, and the other half part thereof to and for the use of the person who shall prosecute for the same.

SEC. 5. Any justice of the peace within this state may, on complaint made to him on oath, setting forth that the complainant believes that any dredge or other instrument as aforesaid hath, within the waters of this state, been used from, or is or has been within the waters of this state, on board of any boat or vessel employed in taking oysters within the waters of this state, may issue a warrant directed to the sheriff or his deputy of the county in which such justice resides, commanding him to seize and hold such boat or vessel, with its tackle, apparel, furniture and implements as aforesaid, and to bring before him, or some other lawful authority, to be bailed or committed for want of bail, all persons on board the same; in order that said persons and property may be proceeded with in manner aforesaid, before some court of competent jurisdiction to try the same. The court for trial before whom said persons may be bailed or committed, before final trial, in term time, or any justice thereof in vacation, may deliver such boat or vessel, with its tackle, apparel, furniture and implements, to the claimant thereof, upon appraisal and bond. Upon conviction of all or any of the persons on board said boat or vessel, the same, with its tackle, apparel, furniture and implements aforesaid, shall be sentenced to be sold by the sheriff or his deputy seizing the same, in the same manner as personal property levied on execution; whether the owner of such boat or vessel was on board the same at the commission of the offence, or sanctioned such unlawful use of the same, or not: *provided, however*, that nothing in this or the preceding section mentioned shall be so construed as to prevent any citizen of this state from taking oysters in Point Judith ponds, in South-Kingstown, by a certain instrument long used in said ponds, known by the name of an under-rake, and described as follows: the handle of said rake being fifteen to twenty feet in length, the head from one to two feet in length, filled with iron teeth from six to ten inches in length, and mostly used through holes cut in the ice.

SEC. 6. No person shall take any oysters, quahaugs, clams or other shell fish within the waters or on the shores of this state unless he be an inhabitant thereof, and domiciled therein; and every citizen of any other state or country who shall at any time take any oysters, quahaugs, clams or other shell fish within the waters or on the shores of this state, shall

forfeit and pay the sum of one hundred dollars for each and every offence ; and every boat or vessel commanded or owned in whole or in part by any person not a citizen of this state, and used or in any way employed in the taking of oysters or shell fish within the waters or on the shores of this state, shall, together with its tackle, apparel, furniture and implements on board, be seized and forfeited ; said forfeiture and penalties to be recovered in the same manner and to the same uses and like proceedings therefor in all respects to be had, as for the forfeiture and penalties in the two preceding sections mentioned : *provided, however*, that nothing in this section contained shall be construed to prevent any citizen of the commonwealth of Massachusetts from taking quahaugs or clams on the east shore of Providence bay or river, between high and low water mark, wherever the territorial line of Massachusetts runs along the shore of said bay or river ; and in such other places as by other special acts of the general assembly are or may be provided.

SEC. 7. Every person who shall knowingly and wilfully break up, damage or injure any bed of oysters within the waters of this state, shall forfeit and pay the sum of five hundred dollars for each and every offence ; to be recovered by indictment before any court of competent jurisdiction, one half thereof to and for the use of the state, and the other half thereof to and for the use of him who shall prosecute for the same.

SEC. 8. At the annual general election the general assembly shall choose three persons, citizens of and domiciled within this state, to be commissioners of the shell fisheries ; who shall hold their offices for one year, and until others are elected in their places ; and shall be commissioned by the governor, and engaged on their commissions to the faithful execution of the duties of their office. It shall be the duty of said commissioners to watch over the oyster and other shell fisheries of this state ; to prosecute for all breaches of the law in relation to the same, and from time to time to recommend to the general assembly such action as in their opinion will tend to preserve and increase the value of such fisheries.

