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VOLUME XVII

LAW SERIES

VOLUME I

THE LAWS OF THE
NORTHWEST TERRITORY

1788-1800

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original text of the first editions of the laws. This principle of course had to be modified by interpretation. It was decided that no attempt should be made to reproduce the wrong fonts scattered liberally through the original, but that all misprints whatsoever should be followed. In one case where quotes were used at the end of each line of a passage of the original the different type page of the reprint would have thrown the quotes within the lines at certain places. Here the original was disregarded so far as to place the quotes at the ends of lines as they stood in the reprint. Repeated collations and comparisons both of the typewritten copy and the galley and page proof of the reprint with the original have secured what it is hoped approaches absolute fidelity of reproduction. The possessor of a facsimile copy of Maxwell's Code may notice certain variations in punctuation in this reprint. This is due to the fact that Maxwell's Code, the first book printed in the Northwest, was printed with several different fonts of type. In one of these the points of punctuation were almost microscopic and could only be definitely picked out with the aid of a reading glass. A facsimile process does not, therefore, reproduce them, but they have been followed exactly in this reprint.

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THE LAWS OF THE NORTHWEST TERRITORY

SPECIAL INTRODUCTION

INTRODUCTION

To understand the laws of the Northwest Territory for the period when Illinois was a part of it, one must know both the situation they were framed to meet and how that situation had come about. At the close of the French régime small French settlements were scattered through the western part of the region. The more important were along the Illinois bank of the Mississippi some forty miles south from the mouth of the Missouri, at Vincennes and the present Lafayette, Indiana, at Detroit, at Mackinac, and at Green Bay. The contest between France and Great Britain for the upper Ohio valley had led to the war of 1756-1763; and England's triumph had given her all her rival's possessions east of the Mississippi.

For eleven years thereafter Great Britain had cast about for a scheme for the exploitation of the territory northwest of the Ohio. Various of her colonies in America could bring conflicting charter claims to parts of it, but Great Britain had elected to hold their claims in abeyance. By instructions to governors of royal colonies in 1761 and by the Proclamation of 1763 she had established the principle that purchases from the Indians and settlements beyond the mountains must take place under imperial and not colonial auspices. After playing for a decade with schemes for the establishment of colonies in the West, by the Quebec Act of 1774 she had attached it to Canada, locking it

up from her own people as a fur preserve by extending French law and government over it. The answer of the western Americans was the Revolution.

The eve of the American Revolution in the West had seen the expansion of Virginia into Kentucky; and to stop at the source Indian raids launched against it by the British, George Rogers Clark in 1778 had seized on the French settlements in the Illinois country and at Vincennes as bases for an attack on Detroit. Though the attack was never made, though Clark's military grip on the region was often of the weakest, he had kept the British out till the end of the Revolution, and thereby had contributed to the acquisition of the Old Northwest for the United States by the treaty of peace of 1783.

Soon after the definitive treaty the United States had already settled several different problems touching the development of the region. It was to be exploited for the benefit of the United States as a whole, and not by any or all of the states laying claim to it. Its lands were to be a common fund to pay the costs of the Revolution, and it was to be organized into republican states, in the fullness of time to be admitted to the union on equal terms with the original thirteen. With Virginia's formal cession of both her charter and conquest claims in 1784, this policy may be regarded as established.

The execution of this policy was more difficult than its conception. To preserve her control of the fur trade in the region Great Britain till 1796 retained the military posts that controlled the Great Lakes, notably Detroit and Mackinac, offering as pretext the non-

fulfillment of the treaty. Thus at important posts and settlements British military occupation could give the lie to the American claim to civil authority. The Indians of the region were on the verge of hostility, being controlled by British fur traders, irritated by ill-advised cession treaties negotiated by the United States with a part of their chiefs, and alarmed by the push of frontiersmen northwest of the Ohio. Literally by thousands these men were settled on the northern side of the river, squatting on government land, and defying the military power of the United States that periodically expelled them from it. The French villages in the Illinois and at Vincennes had been organized into the Virginia County of Illinois in 1778. But that authority had expired by limitation in 1782, and they were without legal government, falling fast into anarchy.

The first attempt at meeting these difficulties had been the Ordinance of 1784 drafted by Thomas Jefferson. It had designated in the region the boundaries of future states, considerably smaller than the present ones, and had allowed the inhabitants in each of them on petition to Congress to organize, adopt the laws and constitution of one of the thirteen states as a government, and ultimately enter the union as a state. Some of the squatters in Ohio in 1785 actually seem to have considered calling a convention to organize in this fashion.¹ For three years however the Ordinance of 1784 bore no fruit.

Then in 1787 the Ohio Company, an association of New England veterans of the Revolution, proposed to buy of Congress a tract of land for the establishment of

¹A. B. Hulbert, *Ohio in the Time of the Confederation*, 98-99.

a colony on the Muskingum in eastern Ohio. The leaders of this group were known as conservative men, believers in strong government, and the proposed colony seemed to offer a basis for the establishment of stable government in the West. New York speculators, sensing the chance of a good profit in western lands, helped them to purchase of Congress on favorable terms. As an incident in the negotiation an Ordinance for the Government of the Territory Northwest of the Ohio already under consideration by Congress was amended to meet the views of the company's agents and passed July 13, 1787.¹

We are concerned primarily with the provisions of this document touching law and legislation. The government of the territory was vested in a governor, a secretary, and three judges appointed by Congress. "Governor and judges, or a majority of them," were to legislate by adopting and publishing such laws of the original states criminal and civil as might be necessary. They were to be reported to Congress from time to time, and to be in force unless disapproved by it. With five thousand free male inhabitants of full age in the district, the governor was authorized to call an election of a lower house of assembly. This body was to nominate ten members of a council, five of whom were to be chosen by Congress. The two houses thus constituted were to legislate without restraint save the principles of the ordinance and the absolute veto of the governor. Three to five states were to be formed in the district as soon as they had sixty thousand inhabitants, or sooner if might be. The ordinance includes six "articles of

¹*Post*, 123-130, 521-528.

compact, between the original States and the people and States in the said territory," that "forever remain unalterable, unless by common consent." This provision has sometimes been interpreted to make the ordinance a sort of subsidiary constitution of the region, unalterable by Congress or the state governments alike. Especially has this exposition been applied to the famous sixth article of compact prohibiting slavery. Another legal interpretation has sometimes regarded the ordinance, adjusted to the new federal system by an act of Congress of August 7, 1789, as having no higher validity than any act of Congress, and binding no state once its constitution is adopted.¹

The ordinance contains specific legislation for the territory. The first paragraph embodies general principles for the descent and distribution of estates, the making and proving of wills, the conveyance of real estate, and the transfer of personal property. Further, it saves to the French and Canadian inhabitants "their laws and customs now in force among them, relative to the descent and conveyance of property."

Further, the first article of compact guaranteed religious liberty; the sixth article prohibited slavery, or at least its further introduction. The second article, covering a long list of civil liberties, may be quoted. "The inhabitants of the said territory shall always be entitled to the benefits of the writ of *habeas corpus*, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of common law. All persons shall beailable, unless for capital offences, where

¹See J. P. Dunn, *Indiana*, 219-260, for a discussion of this subject.

end of his military service in the Revolution in 1779 he had twice been a member of Congress, had practiced law and written a legal pamphlet on the famous Rhode Island case of *Trevett against Weeden*.¹

John Cleves Symmes, who signed but two of the laws made by the first judges, was the least qualified of all the judges by training, although he had been chief justice of the Supreme Court of New Jersey.

Considering that all three men most actively engaged in the first legislation were college men, that two of them were trained and practiced lawyers, and that one of them had held judicial offices, it is surprising that the first laws of the territory should be what they are. The ten laws first passed are without enacting clauses, or divisions into sections, are often bald statements, rather than exact phraseology, and are sometimes remarkable in definitions and wordings.² A part of the definition of forgery is "embezzle any charters."³

The provision against profane language is a pious and verbose lecture without any penalty attached: "Whereas idle, vain and obscene conversation, profane cursing and swearing, and more especially the irreverently mentioning, calling upon, or invoking the sacred and supreme being, by any of the divine characters in which he hath graciously condescended to reveal his infinitely beneficent purposes to mankind, are repugnant to every moral sentiment, subversive of every civil obligation, inconsistent with the ornaments of polished life, and abhorrent to the principles of the most benevolent religion. It is expected therefore, if

¹*The Case, Trevett vs. Weeden.*

²*Post*, 1-26.

³*Ibid.*, §19.

crimes of this kind should exist, they will not find encouragement, countenance, or approbation in this territory. It is strictly enjoined upon all officers and ministers of justice, upon parents, and others, heads of families, and upon others of every description, that they abstain from practices so vile and irrational; and that by example and precept, to the utmost of their power, they prevent the necessity of adopting and publishing laws, with penalties upon this head. And it is hereby declared that government will consider as unworthy its confidence all those who may obstinately violate these injunctions.”¹ So is the provision against sabbath breaking: “Whereas mankind in every stage of informed society, have consecrated certain portions of time to the particular cultivation of the social virtues, and the public adoration and worship of the common parent of the universe: and whereas a practice so rational in itself, and conformable to the divine precepts is greatly conducive to civilization as well as morality and piety; and whereas for the advancement of such important and interesting purposes, most of the christian world have set apart the first day of the week, as a day of rest from common labours and pursuits; it is therefore enjoined that all servile labour, works of necessity and charity only excepted, be wholly abstained from on said day.”² A person with military experience would say that in phraseology they were general orders rather than laws.

Perhaps that is the clue to part of the legislation in question. The Ohio Company had established itself at Marietta a few weeks before the arrival of St. Clair

¹*Post*, 21.

²*Ibid.*

and the inauguration of territorial government. The Ohio Company had its own military force; it had already created a Board of Police which had passed regulations for the settlement that smack of an armed camp: militia is to be enrolled and officered; an officer of police is to execute the necessary regulations enacted by the board for cleanliness, health and propriety; all persons coming within the settlement are to report themselves within twenty-four hours; no one is to go beyond the fields without permission from the commander or the officer of the day; there is to be no firing near the streets; the corps of militia is to be paraded the first day of each week. June 13, 1787, the Northwest Ordinance and the commissions of the judges were read and those rules and regulations proclaimed. The judges were in the midst of a military encampment. Military habit was strong in them, and such laws as the militia law are the work of soldiers, not lawyers.¹

Certain other laws and sections have the ring of emergency about them. The definition of the crime of treason was no academic matter, with British officials in Canada playing on disaffection to the United States in its outlying frontiers of Vermont, Kentucky, and the Ohio, with British and Spanish emissaries busy. Treason under these circumstances might easily be a crime in effect committed against territory or confederation, whether the power to legislate against it existed or no.²

The first legislation by Governor and judges was necessarily accompanied by controversy. In the first place the judges completely disregarded the provisions

¹Western Reserve Historical Society *Tracts*, No. 97, pp. 107 ff.

²*Post*, 13.

of the ordinance that laws should be adopted from those of the states, and legislated independently. St. Clair condoned this in the case of the militia law because of the necessity, but had misgivings otherwise. "I suspect," he wrote the judges July 30, 1788, "we are overpassing the line of our duty in forming new laws in any case; and when we do, the necessity of the case only can be our justification. The Ordinance of Congress empowers us to adopt and publish such laws of the original States, criminal and civil, as may be necessary and best suited to the circumstances of the district. In departing from that rule, we certainly expose ourselves to censure from Congress, and besides, there may be some doubt of the validity of such laws as we adopt and publish under any other; and it may not be unworthy your consideration whether, upon such an exception being taken before you in your judicial capacity, you would not be obliged to decide against the law, and declare it a nullity.

"I agree to the militia law fully, under the impression of these sentiments, because the necessity of self-defense must supersede other considerations."¹

In answer the judges offered a long argument on the difficulty of finding laws of mature countries fitted to infant settlements, inferring that Congress must have had this in mind in framing the ordinance, which should therefore be liberally interpreted. "We presume, therefore, with great deference to your Excellency's opinion, that the following is the legal construction of the Ordinance: To adopt such laws as may be necessary and best suited to the circumstances of the district;

¹*St. Clair Papers*, II, 68.

provided, however, that such laws be not repugnant, but as conformable as may be to those of the original States, or of some one or more of them."¹

St. Clair later stated that a part of the difficulty rested in the fact that the judges had failed to provide themselves with state codes and had had objections to that of Pennsylvania which he had submitted to them.² There was a further dispute over the governor's right of veto, the judges alleging that he had merely a voice with them in the selection of laws.

St. Clair's share in this first legislation can be partially traced in his correspondence. He proposed specific amendments to the militia act, part of which only were adopted.³ He objected to an act for the management of estates held in common, apparently designed for the benefit of local members of the Ohio Company, and secured its defeat. Part of his suggestions on the probate bill were adopted, part ignored.⁴

The first ten laws were adopted between July 25 and December 28, 1788. No further legislating was done until 1790, and then with the exception of Symmes, the legislators had changed completely. Varnum had died October 10, 1789, and Parsons had been drowned November 17 of the same year. St. Clair was absent from the territory in the course of the year, and Winthrop Sargent, the secretary, took his place. Sargent

¹St. Clair remained unconvinced but silent. *St. Clair Papers*, II, 72-78. November 24, 1788, Parsons wrote as follows: "We may adopt, but not make laws. This, if literally adhered to, will create a code of laws as discordant in style and substance as can be conceived, but should the idea be that one may vary the form to suit our own circumstances, preserving the substance, we may do better. This we have hitherto practiced upon." Hall, *Life and Letters of General Samuel Holden Parsons*, 534-535.

²*St. Clair Papers*, II, 69, 334.

³*Ibid*, II, 61-62; *post*, 1-4.

⁴*St. Clair Papers*, II, 67, 357.

was a Harvard graduate, but not a lawyer by training.

The third legislator, Judge George Turner, had a stirring career in the territory. Little is known about his antecedents, but the following letter gives a striking picture of the man.

“June 22, 1790

Dear Sir

. I forgot to tell you that I have got a new brother Turner on the bench—do you know the man? If you do not I will just mention a few characters from an assemblage of which you may guess at my new brother. He is a virtuoso—possesses the fine arts—has a pile of books five new laying always on his table—resembles highly in all things but piety our friend Elisha B————t. in his devotions you may see him in Col. Living.....W. S.....n—he has the honor of observing the same hours for rest with yourself—save with this difference that he some times rises & walks out in the dead of night—he says to take fresh air. I know not how we shall wear together, at present he has rather too much Mercury for me who you know to be a good deal leaden-headed—he has words very much at command—laughs, much as he talks—likes well a social companion & glass—has many well chosen pictures—a Southern importance—but Ive said enough M^r R. Morris

Your humble Servt Jno. C. Symmes

Robert Morris Esquire

No. 1 Crown Street

New York.

Honord by the care of the Hon^{ble} M^r Boudinot”

Three laws were passed at Vincennes July 19-

August 4, 1790.¹ They have the full panoply of "Be it enacted" and sectional divisions; they strive after redundant legal phraseology in contrast to those of the first group. Three more with St. Clair returned to the territory were passed by him and by the judges at Cincinnati, November 4-6.² Seven more were passed at Cincinnati, June 27-July 2, 1791.³

The legislation of 1792 published in a separate book all bears date of August 1, 1792, at Cincinnati and was passed by Sargent, Symmes, and Rufus Putnam.⁴ The latter, a New England millwright, surveyor, farmer and soldier, had no legal training whatsoever save what he had acquired as an official of the Ohio Company. Outwardly the laws are like their immediate predecessors.

Meanwhile the attitude of Congress to the legislation so passed had been equivocal. Under St. Clair's suggestion, as it is said, Congress had passed the act of August 7, 1789, adapting the ordinance to the new constitution.⁵ March 23, 1792, a committee of the national House of Representatives submitted a report that the laws of the territory should be printed by the secretary of state, that the governors and judges should have power to repeal all laws, and that the act for the limitation of actions passed December 28, 1788, ought to be repealed. An act based on this report was passed and approved May 8, 1792.⁶ On the basis of this action it could be argued that Congress had adopted the point

¹*Post*, 26-34.

²*Ibid*, 34-41.

³*Ibid*, 41-54.

⁴*Ibid*, 57-117.

⁵*St. Clair Papers*, II, 120.

⁶*Annals of Congress*, 3:480-481, 1395-1396.

of view of the judges of the Northwest Territory so far as their power of enacting law was considered.

However in 1795 the House of Representatives adopted a resolution that all laws passed August 1, 1792, except a repealing act be disallowed. The Senate however failed to concur.¹ St. Clair was informed that they had so done only from a feeling that the laws in question were nullities anyhow.² St. Clair himself believed that the law regulating trade with the Indians was not only virtually repealed by an act of Congress, "but was, and always had been, a nullity."³

St. Clair himself had occasionally had recourse to executive proclamations to supplement the ordinary course of legislation. When unable to convene a court at Kaskaskia in 1790 he had issued proclamations desired by the inhabitants prohibiting Spaniards from trespassing on the American side of the river by hunting and cutting timber. Washington had warned him against thus exceeding his powers.⁴

No further legislation was attempted in the territory until 1795. Then St. Clair, using as his text the resolution of Congress of 1795, exhorted the judges to undertake the adoption of laws from state codes and thus to replace the older enactments.⁵ Although they allowed to stand a considerable body of the previous legislation they attempted to carry out St. Clair's wishes. The laws of this session were passed at Cin-

¹*Annals of Congress*, 4:825, 1214.

²*St. Clair Papers*, II, 356-357.

³*Ibid*, 350; *post*, 26. Section 2 conceivably infringed the British rights of trade in the region under the Treaty of 1783.

⁴*St. Clair Papers*, II, 177, 198-199.

⁵*Ibid*, 362.

cinnati, June 1-August 15, 1795, and signed by St. Clair, Symmes, and Turner.¹ The clerk of the legislature was instructed to "conform the bill to existing localities of the Territory, without otherwise affecting the spirit of the laws so adopted; and that he drop all preambles and unnecessary or tautological phrases and words."² Of the legislation so adopted, Pennsylvania, probably under St. Clair's influence, furnished the greater part. Twenty-five laws were drawn from her code, six from Massachusetts', three from Virginia's, one each from New York's and New Jersey's and one was based on acts of both Pennsylvania and New York. The repeal act was of course based on the permission given by the act of Congress of 1792.

The question that immediately arises with respect to these laws is, how closely they follow the originals from which they purport to be drawn. All possible degrees of variation appear on comparison with the originals. The law subjecting real estate to execution for debt follows chapter CLII of the Pennsylvania code very exactly.³ It omits the enacting clause, alters the form of one or two phrases—substituting "debts justly due to them" for "their just debts, due to them", substitutes "levari facias" for "liberari facias" in one place, and omits a ten-line preamble to one section. Otherwise it is identical. So is the act concerning defalcations.⁴

In other Pennsylvania acts it became necessary to substitute General Court for Supreme Court, Judge of

¹*Post*, 131-290.

²*St. Clair Papers*, II, 353-354.

³*Post*, 131-136.

⁴*Ibid*, 149-151.

Probate for Register General, and to omit mention of a Lieutenant-Governor. Province in every case becomes territory, and special provisions applicable to the City Court of Pennsylvania are omitted. Names of Pennsylvania counties are changed; and Chester, Bucks, and Philadelphia are replaced by Hamilton, Knox, and St. Clair. Where colonial statutes had contained clauses for appeals to England, the provisions were omitted; no appeals ran from the courts of the territory. Statements that the procedure in a given case was what it was before the courts of Westminster, or in English chancery courts had to be translated to the use in the courts of any of the United States. References to the King or the Crown were translated to United States.

Sometimes the adaptation is awkwardly done. In one Pennsylvania act, a reference to "the act for the better settlement of intestate estates" is serenely carried over, although the territory had no act so called.¹ In the act concerning trespassing animals, "lamb or hog" is added to the enumeration in some places and not in others. Section III has no counterpart in the original.² In the act allowing affirmations the insertion of a period after "witnesses and inquest" in section I renders the act unintelligible.³

Sometimes the act was deliberately altered in essentials. In certain cases the emendations impress one as sound and desirable. For example in the act for taking acknowledgment in joint deeds that the wife signed of her own free will the territorial statute added the direction that the justice endorse a certificate on the deed that he had examined the wife separately as the

¹*Post*, 185.

²*Ibid*, 238-242.

³*Ibid*, 163.

law directed.¹ Sometimes the change was inevitable, as when a section was omitted from the Pennsylvania act for courts of judicature that forbade justices of the Supreme Court to sit in inferior courts. In the same act a clause was added prescribing the cases in which territory or county was to pay the travelling expenses of judges on circuit.² The act for affirmations in the original plainly required any person taking an oath of office to take it in the prescribed form. It is difficult to say what section III does mean.³ The provisions in the Pennsylvania act touching settlement of the poor, granting a settlement to emigrants from Europe or to mariners are omitted.⁴ The act regulating enclosures in the original excepts hogs running at large from the protection afforded. Sections III and IV are not in the original.⁵

Not only in number but in length the Pennsylvania acts make up the bulk of the code, and manifestly are its basis. Excepting a long New York statute on partitions, adopted with fair accuracy, save for certain omitted sections,⁶ and a Massachusetts act against forcible entry and detainer,⁷ the other acts adopted are plainly stop-gaps. They are usually short sections of acts, considerably changed in wording and sometimes in intent. The law giving remedies in equity has been altered from the original by omitting a clause to the effect that in real actions, mortgages, or bargain and sale, the judgment should be conditional.⁸ The Massa-

¹*Post*, 243.

²*Ibid*, 154-160.

³*Ibid*, 163-164.

⁴*Ibid*, 216-232.

⁵*Ibid*, 235-237.

⁶*Ibid*, 260-269.

⁷*Ibid*, 247-251.

⁸*Ibid*, 246.

chusetts divorce act as adopted omits provisions for divorce in cases of consanguinity or affinity; and the sections included are muddled out of a much longer act.¹ Very little similarity can be found between the act for foreign attachments and the New Jersey act from which it apparently was taken.²

The Virginia acts are the worst of all. The act continuing suits in the General Court is one sentence picked out of one section of an act of seventy-six sections.³ The act declaring what laws shall be in force is one section of a long Virginia act; in the sentence adopted more is changed than is included.⁴ The fee act bears no discoverable affinity to the Pennsylvania or New York codes from which it was taken.⁵

May 1, 1798, eleven acts were passed at Cincinnati, by Sargent acting as governor, Symmes, and two new judges, Joseph Gilman and Return J. Meigs.⁶ Gilman's training is uncertain. He was a New Hampshire man. Meigs was a Yale graduate of 1785 and had studied law.⁷ Four acts came from Kentucky laws, two each from Connecticut and Massachusetts, one from Pennsylvania. There was also a repeal act and a fee act based on no state statute.⁸ The original Kentucky acts could not be obtained for comparison but the other five adopted acts are based on the same principles as in 1795. The Connecticut borrowings are merely clauses picked out of long statutes.

¹*Post*, 258-260.

²*Ibid*, 269-271.

³*Ibid*, 275.

⁴*Ibid*, 253.

⁵*Ibid*, 170-181.

⁶*Ibid*, 291-315.

⁷Appleton's *Encyclopaedia*, 4:288.

⁸*Post*, 302-307, 314.

The legislation of this session was much of it of dubious validity. The ordinance allowed choice of laws "of the original States," an expression which on its face would bar the Kentucky acts adopted. The fee act, purporting to be drawn from no state code at all, was a reversion to the legislative principles of 1788-1791. Probably for these reasons a resolution was offered in the Senate January 15, 1799, for an inquiry as to how far the laws were "authorized or expedient." A committee was appointed to inquire into their "expediency" but never reported.¹ The territory was about to pass to the second stage; and limitations on the legislative powers of governor and judges were no longer of practical importance.

The House of Representatives of the first legislature of the territory met at Cincinnati, February 4, 1799, to nominate members of a legislative council. September 16, 1799, the legislature convened for work. They did not complete their organization till September 25; they sat till December 19. The Governor approved thirty-one acts, but disallowed eleven more. The general acts which he vetoed were a marriage act, a tavern license act, an act creating the office of county surveyor, and one to take a census of the eastern section of the territory. The other acts disallowed were acts creating and dividing counties, functions which the governor claimed under the ordinance. This was the last legislation passed in the Northwest Territory affecting Illinois. Before another session of the legislature the act establishing Indiana Territory had gone into effect.²

¹*Annals of Congress*, 8:2202, 2203.

²*St. Clair Papers*, II, 446-480.

The legislation of the Northwest Territory must be appraised by the American jurisprudence of its own day. From that jurisprudence all of it save a few administrative measures sprang. Even when the judges were legislating independently they usually had in mind as models specific state laws and legal procedures with which they were familiar. There were no Benthams among the early judges of the Northwest. Sometimes their legislation was antiquated. Certain Pennsylvania laws adopted in 1795 had been on the statute book of the colony for almost a century. The state codes used were of the transition stage in which laws of dependencies of the British crown were being remade into laws of the United States.

In the criminal codes adopted punishments were savage—the pillory, the whipping post, the gallows; but so were those of the eastern states. Laws for imprisonment for debt were borrowed from older codes.¹ St. Clair urged their mitigation. The fact that an act prescribing bounds for debtors' prisons was reenacted may indicate that it was actually carried out.² Whether, except in extremely solid New England settlements, the provisions regarding the settlement of the poor, so inconsistent with the frontier, were ever carried out may be doubted.³

To study the effect and force of these laws one must consider the society for which they were framed. The frontier was not by any means simple in social organization. Social and economic distinctions were subtle but highly significant. Before 1795 the population may

¹*Post*, 286-287, 448-451.

²*Ibid.*, 494-495.

³*Ibid.*, 224 ff.

be analyzed as follows: The French in the Illinois country and at Vincennes, docile and well-disposed, St. Clair termed them, did not understand English. Scarce one in fifty was literate at Kaskaskia in 1790. Fear that the sixth article of the ordinance would free their slaves had sent many of the wealthier across the Mississippi to the Spanish settlements. Those left professed themselves too poor to pay for the surveying of their lands. Side by side with them were American immigrants ranging all the way down from speculators to squatters. Consequently St. Clair had difficulty in finding five men fit for judges of common pleas in the Illinois country. Communication was dangerous and settlements were too remote to be linked into county governments; St. Clair had to organize the Illinois into three judicial districts.¹ He had himself to translate public papers into French for the benefit of the French habitants. In 1792 the courts in the Illinois paid for the translation of the territorial laws into French. Courts were not held regularly. William St. Clair wrote in 1793: "Our militia in this country is in a wretched state, and no officer at the head of it has any desire, it would appear, to put it on a better footing. The men will not perform their duty unless there were a few soldiers in the country to enforce obedience. Colonel Tardiveau is gone to Orleans, and many other officers are wanting. There has not been a review these eighteen months past, so that it would appear we have no organized government whatever. Our courts are in a deplorable state; no order is kept in the interior, and many times not held. Prairie Du Rocher has had no

¹*St. Clair Papers*, II, 137, 148, 176, 177, 348.

court this sometime, and Kaskaskia has failed before. The magistrates, however, have taken upon themselves to set it going again. I think they will again fail. The prospect is gloomy.”¹

The eastern sections of the territory were more diverse and no more easy to deal with than the Illinois and Vincennes. At Clark's Grant opposite the Falls of the Ohio there was a small settlement of Kentucky associates of Clark in the conquest of the Illinois. Around Cincinnati were a group of settlers, purchasers from John Cleves Symmes, disorderly and violent. In 1794 they advertised a bounty on Indian scalps. They made a lawless attack on Indians in Cincinnati on a friendly mission, despite the presence of the territorial secretary.² Between the Miami and the Scioto Virginia revolutionary soldiers were beginning to take up bounty lands. East of the Scioto was a little colony of French emigrants, lured in by unscrupulous speculators and living in misery. Farther east at the Muskingum were settlements of New Englanders, the backbone of order in the territory.

Of his subjects generally in this period St. Clair's opinion was not high. The westerner, he observed, felt little attachment to the *natale solum*.³ It was difficult to find men in a new country fit to hold county offices.⁴ In the settlements made on the Ohio Company purchase and Symmes purchase, the policy of the directors of the companies had laid the basis of endless law suits.⁵ He remarks that save at Cincinnati and

¹*St. Clair Papers*, II, 317.

²*Ibid*, 328.

³*Ibid*, 104.

⁴*Ibid*, 330.

⁵*Ibid*, 333.

one or two other places where there might be trading people there would be no litigations where the amount in dispute would exceed \$20.¹

Things did not impress him more favorably when the end of the Indian war and the surrender of the British posts had brought in new settlers by thousands.² In 1796 and 1798 he vainly warned off squatters on the lands of the United States. In 1800 he announced the opinion that a few wealthy proprietors held so many men debtors to them for lands that the independence of elections was endangered. "A multitude of indigent and ignorant people are but ill qualified to form a constitution and government for themselves; but that is not the greatest evil to be feared from it. They are too far removed from the seat of government to be much impressed with the power of the United States. Their connection with any of them is very slender—many of them having left nothing but creditors behind them, whom they would very willingly forget entirely. Fixed political principles they have none, and though at present they seem attached to the General Government, it is in fact but a passing sentiment, easily changed or even removed, and certainly not strong enough to be counted upon as a principle of action; and there are a good many who hold sentiments in direct opposition to its principles, and who, though quiet at present, would then take the lead. Their government would most probably be democratic in its form and oligarchic in its execution, and more troublesome and more opposed to the measures of the United States than even Kentucky.

¹*St. Clair Papers*, II, 368.

²*Ibid*, 402, 432.

All this, I think, may be prevented by the division of the Territory. Time would be afforded for the cultivation of a disposition favorable to the General Government, as the inhabitants would meet with nothing but friendship and protection from the United States, and the influence of the few wealthy would cease entirely, or scarce be felt, and gratitude and attachment would become fixed habits of the mind.”¹

The opinion of the conservative federalist old soldier is worth less than the observations of the phenomena on which he based it. Those phenomena suggest to us however a series of communities in which there are not only men of distinct social habits, but a few men of wealth living in luxury and many others grading down all the way to the frontiersman in the most primitive stage of existence; communities to govern which a surprisingly complex machinery of government had been devised, but which had an insufficient number of men able and willing to undertake its enforcement.

The enforcement of the laws so lavishly provided was probably therefore a most haphazard affair. In 1798 not a single county in the territory had that necessary adjunct to civilized order—a sufficient jail.² Counties were defrauded through the law making them liable to the execution creditors for the escape of an execution debtor from an insufficient jail; by collusion with their creditors debtors thus discharged their debts.³ In early days St. Clair had to warn the judges

¹*St. Clair Papers*, II, 482.

²*Ibid*, 456.

³S. P. Chase, *The Statutes of Ohio and of the Northwest Territory*, I, 123.

against using the guard houses of military posts for jails and penitentiaries.¹

As might have been expected judges did strange things. Especially was this true in the Illinois. John Reynolds has left on record the story of the court at Prairie du Rocher that tried a man for the murder of a hog. Another court in the Illinois paraded a man through the street with his face to his horse's tail, his wife leading the horse. August 16, 1794, a man was adjudged sixteen stripes for the nonpayment of a debt. In 1799 an Illinois court entertained the indictment of a man as a common nuisance for living with another man's wife.² The legislation of the Northwest Territory can be picked full of defects, but it is a question whether the scattered communities for which it was made would not generally have governed themselves in about the way they actually did whatever the legislation provided for them.

¹*St. Clair Papers*, II, 219, 222.

²Bateman and Selby, *Historical Encyclopedia of Illinois and History of St. Clair County*, II, 698-701.

LAWS
PASSED IN THE
TERRITORY
OF THE
UNITED STATES
NORTH-WEST
OF THE
RIVER OHIO,
FROM THE
COMMENCEMENT OF THE GOVERNMENT
TO THE
31st OF DECEMBER, 1791.

Published by Authority.

PHILADELPHIA
PRINTED BY FRANCIS CHILDS and JOHN SWAINE

M,DCC,XCII.

(3)

COPIES of the Laws which have been adopted and published in the Territory of the United States north-west of the River Ohio, from the commencement of Government to the 31st day of December, inclusive—made out from the original Records in the Secretary's Office, and to be transmitted to the Secretary of Congress, agreeably to the Ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven.

CHAPTER I.

A LAW for regulating and establishing the MILITIA in the Territory of the United States north-west of the river Ohio, published at the city of Marietta upon the twenty fifth day of July, in the thirteenth year of the Independence of the United States, and of our Lord one thousand seven hundred and eighty eight, by his Excellency Arthur St. Clair, Esquire, Governour and Commander in Chief, and by the Honourable Samuel Holden Parsons and James Mitchell Varnum, Esquires, Judges.

ALL male inhabitants between the age of sixteen and fifty, shall be liable to and perform military duty, and be formed into corps in the following manner.

All male inhabitants, &c. liable to militia duty;

Sixty four rank and file shall form a company. Eight companies shall form a battalion. Two battalions shall form a regiment.

how to be organized;

There shall be appointed to each company, one captain, one lieutenant, one ensign, four serjeants, four corporals, one drummer and one fifer. To a battalion there shall be appointed, one lieutenant colonel, one major, and one adjutant. To a regiment one colonel.

to be classed;

The corps shall be divided into senior and junior classes.