SEC. 9. Said commissioners, or any two of them, may upon application of any suitable person or persons, being inhabitants of and domiciled within this state, in the name of the state, and under their hands and seals as such commissioners, lease to such person or persons, for a term not less than five, nor more than ten years in duration, any piece of land covered by the public waters of this state, (excepting

Point Judith ponds in the town of South-Kingstown,) lying south of a line running east and west from Field's Point, in Providence River, across the state, and including Fuller's Rocks, so called, as a private or several oyster ground or oyster fishery, for the planting of oysters, upon such terms and restrictions as to the importing and planting of oysters therein, and upon such rent reserved to the state and annually payable to the general treasurer thereof, as they shall think just and expedient; so that no one person shall have more than one acre of land, and no company more than one acre to each member of the same, so covered with water leased to him or them as aforesaid. Said leases shall be executed by said lessee or lessees as well as by said commissioners in two parts, one part thereof to be delivered to said lessee or lessees, and the other part thereof to be forthwith transmitted by said commissioners to the general treasurer; and shall contain proper covenants for the payment of rents, and the performance of the conditions and observance of the restrictions therein set forth, with proper clauses reserving to said commissioners a right to re-enter on behalf of the state, and to terminate said lease, for breach of any of said covenants.

SEC. 10. Said commissioners, or any two of them, shall before granting any lease as aforesaid, personally inspect the land asked to be leased as aforesaid; and shall decide upon the propriety of leasing the same, taking especial care not to include in the land so leased, any old oyster bed or any part of any old oyster bed which in their opinion can for the greater advantage of the public be used as a free and common oyster fishery; but their decision in the premises, proved by the execution of the lease, shall in all cases and for all purposes be final and conclusive thereupon. They shall also, if they shall deem it necessary, before granting any such lease, cause the land to be leased as aforesaid to be surveyed and platted, in which case a copy of the plat shall be annexed to each part of the lease; and shall in all cases cause proper bounds with marks thereon to be set up on the shore within this state, opposite and nearest to such land to be leased as aforesaid, in order to define the limits thereof; and whenever and so far as the same can be done without interfering with navigation, shall cause such land to be leased as aforesaid to be enclosed with stakes or buoys not more than two rods apart, with such marks thereon as they may direct. The drawing and executing of such leases, the surveying and platting, the setting up and marking of bounds on shore, and the enclosing of the lands leased with stakes or buoys, and marking of the same

as aforesaid, shall in all cases be done under the direction of said commissioners, or any two of them, at the expense of the applicant or applicants for such lease; and said commissioners shall receive from such applicant or applicants their necessary expenses, and one dollar and a half per day for each day's actual service about his or their application. Said bounds, stakes or buoys, with the marks thereon, shall be renewed whenever said commissioners shall direct.

SEC. 11. Any person who shall injure, deface or destroy said marks or bounds, or shall break, pull up, injure, carry off, cut or destroy any such stake or buoy, or deface any mark thereon, or shall tie or fasten any boat or vessel to any such stake or buoy, shall forfeit and pay the sum of twenty dollars for each offence, to be recovered on complaint and warrant before any justice of the peace within this state, on the complaint of any person who shall duly recognize for the costs of such prosecution; the said penalty to be recovered, the one half thereof to and for the use of the state, and the other half thereof to and for the use of him who shall prosecute for the same. Any such person shall, in addition thereto, be liable in an action of the case to pay double damages and costs to him or them who shall be injured by having the marks and bounds, stakes or buoys of their said lots injured, defaced, removed or used as aforesaid.

SEC. 12. The oysters planted or growing in any private oyster ground leased as aforesaid shall, during the continuance of the lease, be the private personal property of the lessee or lessees of such oyster ground; and the taking and carrying away thereof, or of any of the same, shall be theft, under all circumstances in which the taking and carrying away of any other personal property would be theft, and shall be punished accordingly: *provided, however*, that nothing in this section contained shall interfere with or invalidate the right of any lessee or lessees to commence any private action for the taking and carrying away of their oysters aforesaid, and to recover full damages for the private injury by them thereby sustained.

SEC. 13. This act shall go into operation from and after the passage thereof, and the first election of commissioners under the same shall take place at the present session of the general assembly; and all other public acts or parts of public acts relating to the shell fishery, so far as inconsistent herewith, are hereby repealed.

Passed January session, 1844.

*An Act in amendment and explanatory of an act entitled "An Act for the preservation of Oysters and other Shell Fish within this State."*

## SECTION

1. The pond on Block-Island and the oyster fisheries therein exempted from the provisions of the first and third sections of the act amended.
2. Commissioners to be appointed to lease out the oyster fisheries in said pond.

## SECTION

3. Powers and duties of the commissioners.
4. Provisions of amended act not to be construed to affect the right of any citizen of this state in relation to the quahaug or clam fishery on the shores.