And whereas in the infant state of a country, defence and protection are absolutely essential,

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(4)

all male inhabitants of the age of sixteen and upwards, shall be armed, equipped and accoutred in the following manner;

how to be accoutred,

With a musket and bayonet, or rifle, cartridge box and pouch, or powder horn and bullet pouch, with forty rounds of cartridges, or one pound of powder and four pounds of lead, priming wire and brush and six flints.

and when to assemble;

And whereas for securing the principles of defence and protection, it is necessary to be assembled upon certain times, and at certain places, for examining and inspecting the arms and accoutrements, and for disciplining the men in a soldierly manner: And whereas the assembling of the members of community at fixed periods, conduces to health, civilization, and morality; and such assembling without arms in a newly settled country, may be attended with danger; Therefore the corps shall be paraded at ten o'clock in the morning of each first day of the week, armed, equipped, and accoutred as aforesaid, in convenient places next adjacent to the place or places already assigned, or to be assigned for public worship: at other times and places, the corps shall be paraded for muster, exercise, and review as the commander in chief may direct. And whereas in the present state of the territory it is necessary that guards be established; the commander in chief, and the commanding officers of counties, and of smaller districts shall make such detachments for guards and other military duty as the public exigencies may in his, or their opinion require.

how to be classed;

Those who have born commissions, civil or military, in the service of the United States, or either of them, and who have been honorably discharged therefrom, and all such as have

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how to be classed;

been graduated in colleges or universities, shall compose the senior class. Males above the age of fifty shall be liable to military duty in cases of actual invasion only, and then at the direction of the commander in chief. Officers of civil government appointed by Congress or commissioned by the Governour are exempted from the duties aforesaid.

exemptions.

Fine for neglecting the duty enjoined by this act.

If any male inhabitant shall neglect or refuse to appear at the fixed times and places of parade by this law established, he shall be fined in the sum of twenty five cents, unless he shall render an excuse to the satisfaction of the commanding officer of his corps. If any male as

aforesaid shall neglect or refuse to appear at such time and place as the commander in chief shall specially direct, for muster, review, and exercise, he shall be fined in the sum of fifty cents, unless excused as aforesaid.

If any male as aforesaid shall neglect or refuse to appear upon the order of the commander in chief, or other officers as aforesaid, for guards or other ordinary military duty, or refuse to perform the same, he shall be fined in the sum of one hundred cents—which offenses shall be heard and determined by the officers of the company to which the offender may belong, and upon conviction, a warrant of distress shall issue from the commander of such company, directed to either of the sergeants of the same, requiring him to collect the fines aforesaid, and pay the same into the treasury of the town, city or county wherein the conviction shall have taken place, within twenty days next after issuing such warrant. For the second, and all succeeding offences in the cases before mentioned, the persons charged with having committed the same, shall be heard, tried and sentenced by courts-martial.

Fines how to be determined and collected.

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If any male inhabitant as aforesaid, shall neglect or refuse to appear and perform his duty under the orders of the commander in chief, against an enemy invading the territory, or shall refuse, disobey or neglect the orders given by his officers, or any of them, in time of action, he shall be deemed guilty of cowardice and desertion, and be heard, tried, and sentenced by a court-martial.

On neglect of duty in case of invasion &c.

All officers shall be attentive to the forming, disciplining, parading, and commanding their respective corps, and to such other duties as shall respectively bind them by this law, and by the orders from time to time to be given by the commander in chief.

Duty of officers;

If any officer shall be guilty of a breach of this law, or in any respect violate, or neglect his duty, he shall be heard, tried, and sentenced by a court-martial.

how to be tried on neglect thereof.

A court-martial shall consist of not more than thirteen members, nor less than five, whereof one at least shall have rank superior to that of a captain.

Court-martial how constituted;

A court-martial shall be appointed by the commander in chief, or the commanding officers of a regiment or battalion; but the com-

by whom appointed & sentences approved.

mander in chief only shall have the power of approving and carrying into effect sentences of courts-martial, whereby the punishment shall be capital, or an officer cashiered.

AR. ST. CLAIR.

SAML. H. PARSONS.

J. M. VARNUM.

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CHAPTER II.

A LAW for establishing General Courts of Quarter Sessions of the Peace (and therein of the powers of single Justices), and for establishing County Courts of Common Pleas, (and therein of the power of single Judges to hear and determine upon small debts and contracts), and also a Law for establishing the Office of Sheriff, and for the appointment of Sheriffs. Published at the city of Marietta, in the county of Washington and Territory of the United States north-west of the river Ohio, by his Excellency Arthur St. Clair, Esquire, Governour and Commander in Chief, and Samuel Holden Parsons and James Mitchell Varnum, Esquires, Judges, upon the twenty third day of August, in the thirteenth year of the Independence of the United States, and in the year of our Lord one thousand seven hundred and eighty eight.

County
Courts of
Gen. Qr.
sessions,

where and
when to be
holden.

THERE shall be a court in each county styled the General Quarter Sessions of the Peace, holden and kept four times in every year in each county.

That for the county of Washington shall be holden and kept at the city of Marietta, upon the second Tuesdays of March, June, September, and December. And there shall be a competent number of justices of the peace in every of the counties, appointed and commissioned by the governour under the seal of the territory, which justices, or any three of them, one at least being of the quorum, shall and may hold the general sessions of the peace according to law.

Number of
justices to
hold qr.
sessions.

Not less than three, nor more than five of the said justices, in each county, shall be specially named in a general commission for holding the said courts of quarter sessions of the peace.

The justices, or any three of them, one being of the quorum as aforesaid, may hold special sessions when, and as often as occasion may require. **Special sessions;**

And the said justices, and each and every of them, shall have power and authority in and **their power.**

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out of sessions, to take all manner of recognizances, with or without surety, for good behaviour, to keep the peace, or for appearance at a superior judicatory, whether to the quarter sessions, if out of the time of sessions, or to the general court of the territory, as the case may be, to answer to charges exhibited, or crimes committed in the view of such justices, or any of them, and whereof they have not competent power to hear and determine. And in case any person or persons shall refuse to enter into recognisance as aforesaid, and to find surety when thereunto required, it shall and may be lawful for such justice or justices, in or out of sessions as aforesaid, to commit the person or persons so refusing to gaol, there to remain until he or they shall comply with the order of such justice or justices. **Power of the justices.**

All recognisances for the peace, good behaviour, or appearance at the sessions, which shall be taken by any of the justices out of sessions, shall be certified into their said general sessions of the peace, to be holden next after the taking thereof; and every recognisance taken in or out of sessions for suspicion of any manner of crime not tryable in said court of quarter sessions of the peace, shall be certified before the general court of the territory at their next succeeding term, or before a court of oyer and terminer and gaol delivery for the county, to be holden next after the taking thereof, without concealing, detaining, or embezzling the same. And in case any person or persons shall forfeit his or their recognisances of the peace, good behaviour, or appearance, the recognisances so forfeited, with the record of default, or cause of forfeiture, shall be sent and certified without delay, by the justice or justices of the peace, into the quarter sessions, if taken **Recognisances how to be certified;**

proceedings on forfeiture of recognisances, &c.

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out of the sessions and returnable to the same, or into the general court of the territory, as the case may be, whether taken in or out of sessions; that in either case process may issue according to law. All **proceedings on forfeiture of recognisance.**

**Forfeitures
how levied
and paid.**

which forfeitures shall be levied by the proper officers, and paid to the clerks of the respective courts, to be paid by them into the public treasuries; that is to say, by the clerk of the quarter sessions, into the treasury of the county, and by the clerk of the general court into the general treasury of the territory.

**Justices out of
sessions may
hear &
determine
petit crimes
&c.**

**their power on
refusal to
fulfil their
determinations
herein, &c.**

One or more justices of the peace shall and may, out of sessions, hear and determine according to the course of the common law, petit crimes and misdemeanours, wherein the punishment shall be by fine only, and not exceeding three dollars, and to assess and tax costs. And in case any person or persons shall refuse to obey, fulfil, and perform the sentence or sentences given against him or them by the justice or justices herein, it shall and may be lawful for such justice or justices to commit the delinquent or delinquents to gaol, there to remain until sentence be performed. And it shall be lawful for such justice or justices whenever the crime shall be committed in his or their presence or view, to sentence as aforesaid, without further examination: and which fines shall be by such justice or justices paid to the clerk of the court of quarter sessions, and by him paid into the county treasury. All warrants issued by a justice or justices out of sessions either for apprehending, securing or committing to gaol, persons suspected, or convicted of crimes shall be under the hand and seal of such justice or justices, and directed to an officer or officers, whose duty it shall be to exe-

**Fines to be
paid to the
clerk of the
court, &c.**

**Warrants
issued out
of sessions
how to be
attested.**

(10)

cute criminal process; and such officer or officers shall obey the warrant or warrants issued as aforesaid.

**Power of
the courts
of quarter
sessions.**

The courts of general quarter sessions of the peace shall and may hear, determine and sentence, according to the course of the common law, all crimes and misdemeanours, of whatever nature or kind, committed within their respective counties the punishment whereof doth not extend to life, limb, imprisonment for more than one year, or forfeiture of goods and chattels, or lands and tenements to the government of the territory.

And that persons indicted or outlawed in one county, who dwell, remove, or are received into another county may be brought to justice, the said courts of general quarter sessions of the peace, shall and may direct their writs or precepts under the seal of the courts, and signed

by the clerks respectively, to all or any of the sheriffs, or other officers empowered by law to execute criminal process in each or any of the counties within the territory as the case may be, requiring to take and bring before said court, such persons indicted or outlawed as aforesaid. And the said court of quarter sessions shall and may issue subpoenas, and other warrants, under the seal of the court, and signed by the clerk, into any county or place in the territory, for summoning or bringing any person to give evidence in and upon any matter or cause, examinable or tryable before such court, under such pains and penalties as subpoenas or warrants of that kind, are by law granted and awarded. And a justice or justices out of sessions, may in like manner, and under similar penalties, grant subpoenas, and other warrants, to any place or places within their respective counties.

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County Courts of Common Pleas.

A number of suitable persons, not exceeding five, nor less than three shall be appointed in each county, and commissioned by the governor under the seal of the territory, to hold and keep a court of record, to be styled, the County Court of Common Pleas: which courts shall be holden at two fixed periods in every year, and in each county respectively, at the places where the general courts of quarter sessions of the peace, shall be kept. That for the county of Washington shall be holden upon the third Tuesdays of March, and first Tuesdays of September.

The judges so appointed and commissioned, or a majority of them shall hold pleas of assizes, scire facias, replevins, and hear and determine all manner of pleas, actions, suits, and causes of a civil nature, real, personal and mixed, according to the constitution and laws of the territory.

The said court shall and are hereby empowered to grant under their seal, and signed by their clerk, replevins, writs of partition, writs of view, and all other writs and process upon pleas and actions cognizable therein, as the case may require.

The court shall and may issue subpoenas under their seal, and signed by their clerk for the same purposes, in the manner, and under similar penalties, as the courts of general quarter sessions of the peace

County courts of common pleas, how constituted;

when holden;

the power.

are empowered to issue the same. And for the more speedy recovery of small debts and demands contracted within the territory; it shall and may be lawful for one or more of the judges of the court of common pleas, in their respective counties, to hear and determine, all debts and demands, contrac-

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(12)

Power of
the county
courts.

ted as aforesaid, whether upon bond, bill, note, book account, or assumpsit in fact or law, wherein the sum demanded shall not exceed five dollars. And such judge or judges shall issue execution under his or their hands and seals directed to the sheriff, or other proper officer, for executing the judgment so given, returnable in thirty days from the test thereof.

Sheriffs.

Sheriffs in
each county
to take oath
and give
bond.

There shall be appointed and commissioned by the governour, in each county of the territory, a sheriff, who shall take the oaths of allegiance to the United States, and of office, and shall give bond with two sufficient sureties, in the penal sum of four thousand dollars, for the faithful discharge of the duties of his office.

their duties.

The duties of each sheriff shall be, to keep the peace, by causing all offenders against law, in his view, to enter into recognisances, with sureties, for keeping the peace and appearing at the next general quarter sessions in the same county, and to commit in case of refusal; and which recognisances shall by the said sheriff be returned, and certified before the said quarter sessions. It shall also be his duty to quell and suppress all affrays, routs, riots, and insurrections; and for which end he shall, and is hereby empowered, to call to his aid the power of the county. He shall pursue, apprehend and commit to gaol, all felons and traitors; he shall execute all warrants, writs and other process, which by law shall appertain to the duties of his office, and which shall be directed to him by legal authority. He shall duly attend upon all courts of record, at their respective terms or sessions, in his county.

AR. ST. CLAIR,
SAML. H. PARSONS,
JAMES M. VARNUM.

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CHAPTER III.

A LAW establishing a Court of Probate, published in the Territory of the United States north-west of the river Ohio, by his Excellency Arthur St. Clair, Esquire, Governour, and the Honourable Samuel Holden Parsons, James Mitchell Varnum, and John Cleves Symmes, Esquires, Judges, at the city of Marietta, the thirtieth day of August, in the thirteenth year of the Independence of the United States, Anno Domini one thousand seven hundred and eighty eight.

THERE shall be appointed one judge of probate in each county, whose duty it shall be to take the proof of last wills and testaments and to grant letters testamentary and letters of administration and to do and perform every matter and thing that doth, or by law may appertain to the probate office, excepting the rendering definitive sentence and final decrees.

Judges of probate in each county their duty;

The judge shall hold four sessions in each and every year, and may adjourn from time to time, or appoint a special sessions, and at such place in the county as he may deem expedient, whenever the circumstances of the people may require it. The sessions for the county of Washington shall be holden at the city of Marietta upon the first Monday of January, April, August, and October annually. In all cases wherein it shall be necessary to render a definitive sentence, or to render a final decree, and upon a point contested, the judge shall call to his assistance, two of the justices of the court of common pleas of the same county; who, together with the judge shall constitute the court of probate; a majority of whom shall have power to render final sentences and decrees in all matters cognizable before said court; Provided however, that from every definitive sentence, and from every final decree, rendered by the court, there may be an appeal to the gene-

to hold four sessions in each year, &c.

where to be holden.

Sentences how rendered.

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ral court of the territory, the appellant giving bond with two sufficient sureties, to prosecute his appeal with effect, which appeal shall be entered upon the second day of the term of the court appealed to, and

next holden for the county in which the appeal was taken.

The judge, previously to his entering upon the duties of his office, shall be sworn, before the governour, to a true and faithful discharge thereof.

The judge shall record last wills and testaments, and make entries of the granting of letters testamentary, and letters of administration; he shall receive, put on file, and carefully preserve all bonds, inventories, accounts, and other documents, necessary to be perpetuated in his office.

All bonds that by this law are, or by law shall be directed to be given in the court of probate, or probate office, shall be made to the judge, and shall be in trust, to and for the use of all persons concerned, or having interest therein: And the benefit thereof, shall be extended from time to time, to and for the relief of the party injured.

The judge shall deliver a certified copy of any bond taken by him as aforesaid, to any person interested, and requesting the same, and he shall also produce the original bond in court, upon any trial that shall be had for the breach of the conditions thereof, whenever required by such court, and upon refusal, or delay herein, the judge shall forfeit and pay to the party injured treble damages. And there shall be appointed a clerk of said court of probate who shall be sworn to a faithful discharge of the duties of his office, before he enters into the execution thereof; and the clerk shall record all

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sentences and decrees of the court of probate, and make entries and records of all matters proper to be entered and recorded in his office.

AR. ST. CLAIR.
SAML. H. PARSONS.
J. M. VARNUM.
JOHN CLEVES SYMMES.

Judge to
take oath;

to record
last wills,
&c.

Bonds to
whom to be
made.

Judges to
deliver cer-
tified copy
of bond on
application.

CHAPTER IV.

A LAW for fixing the Terms of the General Court of the Territory of the United States north-west of the river Ohio, published by his Excellency Arthur St. Clair, Esqr. Governour, and Samuel Holden Parsons, James Mitchell Varnum, and John Cleves Symmes, Esquires, Judges, at the city of Marietta, the thirtieth day of August, in the thirteenth year of the Independence of the United States, and of our Lord one thousand seven hundred and eighty eight.

THE general court for the territory of the United States northwest of the river Ohio, shall hold pleas, civil and criminal, at four certain periods or terms in each and every year in such counties as the judges shall from time to time deem most conducive to the general good, they giving timely notice of the place of their sitting; that is to say, Upon the first Monday of February, May, October and December. Provided however, That but one term be holden in any one county in a year; and that all processses, civil and criminal, shall be returnable to said court wheresoever they may be in said territory. And as circumstances may so intervene as to prevent a sessions of the court at the time and place fixed upon, it shall and may be lawful for the court, to adjourn from time to time, by writ directed to the sheriff of the county; and to continue all process accordingly: And in case neither of the judges shall attend at the time

Gen. court to hold pleas civil and criminal, &c.

When the court may adjourn, &c.

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and place aforesaid, and no writ be received by the sheriff, it shall be his duty to adjourn the court from day to day, during the first six days of the term; and then to the next term; to which all processes shall be continued as aforesaid. Provided however, That all issues in fact shall be tried in the county where the cause of action shall have arisen.

AR. ST. CLAIR.
SAML. H. PARSONS.
J. M. VARNUM.
JOHN CLEVES SYMMES.

CHAPTER V.

A LAW respecting Oaths of Office, published by his Excellency Arthur St. Clair, Esquire, Governour of the Territory of the United States north-west of the river Ohio, and by the Honourable Samuel Holden Parsons, and James Mitchell Varnum, Esquires, Judges, at the city of Marietta, in the Territory aforesaid, upon the second day of September, in the thirteenth year of the Independence of the said United States, and of our Lord one thousand seven hundred and eighty eight.

Every person appointed to civil offices to take oath, or

EVERY person appointed to any civil office in the territory, and commissioned by the governour, shall previously to his entering upon the exercise of his office, take the following oath, viz. I, A B, being appointed to the office of _____ do solemnly swear, that I will well and truly execute the duties of my said office, according to the best of my skill and understanding, without fraud or partiality. So help me God.

affirmation,

Any person appointed as aforesaid, conscientiously scrupulous of taking an oath, shall make the following affirmation, previously to entering upon the duties of his office, viz. I, A B, being appointed to the office of _____

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do solemnly, sincerely and truly declare and affirm, that I will well and truly execute the duties of my said office, according to the best of my skill and understanding, without fraud or partiality: And this I declare and affirm under the pains and penalties of perjury.

before the governor.

And that all oaths of office, or declarations and affirmations prescribed as aforesaid, shall be taken before the governour, or such person or persons as shall by him be appointed and commissioned for that purpose, and certified upon the commission of the person taking the same. And in case of the absence of the governour, the said oath, or declaration and affirmation may be taken before, and certified by either of the judges of the territory.

AR. ST. CLAIR.
SAML. H. PARSONS.
JAMES M. VARNUM.

CHAPTER VI.

A LAW respecting Crimes and Punishments, published by his Excellency Arthur St. Clair, Esquire, Governour, and the Honourable Samuel Holden Parsons, and James Mitchell Varnum, Esquires, Judges of the Territory of the United States north-west of the river Ohio, at the city of Marietta, the sixth day of September, in the thirteenth year of the Independence of the United States, and of our Lord one thousand seven hundred and eighty eight.

Treason.

IF any person belonging to, residing in, or protected by the laws of this territory, shall levy war against the United States, or against this territory, or shall knowingly and wilfully aid or assist any enemies at war against the United States, or this territory, by joining the ar-

What offences shall

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mies or fleets of such enemies, or by inlisting, persuading or procuring others to join said fleets or armies, or by furnishing such enemies with arms, or ammunition, or provisions, or any other articles for their aid or comfort, or by carrying on a treasonable and treacherous correspondence with them, or shall form, or be any way concerned in forming any combination, plot or conspiracy for betraying the United States, or this territory into the hands or power of any foreign enemy, or shall give or attempt to give or send any intelligence to any such enemy for said purpose, the person or persons so offending shall be deemed guilty of treason and upon conviction thereof shall suffer the pains of death, and shall moreover forfeit all his, her or their estate, real and personal, to this territory.

be deemed

treasonable.

Murder.

If any person or persons shall with malice aforethought, kill or slay another person, he, she, or they so offending, shall be deemed guilty of murder, and upon conviction thereof shall suffer the pains of death.

Murder.

Manslaughter.

Manslaugh-
ter.

If any person or persons shall wilfully kill or slay another person without malice aforethought, he, she, or they so offending shall be deemed guilty of manslaughter, and upon conviction thereof, shall be punished as at the common law hath heretofore been used and accustomed. Provided nevertheless, That if any person in the just and necessary defence of his own life, or the life of any other person, shall kill or slay another person attempting to rob or murder in the field or highway, or to break into a dwelling house, if he cannot with safety to himself otherwise take the felon or assailant,

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or bring him to justice, he shall be holden guiltless.

Arson.

Arson, what
crimes
deemed,

how pu-
nished.

If any person or persons shall wilfully and maliciously burn or cause to be burnt, or shall be wilfully and maliciously aiding and assisting in burning any dwelling-house or other building thereunto adjoining, he, she, or they so offending shall be deemed guilty of arson, and upon conviction thereof, shall be whipped, not exceeding thirty-nine stripes, put in the pillory and there be continued not exceeding the space of two hours, confined in gaol not exceeding the space of three years, and forfeit all his, her or their estate, real and personal, to this territory; out of which estate, if sufficient, shall be paid to the party injured his full damages. And in case death should ensue from such burning, the offender or offenders upon conviction thereof, shall suffer the pains of death.

Burglary.

Burglary,
what crimes
deemed,

how pu-
nished;

If any person or persons shall in the night season break open and enter any dwelling-house, shop, store or vessel in which any person or persons dwell, or reside, with a view and intention of stealing and purloining therefrom, he, she or they so offending shall be deemed guilty of burglary, and upon conviction thereof, shall be whipped, not exceeding thirty-nine stripes, and find sureties for good behaviour for a term not exceeding three years, and upon default of sureties, shall be committed to gaol for a term not exceeding three years, or until sentence be performed.

If the person or persons so breaking and entering any dwelling-house, shop, store, or vessel as aforesaid, shall actually steal and purloin therefrom, he, she or they so offending, upon conviction thereof, shall moreover be fined in and fined.

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treble the value of the articles stolen; one third of such fine to be to the territory, and the other two thirds to the party injured.

If the person or persons so breaking and entering any dwelling-house, shop, store or vessel as aforesaid, shall commit, or attempt to commit any personal abuse, force, or violence, or shall be so armed with any dangerous weapon or weapons as clearly to indicate a violent intention, he, she or they so offending, upon conviction thereof, shall moreover forfeit all his, her or their estate, real and personal, to this territory, out of which the party injured shall be recompensed as aforesaid, and the offender shall also be committed to any gaol in the territory for a term not exceeding forty years. Forfeiture on persons breaking houses, &c.

And if the death of any innocent person should ensue from the breaking and entering any dwelling-house, shop, store or vessel as aforesaid, in any of the instances aforesaid, the person or persons so breaking and entering shall be deemed guilty of wilful murder. And all persons aiding and assisting in breaking and entering any dwelling-house, shop, store or vessel as aforesaid, or in any of the crimes consequent thereupon, as before pointed out, shall be deemed principals. What cases deemed wilful murder.

Robbery.

If any person or persons shall unlawfully and forceably take from the person of another in the field or highway, any money, goods or chattels, he, she or they so offending shall be deemed guilty of robbery, and upon conviction thereof, shall suffer as in the first instance of burglary. What crimes deemed robbery, and how punished.

Whoever shall commit such robbery with personal abuse or violence, or be armed at the time with any dangerous weapon or weapons so as clearly to indicate an intention of violence, he, she or they so offending, upon conviction

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Robbery
how
punished.

thereof, shall moreover suffer as in the second instance of burglary. And in case any person or persons robbing or attempting to rob, as aforesaid, shall kill or slay any person or persons defending him, her or themselves, or others, or his, her or their property against such robber or robbers, or person or persons attempting to rob, or in pursuing and endeavouring to apprehend and secure such person or persons so robbing or attempting to rob, he, she or they so offending shall be deemed guilty of wilful murder. And all aiders and abettors in any robbery as aforesaid, and in any of the crimes consequent thereupon, as before pointed out, shall be deemed principals.

AR. ST. CLAIR,
SAML. H. PARSONS,
JAMES M. VARNUM.

Riots and unlawful Assemblies.

Fines on
unlawful
assemblies,
&c.

If three or more persons shall assemble together with intention to do any unlawful act, with force and violence, against the person or property of another, or to do any other unlawful act, against the peace and to the terror of the people; or being lawfully assembled, shall agree with each other to do any unlawful act as aforesaid, and shall make any movement or preparation therefor, the persons so offending, and upon conviction thereof shall pay, as a fine, each, to this territory, the sum of sixteen dollars, and find surety for their good behaviour respectively for the space of six months, and stand committed till sentence be performed.

Judges du-
ty herein.

Whenever three or more persons shall be assembled as aforesaid, and proceeding to commit any of the offences aforesaid, it shall be the duty of all judges, justices of the peace and sheriffs, and all ministerial officers, immediately upon actual view, or as soon as may be upon

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Judges du-
ty on un-
lawful as-
semblies,
&c.

information, to make proclamation in the hearing of such offenders, if silence can be obtained, commanding them in the name of the United States, to disperse, and depart to their several homes, or lawful employments: And if upon such proclamation, or when silence cannot be obtained, such persons so assembled shall not disperse, and depart

as aforesaid, it shall then be the duty of such judges, justices of the peace and sheriffs, and other ministerial officers, respectively, to call upon all persons near, and of abilities, and throughout the county, if necessary, to be aiding and assisting in dispersing and taking into custody all persons assembled as aforesaid: And all military officers and others called upon as aforesaid are hereby ordered and directed to render instant and full obedience in this behalf, upon the penalty of ten dollars each for every neglect or refusal herein, and commitment in case of non-payment. If any of the persons so unlawfully assembled shall be killed, maimed or otherwise injured, in consequence of resisting the judges, or others in dispersing and apprehending, or in attempting to disperse and apprehend them, the said judges, justices of the peace, and sheriffs, and other ministerial officers, and others acting by their authority, or the authority of any of them, shall be holden guiltless.

If any person or persons shall forceably obstruct any of the authority aforesaid, or if any three or more persons, shall continue together after proclamation as aforesaid made, or attempted to be made, and prevented by such rioters; or in case of no proclamation, any three or more persons, being assembled as aforesaid, shall commit any unlawful act as aforesaid, every offender, upon conviction thereof, shall be fined in a sum, not exceeding three hundred dollars, and be whipped, not exceed-

Fine on obstructing authority, &c.

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ing thirty-nine stripes, and find surety for good behaviour for a time not more than one year, at the discretion of the court before whom the conviction may be had. And upon a second conviction, each and every offender shall be whipped and fined as aforesaid, and find surety for good behaviour and the peace for a time not exceeding ten years, and may be committed to any gaol in the territory till sentence be fully performed.

Persons committing unlawful acts, how punished.

Perjury.

If any person lawfully called upon to give evidence before any court of record, or other authority in this territory, qualified to administer oaths and solemn declarations and affirmations, shall wilfully depose, affirm, or declare, any matter to be fact, knowing the same to be false, or shall in like manner, deny any fact, knowing the same to be true,

Perjury, what cases deemed, and how punished.

or shall refuse to depose, to affirm, or declare such fact, knowing the same to be true, the person so offending shall be deemed guilty of perjury, and upon conviction thereof, shall be fined in a sum not exceeding sixty dollars, or be whipped not exceeding thirty-nine stripes, and shall moreover be set in the pillory for a space of time not exceeding two hours, and be ever after incapable of giving testimony, being a juror, and of sustaining any office, civil or military in this territory.

And if any person or persons shall corruptly procure any other person to commit the crime of perjury, as before defined, he, she, or they so offending, shall upon conviction thereof suffer the same punishments and disabilities as in the case of actual perjury.

Larceny.

If any person or persons shall steal or purloin from another person or persons, any mo-

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ney, goods, wares, or merchandize, or any other personal property or thing whatever, he, she, or they so offending, shall be deemed guilty of larceny, and upon conviction thereof, shall for the first offence restore to the owner the thing stolen, and pay to him the value thereof; or two fold the value thereof, if the thing stolen be not restored, and shall be fined in a sum not exceeding two fold the value of the thing or goods stolen, or shall be whipped not exceeding thirty-one stripes, at the discretion of the court. Upon a second conviction, restitution and payment shall be made to the owner as aforesaid—a fine shall be set and paid to the territory, not exceeding four fold the value as aforesaid, and the offender shall be whipped not exceeding thirty-nine stripes: and in like manner upon every succeeding conviction. And in case such convict shall not have property, real or personal, wherewith to discharge and satisfy the sentence of the court, it shall be lawful for the sheriff, by direction of the court, to bind such person to labour for a term not exceeding seven years, to any suitable person who will discharge such sentence.

And if any person or persons shall receive any goods or other thing as aforesaid, knowing the same to be stolen, he, she, or they so offending, shall be deemed principally guilty, and upon conviction thereof shall be punished accordingly.

**Larceny,
what cases
deemed;**

**how pu-
nished.**

And if any person or persons shall agree or compound, or take satisfaction for any stealing, or goods stolen, such person or persons upon conviction thereof, shall forfeit twice the value of the sums or thing agreed for or taken: but no person shall be debared from taking his goods again, provided he prosecute the thief.

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Provided also, that nothing herein shall be construed so as to oblige a parent to prosecute a child, being an infant, or in a state of minority.

Forgery.

Whoever shall forge, deface, corrupt, or embezzle any charters, gifts, grants, bonds, bills, conveyances, wills, testaments, or written contracts of any nature or kind, or shall deface or falsify any enrollment, registry or record, or matter or instrument recorded, or shall counterfeit the seal or hand writing of another with intent to defraud, every person so offending shall upon conviction thereof, be fined in double the sum he shall thereby have defrauded, or attempted to defraud another, one half thereof to the party injured or intended to be injured, and shall moreover forever after be rendered incapable of giving testimony, being a juror, or sustaining any office of trust, and be set in the pillory, not exceeding the space of three hours. And all persons wilfully aiding and assisting in the commission of these crimes, or who shall cause or procure the same, or any of them to be perpetrated shall be deemed principals.

**Forgery,
what cases
deemed;**

**how pu-
nished.**

Usurpation.

No person shall take upon himself, or exercise, or officiate in any office or place of authority in this territory, without being lawfully authorized thereunto; and if any person shall presume so to do, he shall upon conviction thereof, be fined in a sum not exceeding one hundred dollars.

**Usurpation,
what cases
deemed;
how fined.**

Assault and Battery.

If any person shall unlawfully assault or threaten another in a menacing manner, or shall strike, or wound another, he shall upon conviction thereof, be fined in a sum not

**Assault and
battery,
what cases
deemed;**

(26)

how fined.

exceeding one hundred dollars: and the court before whom such conviction shall be had, may at their discretion cause the offender to enter into recognizance with surety for the peace, and good behaviour, for a time not exceeding one year.

Fraudulent Deeds, &c.

Fraudulent
deeds, &c.
persons
making
them, how
fined.

All bonds, bills, deeds of sale, gifts, grants or other conveyances or obligations whatever, made with intent to deceive and defraud others, or to defeat creditors of their just debts or demands shall be null and void; and the person or persons so offending, shall upon conviction thereof, be fined in a sum not exceeding three hundred dollars, and pay double damages to the party or parties injured.

Disobedience of Children and Servants.

Power of
justices in
cases of dis-
obedient
children, &c

If any children or servants shall contrary to the obedience due to their parents or masters, resist or refuse to obey their lawful commands, upon complaint thereof to a justice of the peace, it shall be lawful for such justice to send him or them so offending, to the gaol or house of correction, there to remain until he or they shall humble themselves to the said parents, or masters satisfaction. And if any child or servant shall contrary to his bounden duty presume to assault or strike his parent or master, upon complaint and conviction thereof, before two or more justices of the peace, the offender shall be whipped not exceeding ten stripes.

Drunkenness.

Drunken-
ness, how
fined.

If any person shall be convicted of drunkenness before one or more justices of the peace, the person so convicted shall be fined, for the first offence, in the sum of five dimes, and for every succeeding offence, and upon conviction, in the sum of one dollar; and in either case,

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upon the offender's neglecting or refusing to pay the fine, he shall be set in the stocks for the space of one hour. Provided however, that complaint be made to the justice or justices within two days next after the offence shall have been committed.

Improper and Profane Language.

Whereas idle, vain and obscene conversation, profane cursing and swearing, and more especially the irreverently mentioning, calling upon, or invoking the sacred and supreme being, by any of the divine characters in which he hath graciously condescended to reveal his infinitely beneficent purposes to mankind, are repugnant to every moral sentiment, subversive of every civil obligation, inconsistent with the ornaments of polished life, and abhorrent to the principles of the most benevolent religion. It is expected therefore, if crimes of this kind should exist, they will not find encouragement, countenance, or approbation in this territory. It is strictly enjoined upon all officers and ministers of justice, upon parents, and others, heads of families, and upon others of every description, that they abstain from practices so vile and irrational; and that by example and precept, to the utmost of their power, they prevent the necessity of adopting and publishing laws, with penalties upon this head. And it is hereby declared that government will consider as unworthy its confidence all those who may obstinately violate these injunctions.