*It is enacted by the General Assembly, as follows :*

SECTION 1. Nothing contained in the act of which this is explanatory and in amendment shall be so construed as to include, within the provisions of the first and third sections thereof, the pond on Block-Island, and the oyster fisheries therein ; or to prevent the planting of any oysters taken therefrom in any private oyster grounds within this state.

SEC. 2. There shall be appointed by the general assembly from time to time, a committee of three persons, whose duty it shall be to let, in conformity with the provisions of the act of which this is in amendment, the whole or any portion of the oyster fisheries in the pond on Block-Island, to such persons being inhabitants of the town of New-Shoreham as they shall think fit ; in consideration that such persons shall keep open during eight months at least in each and every year, the breach of said pond, under the direction of said committee ; the performance of which consideration of said lease or leases shall be duly secured by proper covenants therein contained : *provided*, that if the whole of said oyster fisheries be let to one company, no stakes, bounds or buoys need be set or kept up.

SEC. 3. The commissioners of the shell fisheries are hereby authorized to lease, under the provisions of the act of which this is in amendment, for use as private oyster grounds, any of the lands covered by the public waters of this state, lying north of Field's Point and between the channel and harbor line on the west side of Providence river, and not extending north of a line drawn from the depot of the New-York, Providence and Boston Rail-Road Company, eastward to the channel.

SEC. 4. Nothing in the act of which this is explanatory and in amendment shall be so construed as to prevent any citizen of this state from digging clams or quahaugs on the

shores of the public waters of this state, notwithstanding the provisions of this act, or any letting of the said shores as a private oyster ground.

Passed May session, 1844.

*An Act in amendment of an act entitled "An Act for the preservation of Oysters and other Shell Fish within this State."*

SECTION 1. Oyster fisheries in the ponds in Charlestown exempted from the provisions of the amended act.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The oyster fisheries in the ponds lying in the town of Charlestown are hereby exempted from the operation and provisions of the third, ninth, tenth, eleventh and twelfth sections of the act aforesaid, passed at January session, 1844.

Passed May session, 1844.

*Resolved*, that the medicines necessary for the use of the convicts in the state prison shall in future be purchased by the warden on account of the state, and be delivered by him to the attending physician, to be used as may be necessary; and no charge to the state for medicine hereafter by any other person shall be allowed.

Passed January session, 1844.

*An Act in relation to the Cells in the State Prison, and in relation to the Jail in the county of Providence.*

SECTION

1. Unoccupied upper cells in state prison may be used as part of county jail, for

SECTION

the confinement of persons on criminal process.

2. Repeals former act on same subject.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The unoccupied upper cells in the state prison may, at the discretion of the warden of the prison and keeper of the jail in the county of Providence, with the advice of the inspectors of said prison, be used for the confinement and safe keeping of persons committed to the said jail on criminal process, either before or after sentence.

in relation to the cells in the state prison in the county of Providence, passed at the January session, A. D. 1844.

warden of the state prison and the keeper of said prison and jail separate and dis- appear what amount of expenses is pro- paid state prison and what amount to said  
 Passed June session, 1844.

*An Act in relation to Petitions for Acts of Incorporation.*

**SECTION**  
 1. Petitions for acts of incorporation, except for certain purposes, to be continued until after the election of a new general assembly.

**SECTION**  
 2. Notice to be given of the pendency of such petitions—in what manner and when.

*It is enacted by the General Assembly, as follows:*

**SECTION 1.** All petitions that may be presented for any act of incorporation for any purpose, except for religious, literary or charitable purposes, or for a military or fire company, shall be continued until the session next succeeding the next election of members of the general assembly.

**SEC. 2.** Notice of the pendency of such petition shall be given by advertisement thereof in some newspaper printed in this state, for three weeks next after the rising of the general assembly at the session at which the said petition may be preferred; and in such other manner as may in each case be prescribed by the general assembly.

Passed January session, 1844.

*An Act in addition to the several acts relating to Public Schools.*

**SECTION**  
 1. School districts authorized to purchase, hire, build and furnish school houses and yards.  
 2. Mode of calling meeting of school districts.  
 3. Inhabitants of school districts qualified to vote for a tax or on the expendi-

**SECTION**  
 ture of money, may at regular meetings appoint chairman and clerk, and order a tax and carry into effect powers conferred by section one.  
 4. Taxes how to be assessed and collected.



*It is enacted by the General Assembly, as follows :*

SECTION 1. Every school district is hereby authorized empowered to purchase, receive, hold and convey land the site and yard of a school-house for the district ; to be hire and repair school-houses, and to supply the same with furniture, blackboards and other appendages and accommodations ; and to make all necessary provision for the preservation and use of the property of the district ; and for the purposes to hold meetings from time to time in some suitable place in the district.

SEC. 2. Until the inhabitants of a district shall prescribe some other mode for calling the same, the meeting of school district shall be called by the school committee of town or district in which such district is situated, by setting up a notice of the time, place and object of the meeting in three public places in the district, at least ten days previous and it shall be the duty of said committee to call a meeting at any time on the written request of any five legal voters of the district.

SEC. 3. At any meeting duly notified, the inhabitants of the district qualified to vote for a tax or on the expenditure of money in the town in which such district is situated, shall have power by a major vote to appoint a chairman and clerk for the time being ; to adjourn from time to time ; to vote a tax on the district for the purposes specified in the first section of this act, and to appoint assessors and a collector of the same ; to appoint one or more persons to superintend the purchase, building, furnishing and repairs of the school-house, and the proper use and preservation of the building ; and to do any thing else which may be necessary to carry into effect the provisions of this act.

SEC. 4. Whenever a tax shall be voted in the district, the same shall be levied on all the real estate situated therein, and upon the personal property of all persons residing in the district at the time of voting such tax : and such tax shall be apportioned and assessed according to the tax bill of the town to which the district belongs, last completed or next to be completed, as the district may direct ; and the assessors and collector appointed by the inhabitants shall have the same powers, and proceed in the same manner, in assessing and collecting the district tax, as the assessors and collector of a town tax.

Passed January session, 1844.

*in relation to the board of Prisoners.*

board of prisoners fixed at one dollar twenty-five cents.

*the General Assembly, as follows :*

of the several jails shall hereafter be allowed twenty-five cents a week for the board of all d in their respective jails.  
session, 1844.

*Amendment of an act entitled "An Act to regulate the Fisheries in Palmer's River."*

awm in said river by the state on all days, SECTION 2. Part of second section of amended act repealed.

*It is enacted by the General Assembly, as follows :*

SECTION 1. Said act is so far amended as that all persons who are inhabitants of this state may set or draw seines or nets in said Palmer's river, above Kelly's bridge, on every day in the week except Sunday, from the rising to the setting of the sun on those days.

SEC. 2. So much of the second section of said act as is inconsistent herewith is repealed.

Passed May session, 1844.

THE FOLLOWING ACTS WERE PASSED AT JUNE SESSION, 1844.

*An Act to regulate the taking of Fish in the waters of this State.*

SECTION 1. Persons from without state prohibited from taking fish in this state to be carried away in vessels. SECTION 2. Penalties how recovered.

*It is enacted by the General Assembly, as follows :*

SECTION 1. No person living without the state shall take any lobsters, tautauog, bass or other fish, within the harbors, rivers or waters of this state, for the purpose of carrying them from thence in vessels or smacks ; under a penalty of ten dollars for every offence, and a forfeiture of all the fish or lobsters so taken.

SEC. 2. All penalties and forfeitures accruing under this act may be recovered by indictment or complaint before any justice of the peace.

*An Act in amendment of an act entitled "An Act in relation to Justices of the Peace."*

## SECTION

1. Justices of the peace to make returns to the general treasurer, on first day of May session of general assembly, of fines collected and of costs belonging to state, and pay over same.
2. Penalty for neglect.
3. General treasurer to return names of all delinquents under this act to attorney general.

## SECTION

4. General treasurer to commence suits against all delinquents.
5. Repeals certain acts.
6. Sheriff to return all civil commissions remaining in his hands on first Monday in January, to the secretary.
7. Secretary of state to furnish general assembly with lists of all commissions returned to him by sheriff.
8. When act goes into effect.