Improper &
profane
language
forbidden,
&c.

First day of the week.

Whereas mankind in every stage of informed society, have consecrated certain portions of time to the particular cultivation of the social virtues, and the public adoration and worship of the common parent of the universe: and

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whereas a practice so rational in itself, and conformable to the divine precepts is greatly conducive to civilization as well as morality and piety; and whereas for the advancement of such important and interesting purposes, most of the christian world have set apart the first day of the week, as a day of rest from common labours and pursuits; it is therefore enjoined that all servile labour, works of necessity and charity only excepted, be wholly abstained from on said day.

First day of
the week to
be religiously
observed.

AR. ST. CLAIR.

SAML. H. PARSONS.

JAMES M. VARNUM.

CHAPTER VII.

A LAW regulating Marriages: adopted and published by His Excellency Arthur St. Clair, Esquire, Governour, the Honourable Samuel Holden Parsons, and James Michell Varnum, Judges of the Territory of the United States north-west of the river Ohio.

At what age persons may marry;

MALE persons of the age of seventeen years, and female persons of the age of fourteen years, and not prohibited by the laws of God, may be joined in marriage.

by whom;

It shall be lawful for any of the judges of the general court, or of the county court of common pleas in their respective counties, ministers of any religious society or congregation within the districts in which they are settled, and the society of christians called quakers in their public meetings, to join together as husband and wife all persons of the above description who may apply to them agreeably to the rules and usage of the respective societies to which the parties belong.

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in what manner intention of the parties shall be published;

Previously to persons being joined in marriage as aforesaid, the intention of the parties shall be made known by publishing the same for the space of fifteen days at the least, either by the same being publicly and openly declared three several Sundays, holy days, or other days of public worship in the meeting in the towns where the parties respectively belong, or by publication in writing under the hand and seal of one of the judges before mentioned, or of a justice of the peace within the county, to be affixed in some public place in the town wherein the parties respectively dwell, or a license shall be obtained of the governour under his hand and seal, authorising the marriage of the parties without publication, as is in this law before required.

certain persons to obtain previous consent of parents, &c.

Male persons under the age of twenty-one years, and female persons under the age of eighteen shall not be joined in marriage without first obtaining the consent of their fathers respectively, or (in case of the death or incapacity of their fathers) of their mothers, or guardians, provided such parents or guardians live within the territory.

Where persons not resident within the territory apply to be joined in marriage, the consent of fathers, mothers, or guardians shall be obtained in like manner as if they were citizens of the territory.

A certificate of every marriage solemnized as aforesaid, signed by the judge or minister celebrating the same, or in case of quakers, by the clerk of the meeting, shall be by such judge, minister or clerk respectively transmitted to the register of the county wherein the marriage has been solemnized, within three months thereafter, to be entered on record by such re-

Certificates of marriage by whom given, &c.

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gister, an exemplification of which shall be evidence of such marriage.

exemplification to be deemed evidence.

If any judge, minister or others by this law authorized to join persons in marriage shall perform the celebration thereof contrary to the true intent and meaning of the same, the person or persons so offending, shall upon conviction thereof forfeit the sum of one hundred dollars to and for the use of the territory.

Penalty on marrying persons contrary to this law;

And if any judge, minister, or clerk as aforesaid shall neglect to transmit a certificate of such marriage to the register as aforesaid, he shall upon conviction thereof forfeit twenty dollars to and for the use of the territory.

on neglecting to transmit marriage certificate.

AR. ST. CLAIR.

SAML. H. PARSONS.

JAMES M. VARNUM.

CHAPTER VIII.

A LAW in addition to a Law, entitled, a Law for regulating and establishing the Militia, in the Territory of the United States north-west of the River Ohio, published by his Excellency Arthur St. Clair, Governour, Samuel Holden Parsons, and James Mitchell Varnum, Esquires, Judges of the Territory of the United States north-west of the river Ohio, in the city of Marietta, Nov. the 23d, A. D. 1788.

THE officers of the militia are required, and it shall be their duty to cause all persons who by law are obliged to do military duty to be enrolled in the companies of militia.

Duty of militia officers.

Any person who by the aforesaid law, is obliged to do military duty, and shall neglect to furnish himself with arms, accoutrements and ammunition, agreeably to the requirements of said law, by the times herein after mentioned shall pay a fine, for each month, he

Persons neglecting to provide arms, &c.

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to be fined:

shall neglect to provide the articles by said former law required, in the sums herein after specified, that is to say, for a musket and bayonet, or rifle, not provided within thirty days after the publication of this law, or next after such person shall be enrolled, five dimes; for every pound of powder, and four pounds of lead, or forty rounds of cartridges not provided within fifteen days next after the publication of this law, or after such person shall be enrolled, two dimes and five cents; for every cartridge box and pouch, or powder horn and bullet pouch not provided within fifteen days, next after the times before herein specified, two dimes; for every six flints not provided within ten days, next after the times before mentioned, one dime and five cents; for every priming wire and brush not provided within thirty days as aforesaid, one dime.

Officers to
inspect the
arms, &c.
and collect
the fines.

And the military officers are hereby required and directed to inspect the arms, accoutrements, and ammunition of the men belonging to their respective companies, on the first Sabbath day in each month. And the officers of the companies of militia are authorized and directed to collect the fines, by this law inflicted, in the same manner as other fines are by said former law to be collected.

AR. ST. CLAIR.
SAML. H. PARSONS.
JAMES M. VARNUM.

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CHAPTER IX.

A LAW appointing Coroners, published the 21st of December, 1788, by his Excellency Arthur St. Clair, Governour, the Honourable Sumuel Holden Parsons, and James Mitchell Varnum, Esquires, Judges of the Territory of the United States north-west of the river Ohio.

Coroner to
be appointed;

to give
bond,

A Coroner shall be appointed in each county within this territory, who shall be sworn to a faithful discharge of his office, and shall give bonds in the sum of two thousand dollars, with two sureties for the due performance of the same before he enters upon the duties thereof.

And it shall be the duty of the Coroner, by a jury of the county, **his duty.** to enquire concerning the death of a person slain, who dies suddenly or in prison, and his inquisition so taken he shall certify to the next general court holden within the county, or to the court of general quarter sessions of the peace holden for the county.

And it shall be the duty of the coroner to execute process of every kind wherein the sheriff is a party or interested in the suit, or for other just cause is by law rendered incapable to execute the same.

And in case the sheriff for any cause shall be committed to gaol, the coroner shall by himself or such person as he shall appoint, be keeper of the gaol during the time the sheriff shall remain a prisoner.

AR. ST. CLAIR.

SAML. H. PARSONS.

JAMES M. VARNUM.

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CHAPTER X.

A LAW limiting the times of commencing Civil Actions and instituting Criminal Prosecutions; published by his Excellency the Governour, and the Judges Samuel Holden Parsons, and James Mitchell Varnum, Esquires, in the Territory of the United States north-west of the Ohio, De-December the 28th, 1788.

ACTIONS of trespass, *trespas quare clausum fregit*, case (other than for slander) debt upon simple contract, or for rent, detinue trover, waste and account, other than such accounts as concern the trade of merchandize between merchant and merchant, their factors and servants, shall be commenced within six years next after the cause of action shall have arisen, and not afterwards.

Limitation
of actions
of trespass,
&c.

Actions of trespass for assault and battery, wounding and imprisonment, within four years next after the cause of action; action on the case for slander, within two years next after the cause of action; actions of debt upon specialty, and matters of record, and covenant, within ten years next after the cause of action, and not afterwards. Provided however, that if any person entitled to any of the actions aforesaid, shall at the time of the cause thereof accruing, be within the age of twenty-one years, feme covert, non compos mentis, or im-

prisoned, then and in such cases, the action may be commenced within the space of one year after such disabilities shall respectively be removed.

All prosecutions for crimes, other than for capital offences, forgery, perjury and larceny, shall be instituted within two years next after the crime shall have been committed, and prosecutions for the crimes of forgery, perjury, and larceny shall be instituted within four years

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next after the crime shall have been committed and not afterwards.

AR. ST. CLAIR,
SAML. H. PARSONS,
JAMES M. VARNUM.

CHAPTER XI.

COPIES of the Laws passed in the Territory of the United States north-west of the River Ohio, in the Year 1790;

WINTHROP SARGENT, Secretary.

An ACT to prohibit the giving or selling intoxicating Liquors to Indians, residing in, or coming into the Territory of the United States north-west of the river Ohio, and for preventing Foreigners from trading with Indians therein. Passed at Vincennes the nineteenth day of July, one thousand seven hundred and ninety, by the Honourable Winthrop Sargent, Esquire, Secretary of the said Territory (now vested with all the powers of the Governor thereof) and the Honourable John Cleves Symmes and George Turner, Esquires, Judges in and over the same.

WHEREAS many abuses dangerous to the lives, peace, and property of the good people of this territory, and derogatory to the dignity of the United States, have arisen by reason of traders and other persons furnishing spirituous and other intoxicating liquors to the Indians inhabiting, or coming into the said territory. For remedy whereof—

Sec. 1. *Be it enacted*, That if from and after the first day of January next, any trader or other person whomsoever, residing in, coming into, or passing through the said territory of the United States north-

west of the river Ohio, or any part thereof, shall presume to furnish, vend, sell, or give, or shall direct or procure to be furnished, vended, sold, or given upon any account

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whatever, to any Indian or Indians, or nation or tribe of Indians, being within the territory aforesaid, any rum, brandy, whisky or other intoxicating liquor or drink, he or she so offending, shall forfeit and pay, for every quart of such liquor, or drink, so furnished, the sum of five dollars, and for any quantity furnished at one time, less than a quart, the sum of four dollars. One moiety of each, and every of the several penalties, shall go to the party informing, on conviction of the offender, and the other moiety thereof to the use of the said territory.

to Indians;

how disposed of;

Sec. 2. *And be it further enacted,* That if any person not a subject or citizen of the United States, or of this territory, or who owes or professes to owe allegiance to any foreign potentate, power, state, or colony, shall after the said first day of January next, be found within this territory, buying from, distributing among, or selling or giving to any of the Indians, or nations, or tribes of Indians inhabiting the same, any manner of goods, wares, or merchandize, or other articles of commerce, barter or exchange, he or she so transgressing, shall forfeit to the use of this territory, all his or her goods and chattels personal, and suffer in any of the counties of the said territory, imprisonment without bail or mainprize, for a term not exceeding eighteen months, nor less than six months. And if any person being a citizen of the United States, or resident within this territory, shall after the said first day of January, go to, reside in, or trade with Indians, at or near any of their towns, settlements or habitations, lying within the said territory, without a license for that purpose first duly obtained, he or she shall forfeit and pay to the use of this territory, the sum of five hundred

proceedings to be had against persons not citizens trading with Indians;

against citizens trading without licence.

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dollars. *Provided always,* That nothing herein contained shall be taken or construed to impair or weaken the powers and authority that now are, or at any time hereafter, may be vested in the governour

and commander in chief, or other person, as superintendent of Indian affairs, or commissioner plenipotentiary for treating with Indian nations.

WINTHROP SARGENT.
JOHN CLEVES SYMMES.
G. TURNER.

CHAPTER XII.

An ACT prohibiting the sale of spiritous and other intoxicating Liquors to Soldiers in the service of the United States, being within ten miles of any military Post within the Territory of the United States north-west of the river Ohio; and to prevent the selling or pawning of arms, ammunition, cloathing, and accoutrements. Passed at Vincennes the twenty-sixth day of July, in the year of Christ one thousand seven hundred and ninety, by the Honourable Winthrop Sargent, Esquire, Secretary of the said Territory (now vested with all the powers of the Governour and Commander in Chief thereof) and the Honourable John Cleves Symmes, and George Turner, Esquires, Judges in and over the same.

regulation
for sale of
spiritous li-
quors

Sec. 1. **B**E it enacted, That if any person being within ten miles of any encampment, post, fort or garrison, or hospital for the convalescents thereof now, or hereafter to be formed, established or erected within this territory, and occupied, garrisoned, or possessed by regular troops in the service of the United States, or of this territory, shall give, sell, exchange or furnish, or cause or procure to be given, sold, exchanged, or furnished, to any non-commissioned officer or private soldier (knowing him to be such) serving in or belong-

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to non-
commission-
ed officers,
&c.

ing to any encampment, post, fort, garrison, or hospital as aforesaid, any spirituous or other intoxicating liquor or drink, be the quantity more or less, without an order in writing previously obtained from a commissioned officer serving with the same troops, he or she so offending, shall on conviction, forfeit and pay to the use of the party first informing (or to the use of the county wherein the offence is com-

mitted, if the prosecution be at the suit, and on behalf of the United States) the sum of two dollars for every gill of such liquor, or drink so furnished, without an order as aforesaid, to be recovered before any two justices of the peace for the county wherein the offence shall be committed, in case the aggregate sum, so to be forfeited do not exceed twenty dollars, or if otherwise by action of debt or information in any court of record. *Provided always*, That nothing herein before contained shall be construed to restrain the surgeon or surgeon's mate, having the care of the convalescents, in any such hospital or hospitals, from procuring for the use thereof any liquor or drink, he may deem needful.

Sec. 2. *And be it further enacted*, That if any person shall presume to bargain for, purchase, or receive in pledge, or as a gift, or cause or procure to be bargained for, purchased, or received in pledge or as a gift, on any pretence whatever, all or any part of the public arms, ammunition, clothing or accoutrements pertaining to any non-commissioned officer or private soldier in the service aforesaid (knowing him to be such) he or she so offending, shall on conviction, forfeit and pay for the first offence treble the value of the articles so purchased or received, the same to be recovered with costs, by action of debt or information, in any court

penalty on
purchasing
their arms,
&c.

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of record, one half to the informer, and the other half to the United States, or the whole to the United States, where prosecution shall be first instituted on the public behalf alone: and for every repetition of the like offence by the same person, he or she so offending again, shall forfeit and pay in like manner treble the value of the articles purchased or received as aforesaid, together with costs, and shall moreover suffer imprisonment for a term not exceeding one month.

Penalties
herein, how
disposed of.

This act shall commence, and be in force from the first day of January next ensuing.

CHAPTER XIII.

An ACT for suppressing and prohibiting every species of Gaming for Money or other Property, and for making void all contracts and payments made in consequence thereof, and also for restraining the disorderly practice of discharging Fire Arms at certain hours and places. Passed at Vincennes the fourth day of August, in the year of Christ one thousand seven hundred and ninety, by the Honourable Winthrop Sargent, Esquire, Secretary of the Territory of the United States north-west of the River Ohio, (now vested with all the powers of the Governor and Commander in Chief thereof) and the Honourable John Cleves Symmes and George Turner, Esquires, Judges in and over the same.

Preamble.

WHEREAS the population, happiness and prosperity of all countries, especially infant communities, necessarily depend upon the sobriety and industry of the people, and their attention to the moral and political duties of life, without which neither the great ends of society can be answered, nor the blessings of good government be felt. And whereas many pernicious games have been publickly practised in this territory, tending to the

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corruption of morals and the increase of vice and idleness, and by which the honest and unsuspecting citizen may be defrauded, and deserving families be reduced to beggary and want.

Sec. 1. *BE it therefore enacted*, That if any person or persons within this territory, shall on his, her or their own account, or on the account of any other person or persons, publickly set up, permit, or suffer, or cause or procure to be publickly set up, permitted or suffered, any species of gaming, play or pastime whatever, whereby money or other property shall be betted, won or lost, or by reason whereof the party so publickly permitting the same, shall or may derive any benefit or advantage, in money, goods or other property, as a consideration for permission to play or bett thereat, each and every such person so offending shall forfeit and pay for every such offence of which he or she shall be convicted, the sum of two hundred dollars, to be recovered with costs, by information, indictment, or action of debt, in any court of record where the same shall be cognizable.

**Penalty
on setting up
gaming
tables,
&c.**

Sec. 2. *And be it further enacted*, That if any tavern-keeper or inn-keeper shall expose, permit or suffer to be played at, in his or her dwelling-house, or in any out-house, or within or under any booth, arbour, shed or other place pertaining to such dwelling-house, or being in his or her tenure or possession, any billiard, faro, E. O. hazard, or other gaming tables, or any other machine, instrument, device, or invention whatsoever, by reason whereof money or other property shall be betted, won or lost, or whereby he or she shall derive any benefit or advantage, in money or other property, as a consideration for permitting others to play or

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bett thereat. Then, and in every such case, the party so offending shall be deprived of his or her license, and moreover forfeit and pay to the use of the territory, the sum of one hundred dollars, to be recovered with costs, by information, indictment, or action of debt in any court of record where the same shall be cognizable. *Provided always*, That where in any of the cases aforesaid, any person shall within three months from the cause of action, first institute an information, quitam, or bring an original action of debt to recover either of the penalties herein before given, and shall prosecute the same to effect, without delay or discontinuance, such person shall be intitled to receive and have a moiety of such penalty, the other moiety thereof shall go to the use of this territory.

Penalties
how dispo-
sed of.

Sec. 3. *And be it further enacted*, That every promise, agreement, note, bill, bond, or other contract to pay, deliver or secure money, goods, or estate, won or obtained, either by playing at cards, dice-tables, tennis-bowls, or other games, chances, sports, or pastimes, or by laying or betting, on the hands, or sides of any person or party, who shall play at such or any other games, chances, sports, or pastimes, or which shall be won or obtained, by laying or betting on any horse-race, cock-fight, or other sport, pastime, game, or exercise of skill or chance, or which is intended to repay or secure money or other thing lent or advanced for any of the purposes aforesaid, or lent or advanced at the time of such gaming, sporting, or betting, to a person then actually betting, laying, or adventuring money or other thing, shall and the same is and are hereby declared to be null and void. And any conveyance or lease of lands, tenements, or hereditaments, sold, demised, or mortgaged, and any sale, mortgage or other transfer of per-

Notes, &c.
given for
money won
at cards,
&c.

declared void,
and any con-
veyances, &c.

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for money
won

to enure to
heirs of the
lessor, &c.

This law
not to im-
pair right
to rational
amusement,
&c.

sonal estate, to any person for his use, to satisfy or secure money or other thing by him won of, or lent, or advanced to the sellor, lessor, or mortgagor, or whereof money or other thing, so won or lent, or advanced, shall be part, or all of the consideration money, shall enure to the heir or heirs of such mortgagor, lessor, bargainor or vendor, and shall vest the whole estate and interest in such person, in the lands, tenements or hereditaments so leased, mortgaged, bargained or sold, and in the personal estate so sold, mortgaged or otherwise transferred to all intents and purposes, in the heir or heirs of such lessor, bargainor, mortgagor or vendor, as if such lessor, bargainor, mortgagor or vendor had died intestate.

Provided always nevertheless, That nothing so far in this act contained, shall be deemed or construed to restrain or impair the natural and necessary liberty which all goods citizens, or subjects without distinction, may of right claim and enjoy in the peaceable exercise of any useful or rational amusement, recreation, sport or pastime, whether the same be used to promote health, pleasure, or a laudable emulation to excel in feats of skill, strength, adroitness, or otherwise howsoever. *Provided,* That neither money nor other property be betted, won or lost thereby, nor any consideration of money or other property be taken or given for or by reason of the same.

And whereas a disorderly practice prevails in many parts of this territory of discharging fire arms in the streets and vicinity of cities, towns, villages and stations, and also of discharging fire-arms by night in and near such cities, towns, villages and stations, by means whereof the lives of citizens are endangered,

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alarms are excited, and the repose and peace of the community disturbed.

For remedy of which abuses,

Sec. 4. *Be it enacted,* That if any person shall presume to discharge or fire, or cause to be discharged or fired, any gun or other fire arms at any mark or object, or upon any pretence whatever, unless he or she shall at the same time be with such gun or fire-arms at the distance of at least one quarter of a mile from the nearest

Fire arms
not to be
discharged
within cer-
tain distance
of a house,

building of any such city, town, village or station, such person shall for every such offence, forfeit and pay to the use of the county in which the same shall be committed, a sum not exceeding five dollars, nor less than one dollar. And if any person being within a quarter of a mile of any city, town, village or station as aforesaid, shall at the same time wilfully discharge or fire any gun or fire-arms, or cause or procure the same to be discharged or fired, at any time after the setting of the sun and before the rising of the same, he or she so offending, shall in like manner forfeit and pay to the use aforesaid, a sum not exceeding five dollars, nor less than one dollar; reserving nevertheless to any person who will inform, and sue for either of the penalties herein before last mentioned within one month from the commission of the offence, a moiety of the penalty which the party offending shall on conviction be adjudged to forfeit and pay, the other moiety thereof to go to the use of the county as aforesaid; which said several penalties, or either of them, shall be recoverable with costs, before any justice, judge, or court having cognizance of the same.

under what penalty;

none to be discharged

before sunrise and after sun set, under what penalty.

Provided always, That nothing herein contained shall be deemed or construed to extend

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to any person lawfully using fire-arms as offensive or defensive weapons, in annoying, or opposing a common enemy, or defending his or her person or property, or the person or property of any other, against the invasion or depredations of an enemy, or in the support of the laws and government; or against the attacks of rebels, highwaymen, robbers, thieves, or others unlawfully assailing him or her, or in any other manner where such opposition, defence, or resistance is allowed by the law of the land.

Right to use arms lawfully;

Provided also, That nothing herein contained shall be construed or extend to prevent the necessary military exercise, evolutions and firings of, or the discharging of cannon or small arms, by any soldiers or troops in the service of the United States, or of this territory, being in the field, or posted in or near any city, town, village, station, garrison, fort, encampment or other place, and acting under the immediate orders, or by the special direction of the officer commanding the same. Nor shall any thing herein contained be intended or construed

in military exercise, &c.

or in killing birds, &c. not infringed.

to extend to the act of killing or destroying birds of prey, or other wild birds, and mad or wild animals of the brute kind lurking among, in or near, or preying upon or threatening to prey upon and devour any kind of animal stock, or the corn, grain, and other produce in, of or belonging to any plantation, field, garden, or other place within, adjoining, or in the vicinity of any city, town, village or station: nor to the hindrance of any person shooting at or killing any of the larger kind of game or wild animals, such as buffaloes, bears, deer, hares, rabbits, turkies, swans, geese that may happen at any time to come in view, or be passing or feeding near any

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(44)

In what direction game may be shot at.

city, town, or other place as aforesaid: but every person shooting at any of such game is hereby required to discharge the ball, or balls, shot, or missile weapon so employed in a direction from such city, town, village, or station towards the country so as such ball or balls, missile weapon, or shot, shall pass by or from, and go clear of the buildings pertaining to the same.

Duty of judges herein.

Sec. 5. *And be it further enacted*, That as well the presiding judge in the general court, as the presiding judge or justice in each and every inferior court of law, in this territory shall severally and from time to time give this act in charge to the grand juries of such courts respectively whenever such grand juries shall be sworn.

This act to commence and be in force from and after the first day of January next.

WINTHROP SARGENT.

JOHN C. SYMMES.

G. TURNER.

CHAPTER XIV.

An ACT to alter the Terms of the General Court, passed at Cincinnati in the county of Hamilton and territory of the United States north-west of the river Ohio, by his Excellency Arthur St. Clair, Esquire, Governor and Commander in Chief in and over the Territory, and the Honourable John Cleves Symmes and George Turner, Esquires, Judges in and over the same, on the fourth day of November in the year of our Lord one thousand seven hundred and ninety.

Sec. 1. **B**E it enacted and it is hereby enacted, That from and after the first day of January next, the several terms of the general court for the territory north-west of the river Ohio shall be held in the following manner, viz.

When and where the terms of general court shall be held.

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In the county of Knox on the first Tuesday in May yearly and every year. In the county of St. Clair on the second Tuesday in June yearly and every year. In the county of Hamilton the first Tuesday in October yearly and every year. And in the county of Washington on the second Tuesday in November yearly and every year.

Sec. 2. *And be it further enacted*, That so much of the statute laws of the territory as are repugnant to the spirit of this act be and are hereby repealed.

Certain parts of former laws repealed.

AR. ST. CLAIR.
JOHN CLEVES SYMMES.
G. TURNER.

CHAPTER XV.

An ACT to augment the Terms of the County Courts of Common Pleas from two to four terms in the year, and to increase the number of Judges of the said Court, and also of the Justices of the Quorum in the several counties: Passed at Cincinnati in the county of Hamilton, the sixth day of November in the year of our Lord one thousand seven hundred and ninety, by his Excellency Arthur St. Clair, Esquire, Major-General in the late armies of the United States, and Governor and Commander in Chief of the Territory of the United States north-west of the river Ohio, and the Honourable John Cleves Symmes and George Turner, Esquires, Judges in and over the said territory.

WHEREAS the sittings of the county court of common pleas in the several counties of this territory, have hitherto been limited to two terms only in a year, and which on experience hath been found to create great delays in the administration of justice, and the prosecution of suits to effect.

Four terms
of county
courts to
be held;

Sec. 1. *Be it therefore enacted*, That from and after the publication of this act, four terms of the county court of common pleas shall be held by the judges of the said court in each and every

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where and
when to
commence;

county respectively (that is to say) those for the county of Washington shall be held on the third Tuesdays in March and June, and the first Tuesdays in September and December yearly and every year. Those for the county of Hamilton, on the first Tuesdays in February, May, August and November, yearly and every year. Those for the county of St. Clair to be held as followeth (to wit) in the district of Kaskaskias on the first Tuesdays of January, March, June and August; those for the district of Cahokia on the first Tuesdays of February, April, July and October; and those for the district of Prairie du Rocher, on the first Tuesdays of May, August, November and February, yearly and every year. And those for the county of Knox on the first Tuesdays in February, May, August and November, yearly and every year.

power of the
governor
herein on
erecting
new coun-
ties.

And whenever the governor of this territory shall hereafter think proper to erect, or sett off any new county or counties in the same, he is hereby authorized and empowered to ascertain, specify and publish by proclamation, on what certain days in the year, and the place or places, in such new county or counties where the said county courts of common pleas, and also the courts of general quarter sessions of the peace, shall severally and respectively be opened and held in each and every year.

And whereas it appears that the number, as limited by law, of judges of the several county courts of common pleas is too small for the due administration of justice.

Sec. 2. *Be it therefore enacted*, That the governour and commander in chief of the territory for the time being is hereby authorized and empowered to nominate and commission in the several counties already erected, or which may

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Governor
may appoint
not more
than seven
judges in

hereafter be erected in the territory, any number of persons as judges of the county court of common pleas, not less than three nor more than seven in each and every county. And the governour is hereby further authorized and empowered to increase the justices of the

quorum in the several counties of the territory to any number not exceeding nine in each and every county thereof.

Sec. 3. *And be it further enacted*, That so much and such parts of the statute laws as have been heretofore published in the territory, and are repugnant to the principles and spirit of this act shall be and the same are hereby repealed.

each county.

Parts of laws repugnant to this repealed.

AR. ST. CLAIR.
JOHN CLEVES SYMMES.
G. TURNER.

CHAPTER XVI.

An ACT to authorize and require the Courts of General Quarter Sessions of the Peace, to divide the Counties into Townships and to alter the boundaries of the same when necessary, and also to appoint Constables, Overseers of the Poor, and Clerks of the Townships, and for other purposes therein mentioned. Passed at Cincinnati in the county of Hamilton, the sixth day of November, in the year of our Lord one thousand seven hundred and ninety, by his Excellency Arthur St. Clair, Esquire, Major General in the late armies of the United States, and Governor and Commander in Chief of the Territory of the United States north-west of the river Ohio, and the honourable John Cleves Symmes and George Turner, Esquires, Judges in and over the Territory aforesaid.

Sec. 1. **B***E it enacted*, That as soon as may be after the publication of this act, the justices of the court of general quarter sessions of the peace in the several counties within this territory, shall in their sessions respectively, proceed to divide the said counties into

Justices of gen. qr. sessions, to divide the counties, &c.

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townships, assigning to such townships respectively such limits and bounds, natural or imaginary as shall appear to be most proper, having due regard to the extent of country, and number of inhabitants residing within the same; and the said townships or any of them to subdivide from time to time whenever the interest and convenience of the inhabitants thereof may seem to require it. And the justices in

session as aforesaid shall cause their clerk of the court to enter of record on the docket of the same court the particular time when each township is set off and the specific boundaries assigned thereto.

Sec. 2. *And be it enacted*, That the said justices in session in each and every county shall respectively nominate and appoint annually in every township within their county, one or more constables, each of whom shall continue to serve as a constable of the township specially, and as a constable of the county generally for the term of one year next ensuing his appointment; and his power and duty shall be to serve all such summonses, warrants, subpoenas, mittimusses, and other lawful precepts, as shall be directed to him specially, or to him generally with the others, or any constable of the county, and be put into his hand for the purpose of service. And generally to do and perform all duties and services incumbent on him as an officer of the township or county, or of the several courts of law, and justice which may from time to time be appointed and held in the county for which he may be a constable; and furthermore to do all and singular the duties now or hereafter to be enjoined by law.

And every person accepting the office of constable shall before he enters on the duties thereof

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take the following oath before the court of general quarter sessions, or (in the vacation thereof) before a justice of the peace, who shall enter the same on his docket, that is to say, "I, A B, do solemnly and sincerely swear that I will faithfully and truly do my duty as a constable of the county of C. and impartially demean myself in office, according to my best understanding. So help me God." And where any person accepting such office of constable shall declare himself conscientiously scrupulous against taking an oath, then the following affirmation shall in like manner be administered instead thereof, that is to say, "I, A B, do solemnly, sincerely and truly declare and affirm that I will faithfully and truly do my duty as a constable of the county of C. and impartially demean myself in office, according to my best understanding," which affirmation shall be entered on the docket of the justice administering the same.

Justices to
appoint
constables;

their duty.

Oath.

Sec. 3. *And be it further enacted*, That the said justices in session in their respective counties, shall annually appoint one or more overseers of the poor in each and every township of the county, to serve for the term of one whole year, and it shall be the duty of every such overseer to make report to any justice of the peace in and for the county, of all vagrant persons likely to become chargeable to the township for which he is appointed overseer, and also to take notice of all the poor and distressed families and persons residing in his proper township, and enquire into the means by which they are supported and maintained. And whenever he shall discover any person or family really suffering through poverty, sickness, accident, or any misfortune or inability, which may render him, her, or them a wretched and proper object of pub-

**Justices to
appoint
overseers of
the poor;
their duty:**

(50)

lic charity, it shall be his duty, and he is hereby strictly enjoined to give immediate information thereof to a justice of the peace, acting in and for the same county, that legal means may be then taken by such justice to afford the person or persons so suffering proper and seasonable relief. And every overseer of the poor appointed as aforesaid shall take the same oath or affirmation according to his conscience, to be administered and entered by the same authority, and in the same manner as is prescribed in this act for a constable, changing only the words "a constable," to the words "an overseer of the poor," and the word "county," to that of "township."

**Duty of
overseers of
the poor:**

**to take
oath.**

Sec. 4. *And be it further enacted*, That the justices in session as aforesaid shall appoint in each township throughout the several counties respectively, a clerk of the township during good behaviour, whose duty it shall be to keep a fair book of entries, containing the particular marks and brands assumed for distinguishing the horses, cattle, hogs, or other beasts of such inhabitants of the township as may choose to be at the expense of thus registering the same, and the name and particular place of abode of every such inhabitant shall at the same time be entered therein. And for every mark or brand so registered, the clerk of the township shall be entitled to demand and receive of the person employing him the sum of one quarter of a dollar, and no more. And that it may be readily known to what particular township estrays belong, the justices in session as aforesaid shall assign

**Justices to
appoint
town clerks;
their duty.**

to each and every township a distinct letter of the alphabet to be taken and used, as the peculiar and general brand of the same township by all the inhabitants thereof, who shall cause the form of such letter to be impressed upon one

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or both of the horns of every bull, cow, and ox, and upon one or both of the shoulders of every horse, mare and colt, to such inhabitants respectively belonging. And moreover the clerk of the township shall keep another book in which he shall enter from time to time every estray that may be reported to him for that purpose, describing the natural and artificial marks, as well as the colour, sex, age, and stature of every such estray, as far as the same shall come to his knowledge, together with the name of the person taking up such estray, and where it may be found. And for every estray so entered by the clerk he shall be entitled to demand and receive of the person at whose instance such entry was made, the sum of half a dollar and no more, and thereupon it shall be the further duty of such clerk, to make out in writing as soon as may be afterwards two or more fair and legible copies of an advertisement describing such estray as entered in his said book, and informing when and where the same was taken up, and where it may be found, one of which copies shall be put up in some conspicuous part of his dwelling house, and the other copy thereof he shall cause to be put up in some conspicuous part of the town, or place where the courts of justice are usually held in and for the same county.

Sec. 5. *And be it further enacted,* That if any person or persons shall take up any estray within the meaning of this act, and shall not within seven days thereafter give or send notice thereof to the then nearest clerk of the township, particularly describing such estray, with the time and place when and where the same was so taken up and where it is to be found, he, she or they so offending shall for-

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feit and pay to the party informing the sum of eight dollars, to be recovered with costs before any judge of the county court of common pleas, and moreover shall be liable to the action of the proper owner

Duty of
town clerks.

Duty of
persons in
cases of es-
trays,

penalty for
neglect
thereof.

of such estray, and upon conviction shall pay double damages, any thing in this or any other act of the territory contained to the contrary notwithstanding.