*It is enacted by the General Assembly, as follows :*

SECTION 1. Each and every justice of the peace and warden, whether elected by the general assembly or by any town, shall annually on the first day of the May session of the general assembly, make return in writing to the general treasurer, whether he hath collected any fines due the state during the preceding year, and the amount and circumstances of such fines, if any by him collected ; and also if any penalties or costs in any civil or criminal suit or process due the state has been in his hand more than one year before said day, and the amount and circumstances of such penalties and costs ; and shall pay over said fines, penalties and costs to said general treasurer.

SEC. 2. Each and every justice of the peace and warden who neglects to make return and pay over such fines, penalties and costs as aforesaid, shall, in addition to an action for the recovery thereof, as herein provided, forfeit and pay the sum of twenty-five dollars, to and for the use of the state ; to be recovered by indictment before any court of competent jurisdiction.

SEC. 3. The general treasurer shall communicate to the attorney general the name of every such justice of the peace or warden who neglects to make return as aforesaid.

SEC. 4. The general treasurer shall forthwith commence an action against each and every delinquent, for the recovery of the fines, penalties and costs aforesaid ; and such delinquent shall be liable to pay all costs of suit, whether he hath collected any such fines, penalties and costs, or not.

SEC. 5. The resolution of the general assembly passed in June last, directing the secretary to issue commissions to such justices only as make return, and also the third section of the act entitled "An act to prevent the detention of fines from the proper officers," are hereby repealed.

SEC. 6. The sheriffs of the several counties shall annually on or before the first Monday of January return to the secretary's office all civil commissions remaining on hand unclaimed, during the then political year; and in default thereof shall be liable to a penalty of one hundred dollars; to be sued for and recovered by the general treasurer, to and for the use of the state.

SEC. 7. The secretary shall, at the May session annually, furnish the general assembly with a list of all commissions returned to him as aforesaid; and shall also furnish the general treasurer with the names of all justices of the peace who refused or neglected to take their commissions as aforesaid.!

SEC. 8. This act shall take effect from and after the passage thereof.

---

*An Act authorizing Town Councils to examine Registries of Voters.*

SECTION 1. Town councils that have neglected to examine registries of voters, permitted to do so before the first Monday in October, after notice.

*It is enacted by the General Assembly, as follows:*

SECTION 1. Any town councils who have omitted to make examination of the registry of their towns on the second Monday of June, as required by the ninth section of an act entitled "An act to regulate the election of civil officers," may make such examination at any time before the first Monday of October next: *provided*, such examination be public, and notice of the same be given by advertisement in some newspaper printed in said towns, or by posting up in at least three public places in said towns.

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*An Act relative to Lunatics.*

SECTION 1. Keepers of jails in which lunatics are confined to give notice to attorney general, if person or town liable for their support neglect to support them, and he to commence suits for the same.

*It is enacted by the General Assembly, as follows:*

SECTION 1. Whenever any person or town chargeable with the expense of keeping in jail any lunatic or person fu-

riously mad, committed thereto in conformity to the seventh section of the act entitled "An act vesting justices of the peace with certain powers in criminal cases," shall neglect to pay such expense, it shall be the duty of the keeper of the jail to which such lunatic may have been committed, to give notice of such neglect to the attorney general; who shall institute a suit in the name of the keeper of the jail, against the person or town so neglecting, for the recovery of such expense, and prosecute the same to final judgment.

---

*An Act in relation to the duty of Town Treasurers.*

SECTION 1. Town treasurer to pay over registry taxes to president or chairman of school committee, for support of schools.

*It is enacted by the General Assembly, as follows :*

SECTION 1. It shall be the duty of the town treasurer of each town to pay over to the school committee of the town, for the support of public schools, all monies received for registry taxes, upon the order of the president or chairman of the school committee, duly drawn upon such treasurer.

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*An Act to continue an act entitled "An Act securing to Mechanics and others payment for their labor and materials expended in erecting and repairing houses and other buildings, canals, rail-roads and turnpikes, with their appurtenances."*

SECTION 1. The act referred to continued in force until the rising of the general assembly at their January session, 1845.

*It is enacted by the General Assembly, as follows :*

SECTION 1. The act entitled "An act securing to mechanics and others payment for their labor and materials expended in erecting and repairing houses and other buildings, canals, rail-roads and turnpikes, with their appurtenances," passed February 7, 1834, be continued in operation until the rising of the general assembly at its next January session.

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