AR. ST. CLAIR.

JOHN CLEVES SYMMES.

G. TURNER.

COPY of the Laws passed in the Territory of the United States north-west of the River Ohio, from January the 1st, 1791, to the 31st of December, inclusive.

CHAPTER XVII.

An ACT supplementary to a law, entitled, "A law respecting crimes and punishments, published at Marietta the sixth day of September in the year of our lord one thousand seven hundred and eighty-eight." Passed at Cincinnati in the county of Hamilton, the twenty-second day of June, in the year of our lord one thousand seven hundred and ninety-one, by his Excellency Arthur St. Clair, Esquire, major-general in the service of the United States, and Governour and Commander in Chief of their Territory north-west of the river Ohio, and the Honourable John Cleves Symmes and George Turner, Esquires, Judges in and over the same.

BE it enacted, That if any person or persons shall knowingly and designedly, by any false pretence or pretences, obtain from any other person or persons any monies, goods or merchandize, or other effects whatsoever, with intent to cheat or defraud such person or per-

Persons
fraudulent-
ly obtain-
ing goods,
&c.

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sons of the same, he, she or they, so offending shall, on conviction thereof by verdict or confession on indictment suffer such punishment as in cases of larceny is provided to be inflicted by the aforesaid law passed at Marietta; any thing in this or any other law to the contrary notwithstanding. This act to commence and be in force on, from and after the first day of January next ensuing its date.

how pun-
ished.

AR. ST. CLAIR.

JOHN CLEVES SYMMES.

G. TURNER.

CHAPTER XVIII.

An ACT for the punishment of persons tearing or defacing publications set up by authority. Passed at Cincinnati in the county of Hamilton, the twenty-second day of June, in the year of our Lord one thousand seven hundred and ninety-one, by his Excellency Arthur St. Clair, Esquire, major-general in the service of the United States, and Governour and Commander in Chief of their Territory north-west of the river Ohio, and the Honourable John Cleves Symmes, and George Turner, Esquires, Judges in and over the same.

Sec. 1. **B**E it enacted, That if from and after the publication of this act in the several counties respectively within this territory, any person or persons shall wilfully and maliciously deface, obliterate, tear down, or destroy, in part or in whole, any copy or transcript of, or extract from, any act or law passed by the legislature of this territory, or by the legislative authority of the United States, or proclamation of the President of the United States, or of the governour and commander in chief of this territory, the same being officially fixed up in some conspicuous place by public authority for general information; every person so offending shall on conviction before a

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magistrate forfeit and pay to the use of the territory, for every such offence, a sum not exceeding three dollars, besides costs, or be set in the stocks at the discretion of such magistrate, for a space not exceeding three hours: or in case the offender shall be unable or refuse to pay such fine (he being fined) then he shall be set in the stocks for a space not exceeding three hours, and be afterwards discharged on paying costs only.

Sec. 2. *And be it further enacted,* That if, as aforesaid, any person shall wilfully and maliciously deface, obliterate, tear down, or destroy, in part or in whole, any publication of the banns of matrimony or advertisement respecting estrays, or any other notification set up in pursuance of any act or law now or which hereafter may be in force within this territory, such offender shall for every such offence of which he may be convicted, as aforesaid, be set in the stocks for

Persons
convicted of
defacing,
&c any
public act
posted up;

how pun-
ished.

Persons
tearing
down up-
publications of
banns of
matrimony,

how pun-
ished.

three hours and pay costs, or stand committed to prison till the same are paid: any thing in this or any other act or law to the contrary notwithstanding.

ARTHUR ST. CLAIR,
JOHN CLEVES SYMMES,
G. TURNER.

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CHAPTER XIX.

An ACT creating the office of Clerk of the Legislature, passed at Cincinnati in the county of Hamilton, the twenty-second day of June in the year of our Lord one thousand seven hundred and ninety one, by his Excellency Arthur St. Clair, Esquire, Major-General in the service of the United States, and Governour and Commander in Chief of their territory north-west of the River Ohio, and the Honourable John Cleves Symmes, and George Turner, Esquires, Judges in and over the same.

I. **B**E it enacted, That an officer shall be appointed and commissioned, to hold during pleasure, the office of clerk of the legislature of the territory of the United States north-west of the river Ohio. Clerk of the legislature to be appointed;

II. Before the said clerk enters upon the duties of his office, he shall take and subscribe the following oath (or affirmation) to be administered by a member of the legislature (that is to say) "I, A B, do solemnly swear (or affirm) that I will execute to the best of my abilities, the duties which now or hereafter shall pertain to the office of clerk of the legislature: So help me God." his oath,

III. It shall be his special duty from time to time, to engross or cause to be engrossed, fairly and accurately in words at length, all acts or laws which the said legislature may pass, in order that the same may receive the territorial seal, and the signature of the legislators passing the same. duty

IV. The said clerk shall procure authenticated copies of the laws and cause the same to be published in each and every county and district of this territory (at least once in each county and district) for the information of the citizens throughout the same. to publish the laws.

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Duty of the
clerk of the
legislature.

V. He shall as soon as may be after each act is passed, procure and furnish a fair, accurate, and authentic copy thereof, to the governor and commander in chief of the territory for the time being, and to each and every of the judges in and over the same, also a like copy to the county court of common pleas in each and every county and district; another copy to each and every of the judges of probate; and a copy to the court of general quarter sessions of the peace held in and for each and every county and district of this territory.

VI. He shall discharge such other duties as the legislature may from time to time think expedient and proper.

VII. He shall furnish to every person requiring it, certified copies of any transcripts of laws in his possession; and be entitled to demand and receive for every sheet of one hundred words, eight cents, to his proper use and benefit.

VIII. And as a farther compensation for his official services, and all expenses incident to the office, the said clerk shall receive quarterly, out of the revenues of this territory (whenever provision can be made for the same) the sum of eight cents for every sheet of one hundred words which he shall engross, or transcribe, for any of the public departments, or officers as aforesaid.

AR. ST. CLAIR.

JOHN CLEVES SYMMES.

GEORGE TURNER.

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CHAPTER XX.

An ACT for rendering authentic as evidence in the Courts of this Territory, the public acts, records and judicial proceedings of Courts in the United States. Passed at Cincinnati, in the county of Hamilton, the twenty-second day of June, in the year of our Lord one thousand seven hundred and ninety-one, by his Excellency Arthur St. Clair, Esquire, major-general in the service of the United States, and Governour and Commander in Chief of their Territory north-west of the River Ohio, and the Honourable John Cleves Symmes, and George Turner, Esquires, Judges in and over the same.

I. **B**E it enacted, That every act of the legislature of any one of the United States, having the seal of such state affixed thereto, shall be deemed authentic, and receive full faith and credit when offered in evidence in any court of justice within this territory.

State acts having seal affixed deemed authentic.

II. And the records and judicial proceedings of the several courts of, or within the United States, shall be proved or admitted in the courts of justice in this territory, by the attestation or certificate of the clerk or prothonotary, and the seal of the court annexed; together with the certificate of the chief justice, or one or more of the judges, or of the presiding magistrate of every such court, as the case may be, that the person who signed such attestation or certificate was at the time of subscribing it, the clerk or prothonotary of such court. And the said records and judicial proceedings, authenticated as aforesaid, shall have such faith and credit given to them in every court within this territory, as by law or usage they have in the courts of the United States, or of any one of the states whence the said records are or shall be taken: Any thing in this or any other act contained to the contrary notwithstanding.

Records of state courts, &c. how to be admitted in proof.

AR. ST. CLAIR.
JOHN CLEVES SYMMES.
G. TURNER.

(58)

CHAPTER XXI.

An ACT abolishing the Distinction between the Crimes of Murder and petit Treason. Passed at Cincinnati in the county of Hamilton the twenty second day of June in the year of our Lord one thousand seven hundred and ninety one, by his Excellency Arthur St. Clair, Esquire, major general in the service of the United States, and Governour and Commander in Chief of their Territory north-west of the river Ohio, and the honourable John Cleves Symmes and George Turner, Esquires, Judges in and over the same.

WHEREAS it does not appear reasonable any longer to continue the distinction between the crimes of murder and petit treason, Be it therefore enacted, That from and after the publication of this

Petit treason to be deemed the crime of murder.

act, in the several counties respectively within this territory, in all cases wherein heretofore any person would have been deemed or taken to have committed the crime of petit treason, such person shall be deemed and taken to have committed the crime of murder only and be indicted and prosecuted to final judgment accordingly; and the same punishment only shall be inflicted as in the case of murder, any thing in this or any other act or law of the land to the contrary notwithstanding.

AR. ST. CLAIR.

JOHN CLEVES SYMMES.

G. TURNER.

(59)

CHAPTER XXII.

An ACT regulating the Enclosures of Grounds. Passed at Cincinnati in the county of Hamilton the twenty ninth day of June in the year of our Lord one thousand seven hundred and ninety one, by his Excellency Arthur St. Clair, Esquire, Major General in the service of the United States, and Governour and Commander in Chief of their Territory north west of the river Ohio, and the Honourable John Cleves Symmes and George Turner, Esquires, Judges in and over the same.

Regulation of walls, fences, &c:

I. **B**E it enacted, That every wall and wooden fence of enclosure and partition made or hereafter to be made or constructed of stone, brick, boards, rails, palisades, or other materials shall be at least four feet and an half in height above the common surface of the earth, and where the said fences are or shall be made with palisades or with posts and rails, the posts of either fence shall be firmly fixed in the ground and the palisades be placed not more than three inches apart and where they are or shall be made with timber or rails laid horizontally the pieces of timber and rails composing the first two feet from the earth shall not be placed more than four inches apart, and the second two feet from the earth not more than six inches from each other, nor at greater distance from the earth to the lowermost or bottom rail than three inches, and those used with posts shall be in like manner and at every corner, joint, or angle of any worm fence such angle shall be secured by stakes strongly planted in the

earth and surmounted by a piece of timber or a strong rail or rider.

II. And whenever the lands or grounds of two or more persons shall join or lie contiguous and both be under improvement and either of the parties shall think it necessary to run a partition wall or fence, or a dike and ditch between

Partition
fences.

I

(60)

the same, such party shall cause ten days notice in writing of such intention to be served on the other party if to be found within the county where the grounds lie, or to the legally empowered attorney or agent of the party within such county, who shall thereupon be obliged to make, erect, or put up at the same time a moiety of the whole of such partition, wall, fence, or dike and ditch, and each party while either may think it needful to continue such wall, fence, or dike and ditch, shall always keep his proper half part thereof in good and sufficient repair at his, her or their own cost and charges.

proceedings
to be had
in running
partition
fences, &c:

III. And if the party so duly served with notice, or being not to be found within the county, or not having an authorized agent or attorney therein shall refuse or neglect to make or put up his, her, or their moiety of such partition wall, fence, or dike and ditch at any time after the other party shall have completed his own moiety thereof, it shall and may be lawful for the party last mentioned to erect or make the other half of such wall, fence, or dike and ditch, and demand of and receive from the other party the just value and cost of such other half so last erected or made.

IV. And for that purpose two or three lawful men shall be mutually chosen by both the parties, and the persons so chosen and agreeing to serve, shall view that part of the partition, wall, fence, or dike and ditch so last erected or made, and determine the just value thereof according to their best judgment, certifying the same as soon as may be in writing under their hands or the hands of a majority of them, which writing shall be delivered to the party so erecting such wall, fence, or dike and ditch, and entitle him, her, or them to recover of the other

(61)

party the full sum of such valuation by action of debt or before any magistrate where the same shall be cognizable. But if either party shall refuse or neglect to choose two or three men for the purpose

proceedings
to be had on
running
partition
fences, &c.

aforesaid, then such men may be appointed by any justice of the peace required thereto by either of the parties interested, and the determination of a majority of such men shall be binding, and the justices of the peace are hereby severally authorized and required upon every such application being made to them respectively to make such appointment.

V. Provided always that nothing herein contained shall be construed to compel any person or persons who may be affected by this act, to erect his, her, or their part of any partition, wall, or fence of any other materials than wood, and in such manner and form as such person or persons may think expedient, nor shall any party interested in a partition wall, fence, or dike and ditch be entitled to demand and receive of the other party, any higher or greater cost or valuation for erecting, making or repairing such other party's moiety of such enclosure than if the same had been made of posts and rails, except where a wall or dike and ditch did previously form the whole of such line of partition, or where an agreement is made between the parties to build a wall or make a dike and ditch; any thing in this act contained to the contrary in any wise notwithstanding.

VI. *And provided also*, That nothing herein contained shall be deemed or taken to prevent any person or party from placing his, her, or their line of enclosure on the partition line side within his, her, or their own ground, at his, her, or their own proper expense, to be

(62)

made and kept in repair, in which case such person or party shall in consequence be exempt from defraying any part of the cost of erecting or supporting a line of enclosure upon the real partition line lying next between the same.

VII. *Provided*, That where the owners or occupiers of adjoining ground having a partition enclosure thereon, shall cease to occupy his, her, or their lands or grounds, either by pasture, mowing, or tillage, and chuse to leave it open and common to cattle, it shall not be lawful for him, her, or them to remove any part of the said partition enclosure, be the same made of whatsoever materials without giving three months notice to the owner or occupier of the adjoining grounds or field, that he, she, or they may take measures to guard against inconveniences arising from the removal of such part of the partition

proceedings
to be had
concerning
partition
fences, &c.

line of enclosure; and in consequence of such notice all farther charges for maintaining or repairing the same partition enclosure shall thenceforth cease as to him, her or them giving such notice, until the land shall again be taken into use or put under culture.

VIII. *And be it further enacted*, That if any horses, mares, or neat cattle, hogs, sheep, lambs, or goats, or any one of them shall break into any ground being surrounded with a lawful line of enclosure as aforesaid, the owner or owners of every such animal so trespassing, shall be liable and make reparation to the party injured, for the true value of the damages, he, she, or they may have sustained in consequence thereof.

cattle breaking into inclosures,

IX. *And be it further enacted*, That the justices of the court of general quarter sessions of the peace in each and every county and

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district, shall at their respective sessions, once in every year, appoint three discreet and lawful men appraisers of damages and viewers of enclosures in and for every township in each and every county, whose duty it shall be to serve as appraisers of damages and viewers of enclosures for one year, commencing from the time of such appointment.

appraisers of damages to be appointed by the court of general qr. sessions;

X. And every person so appointed an appraiser of damages or viewer of enclosures, shall thereupon take the following oath (or affirmation if he be conscientiously scrupulous of taking an oath) to be administered in open court or by any magistrate acting in the commission of the peace (that is to say) "I, A.B. do solemnly swear that I will to the best of my abilities faithfully and impartially execute the office of an appraiser of damages and viewer of enclosures for the time assigned me according to the laws that are or hereafter may be in force for regulating the duties of appraisers of damages and viewers of enclosures within this territory, so help me God." And in all cases where any person shall declare that he conscientiously scruples to take an oath, an affirmation shall in like manner be administered instead of the foregoing oath, but in the same words, except where the word "swear" occurs, the words "sincerely and truly declare and affirm" shall be used instead thereof, and the words "I will" instead of "so help me God."

to take oath,

XI. And upon complaint being made by any citizen or inhabitant to the said appraisers of any trespass being committed by all or any of

duty of appraisers.

the animals herein before enumerated in any township for which they may be appointed, the said appraisers shall forthwith repair to the place where such trespass shall be commit-

(64)

Duty of appraisers of damages,

ted and estimate the true damages sustained thereby, the said appraisers at the same time discharging the duty of viewers of enclosures by taking notice whether that part of the enclosure around such field or ground, and through, under, or over which part such trespassing animal or animals did break, creep or leap, was immediately previous to the commission of the trespass good and sufficient according to the intent and meaning of this act. And if the same shall appear to have been a good lawful and sufficient line or lines of enclosure, then and in that case reasonable damages shall be allowed to the party complaining, to be recovered with costs of suit and costs of view of the person or persons owning or claiming the animal or animals committing such trespass.

XII. *And be it further enacted,* That on every view to be made in pursuance of this act, the appraisers making such view or any two of them shall at the time of such view make out and subscribe a fair and impartial estimate or valuation founded on their best knowledge and judgment, of the damages sustained, together with the costs of view, and deliver the same in writing under their hands, to the party injured, which shall be good and sufficient evidence in any court of law or before any magistrate, as the case may be, for the recovery of the damages and costs of view together with costs of suit.

their fees.

XIII. And it shall and may be lawful for each and every of the said appraisers to demand and receive of the party complaining, for each and every view they shall make in pursuance of this act, the sum of thirty three cents, and also six cents for every mile beyond one they shall ride or walk in going to the particular place of view.

(65)

Rights of Kaskaskias, &c. preserved.

XIV. Saving always nevertheless to the French inhabitants of Kaskaskias, La Prairie du Rocher, St. Philips, Cahokia and Vincennes, and to all persons claiming under them their several rights and customs respecting the fencing and enclosing their lands in common as far as the same are reserved and confirmed by the constitution of this

territory or any act of the United States, any thing in this act to the contrary thereof notwithstanding.

XV. Provided always, that nothing herein contained shall be deemed, construed or taken to hinder or prevent the said French inhabitants or any of them, or any person claiming or holding under them or any of them, to enclose under a distinct and separate fence, the whole or any part of the land which he, she or they may respectively own, possess or occupy, though the same be part of those lands which have usually been included under one common fence.

XVI. And lastly, *Be it enacted*, That where any animal shall trespass according to the true construction of this act, and no owner shall appear within the space of twenty-four hours to claim the same, some person in possession of the land or ground so trespassed upon, shall at the end of that time, drive or cause to be driven every such trespassing animal to the clerk of the township wherein the trespass was committed, and the said clerk is hereby required to advertize the same in some public place within his township for three successive days, and if at the expiration thereof no owner shall appear as aforesaid and discharge all damages and costs, the said clerk shall proceed to sell for ready money such animal, or if more animals than one, so many of them as shall raise a sum

**proceedings
on non ap-
pearance of
owners of
trespassing
cattle after
24 hours.**

(66)

sufficient to discharge the adjudged amount of damages, together with costs of view and of sales, or as far as the same will apply, which damages and costs of view to be ascertained as in cases of trespass is herein before directed.

AR. ST. CLAIR.
JOHN CLEVES SYMMES.
G. TURNER.

CHAPTER XXIII.

An ACT to alter and amend the Militia Laws. Passed at Cincinnati, in the county of Hamilton, the second day of July, in the year of our Lord one thousand seven hundred and ninety-one, by his Excellency Arthur St. Clair, Esquire, Major-General in the service of the United States, and Governour and Commander in Chief of their Territory north-west of the River Ohio, and the Honourable John Cleves Symmes, and George Turner, Esquires, Judges in and over the same.

WHEREAS the militia laws of this territory are found to need some amendment as well with regard to the days of mustering as with respect to the levying of fines for repeated acts of disobedience:

Sec. 1. *Be it therefore enacted,* That the captain of each company of militia in this territory, or in his absence the next senior subaltern officer present, shall order the commissioned officers, non-commissioned officers and privates under his command to assemble at some convenient place of parade within the township or village in or near which such company may reside, on the last day of every week in the year, and there diligently exercise the company for the space of two hours, examining their arms, ammunition and accoutrements as by law directed, and on any and every deficiency by him found he shall inflict the fine or fines appointed by law to be inflicted for such default.

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Sec. 2. *And be it enacted,* That whenever persons enrolled in the militia of this territory shall assemble at any place for public worship, every such person shall arm and equip himself according to law in the same manner as if he were marching to engage the enemy, and on default he shall be fined as the law directs in cases of default when ordered for guard or other ordinary military duty, one half of which fine shall be for the benefit and use of the informant, and the other half for the use of the county; and the justices of the peace in each and every of the counties shall have jurisdiction herein. And on complaint being made on oath to any one of the aforesaid justices of the peace, of any person belonging to the militia appearing at such place of worship without his arms, ammunition and accoutrements or any

Captains or subalterns to assemble militia, &c. once a week.

on assembling for public worship to be equipped,

proceedings to be had on neglect thereof;

article of them directed by law, such justice of the peace shall issue his warrant directed to one of the constables of the county, commanding him to levy such fine upon the goods and chattels of such defaulter, and the same goods and chattels the constable shall advertize in some public place of the township or village for the space of five days, and if such fine be not paid within the five days, such constable shall proceed to sell so much of the same effects at public vendue, for ready money, as will answer and pay the fine, and also fifty cents costs, which costs shall be one third to the use of the justice of the peace, and two thirds thereof to the use of the constable, and the constable shall return the overplus (if any) to the defaulter.

Sec. 3. *And be it also enacted*, That whenever a company of militia shall be assembled, according to this act, on the last day of the week for exercise as aforesaid, such duty being discharged on that day, shall supersede the necessity of the same company's meeting on the first

a companys
assembling
on Saturday
exempt
therefrom
on Sunday,
&c,

K

(68)

day of the week, unless they do it voluntarily for worship, and they shall arm and equip themselves as aforesaid. So also whenever a company of militia shall be assembled on the first day of the week for exercise as aforesaid, such duty being discharged on that day, shall supersede the necessity of the same company's meeting on the last day of the week.

Sec. 4. *Be it further enacted*, That the captain of each and every company of militia, or in his absence the oldest subaltern officer of the company present shall in case of any act of disobedience or neglect in any non commissioned officer or private, and as often as such act of disobedience or neglect shall occur or be repeated, issue his warrant of distress for the fine ascertained by law, to one of the sergeants of the company, commanding him to levy on the goods and chattels of such defaulter, and the same goods and chattels advertize in some public place of the township or village for the space of five days, and if such fine be not paid within the five days, such sergeant shall proceed to sell so much of the same effects at public vendue to the highest bidder for ready money as will answer and pay the fine, and thirty three cents costs for the use of the sergeant, returning the overplus if any to the party who owned the property so distrained, and the ser-

Power of
militia cap-
tains or su-
balterns
herein.

geant shall pay the fine so levied as soon as may be into the hands of the captain or senior subaltern officer present, as the case may be, who shall apply the same as by law is or shall be directed; any thing in this or any other act or law contained to the contrary notwithstanding.

AR. ST. CLAIR.

JOHN CLEVES SYMMES.

G. TURNER.

WINTHROP SARGENT, *Secretary*.

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LAWS
PASSED IN THE
TERRITORY
OF THE
UNITED STATES
NORTH-WEST
OF THE
RIVER OHIO,
FROM
JULY TO DECEMBER,
ONE THOUSAND SEVEN HUNDRED AND NINETY-TWO,
INCLUSIVE.

Published by Authority.

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M,DCC,XCIV.

L. S.

A COPY of Laws passed in the Territory of the United States North-West of the River Ohio, from July to December, 1792, inclusive.

WINTHROP SARGENT.

The PRESIDENT *of the* United States.

CHAPTER I.

An ACT for granting Licenses to Merchants Traders and Tavern-keepers passed at Cincinnati in the county of Hamilton and Territory of the United States north-west of the river Ohio the first day of August in the year of our Lord one thousand seven hundred and ninety-two by Winthrop Sargent Secretary and now vested with all the powers of the Governor and John Cleeves Symmes and Rufus Putnam Judges.

Sec. 1. **B**E it enacted That if any person or persons shall presume to set up or open a store for the sale of merchandize consisting of dry goods or of articles in the grocery way which are not of the growth production or manufacture of some part of the United States or of one of their territories or shall presume to expose directly or indirectly any such articles or things for sale within the said territory and if any person or persons shall presume to sell or vend any whiskey geneva cordials strong waters or ardent spirits of any kind although the same may be of the manufacture of some part of the United States or of one of their territories in a smaller or less quantity than ten gallons except such person or persons be first duly licensed for the purpose as is herein after directed he she or they so offending shall forfeit and pay five dollars with costs of suit for each and every sale or transfer of goods or other articles actually made one half of which penalty shall go to the person who will sue therefor in any court where the same may be cognizable and prove the fact by the testimony of a third person and the other half to the use of the county in which the offence shall be committed. Provided that when the offence is proved by the oath of the party complain-

Penalty on selling goods or ardent spirits without license;

how to be recovered and disposed of.

B

[6]

ing the whole penalty shall be for the use of the county.

Sec. 2. *And be it further enacted* That one or more commissioners shall be appointed by the governour in each and every county whose title shall be "Commissioner for granting Licenses" and duty shall be severally and they are hereby authorised and required each under his hand and seal to grant a license which shall run for the term of one year only from its date to any and every person mer-

Commissioners for granting licenses to be appointed in each county;

term of each license;

sum to be
paid for
each license;

how dis-
posed of;

copy of
license
when and
where lodged.

Commissioners
to enter
licenses in
a book.

Commissioners
when and
where to settle
accounts.

Duty of
persons
suing out
license.

Penalty on
retailing less
than a quart
of liquor,
&c.

mercantile house or firm applying for the same for the purpose of opening a store or of exposing goods or other articles as aforesaid to sale in the county in which application is made on such person, mercantile house or firm paying therefor sixteen dollars fifteen of which shall be for the use of the county and each commissioner granting a license shall forthwith pay the fees thereof as aforesaid to the treasurer of the county for the time being taking his receipt therefor and the residue of one dollar in every instance the commissioner shall retain as a reward for his services herein and he shall within thirty days after granting such license lodge a copy thereof with the clerk of the sessions on penalty of paying a fine of sixteen dollars for each neglect to the use of the county to be recovered at the suit of the treasurer of the county in any court proper to try the same with costs of suit. And the clerk shall register the name of the person and date of the license and file the copy in his office.

And each and every commissioner respectively shall keep fair entries in a book by him provided for the purpose of all licenses as aforesaid their several dates and to whom issued and in the same book he shall charge himself as debtor to the county fifteen dollars for every such license crediting himself also with the monies by

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him paid from time to time to the said treasurer of the county. And once in every year some time in the month of December the commissioner shall lodge with the clerk of the sessions a fair account of his receipts and payments of such license money and whenever required thereto by the Court of General Quarter Sessions shall exhibit his books of entries kept as aforesaid for their examination on penalty of paying a fine of ninety dollars for each neglect to the use of the county to be recovered at the suit of the treasurer in manner aforesaid. And each and every person mercantile house or firm, suing out license as aforesaid shall cause to be set up on some conspicuous part of the front and outside next the street of his store shop or place of sales for the information of the public a board or sign on which shall be written in large fair letters "By authority a licensed store"

Sec. 3. *And be it enacted* That if any person shall presume to be an inn-holder a tavern-keeper retailer or seller of wine brandy rum geneva whiskey or ardent spirits or liquors mixed or unmixed in a less quantity than one quart and that delivered and carried away from

the house or place of sale all in one vessel at one time so that it be not drank at all at the place or tenement where sold nor on the appurtenances belonging thereto except such person be duly licensed as herein after is directed he or she so offending shall forfeit and pay five dollars with costs of suit for every such offence one half of which penalty shall go to the person who will sue therefor in any court where the same may be cognizable and prove the offence by the testimony of a third person and the other half to the use of the county in which the offence shall be committed. But when the

how dis-
posed of.

[8]

offence is proved by the oath of the person complaining the whole penalty shall be for the use of the county.

Sec. 4. *And be it enacted* That the commissioner for granting licenses shall have a power of establishing public inns and taverns and also retailers of spirituous liquors and they are hereby severally authorized any one of them to grant licenses for the purpose under his hand and seal to such person or persons as the justices of the General Quarter Sessions of the Peace in their wisdom may deem really necessary well qualified in person and character well provided in accommodations for guests and well situate in point of residence for the accommodation of travellers and citizens and the convenience comfort and use of the public and certified to the commissioner under the hand of the clerk of the said court.

Power of com-
missioners
herein.

Sec. 5. *And be it enacted* That the commissioner whenever the justices at their General Sessions of the Peace shall recommend for the purpose may make out a license under his hand and seal to such person or persons in whose favour the certificate of the court may be made tolerating and appointing him her or them to commence and keep for the term of one year and no longer from the date thereof a public inn tavern or house for retailing of strong liquors in such place within the county as shall be mentioned by the court in their certificate the person or persons suing out the license previously paying therefor unto the commissioner sixteen dollars fifteen of which shall be for the use of the county and the commissioner shall forthwith pay the same to the treasurer of the county for the time being taking his receipt therefor and the remaining one dollar shall be the fee of the commissioner for his services

May grant
licenses
for inns on
certificate
of justices,
for one year
only;

for what
sum;
to be paid
over to
county
treasurer.

[9]

Commissioner to enter the same in a book.

Duty of persons obtaining licenses for inns, &c.

Copy of license where lodged;

penalty on neglect thereof.

Accounts when to be settled;

penalty on neglect thereof.

herein. And the commissioner shall keep fair entries in a book by him provided for the purpose of all licenses as aforesaid their several dates and to whom issued and in the same book shall charge himself as debtor to the county fifteen dollars for every such license crediting himself also with the monies paid by him from time to time to the said treasurer of the county. And each and every person obtaining license from the commissioner as aforesaid shall set up in a proper manner on the front and outside of his house next the street a board or sign with his or her name written thereon and some device expressive of his business as a tavern-keeper or retailer of liquors on which board or sign shall also be written in large fair letters "By authority a tavern." or By "authority a retailer" as the case may be. And the commissioner shall within thirty days after granting such license lodge a copy thereof with the clerk of the sessions on penalty of paying a fine of sixteen dollars for each neglect to the use of the county to be recovered at the suit of the treasurer of the county in any court proper to try the same with the costs of suit and the clerk shall register the name of the person and date of the license and file the copy in his office and once in every year some time in the month of December the commissioner shall lodge with the clerk of the sessions a fair account of his receipts and payments of such license money and whenever required thereunto by the Court of General Quarter Sessions shall exhibit his books of entries kept as aforesaid for their examination on penalty of paying a fine of ninety dollars for each neglect to the use of the county to be recovered at the suit of the treasurer in manner aforesaid.

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Licenses to innkeepers under what evidence to be annulled;

Sec. 6. *And be it further enacted* That if any person licensed to keep a public inn or tavern as aforesaid shall neglect or refuse to do his or her duty therein as well in providing good and wholesome food for man and beast as in keeping ordinary liquors of a good and salutary quality and suitable lodgings and attendance for guests in a reasonable and proper manner according to the common usage and custom of well kept taverns in an inland country it shall and may be lawful for any one or more of the justices of the peace the sheriff deputy sheriff and constables in the county and it is hereby enjoined

on and made the duty of each and every of them severally as far as may at any time come to their knowledge and observation officially to report and make known any evil practice connivance at unlawful gaming or neglect of duty as aforesaid in a tavern-keeper inn-holder or retailer of strong liquors to the justices of the Court of General Quarter Sessions of the Peace at their next ensuing sessions after such offence or neglect committed which report or complaint shall be entered on the records and read in open court and shall be sufficient ground and evidence whereon the court may proceed two days afterwards to revoke and annul the license granted for the time being to the person or persons complained of unless the person so complained of shall of his or her own motion come into court with two good and sufficient sureties who with him or her shall submit to be bound in recognizance the tavern-keeper in the sum of one hundred dollars and the sureties in the sum of fifty dollars each conditioned that such principal or tavern-keeper during the residue of the term of his or her license shall keep and maintain good rule and order in his or her house not suffering games of any kind contrary to the laws of

and inn-keepers give security for keeping orderly houses;

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the territory to be played therein nor in any of the dependencies thereof and in all things acquit himself herself or themselves with propriety and caution as a tavern-keeper or retailer of liquors of good acceptance and repute with the public ought to do according to the laws of the territory. And on default being made in the recognizance aforesaid the attorney prosecuting the pleas of the United States for the county shall bring a scire facias thereon in the county Court of Common Pleas held for the county and prosecute the same with costs to judgment and execution in the usual form according to the practice of the said court and the money after being levied by the sheriff shall be by him paid to the treasurer of the county for the use of such county.

on default how prosecuted.

Sec. 7. *And be it further enacted* That if any inn-holder or tavern-keeper shall refuse to receive refresh and entertain with suitable provision and accommodation if required thereto any stranger traveller or other person or persons appearing to be of ability to make satisfaction for the same and in the peace of the United States the tavern-keeper so offending shall be subject to the action of such stranger traveller or

inn-keepers refusing to entertain travellers,

how prosecuted;

other person for any damages he she or they may have sustained in consequence of such refusal neglect or inattention to be recovered with costs in any court where the same may be cognizable.

and in what cases not allowed action for more than two dollars.

Sec. 8. *And be it further enacted* That no keeper or keepers of a tavern public inn or house for retailing of strong liquors shall support any action for or be allowed any bill or charge over and above a balance of two dollars in any suit action demand or prosecution in law by book note of hand or specialty against any person living within five miles of such ta-

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vern public inn or house for retailing of strong liquors by a smaller quantity than one quart at the time when such debt or demand accrued where the consideration of the debt or demand shall appear to the court to have arisen after the publication of this act and to be for any article or articles sold or furnished to or for the use of any person in the character of guests or customers at such tavern inn or house for retailing of strong liquors by the keeper or keepers thereof in the line or way of his her or their profession. And where the balance of the whole demand or charges collectively taken shall exceed two dollars then in such case for so much of the demand as shall appear to be above the said sum or balance of two dollars a non-suit operating in the nature of a release in favour of the defendant shall be entered by the court or magistrate before whom such action shall be brought and such release shall be justified by force of this act and the court shall give judgment for two dollars only.

This act when to take effect.

Sec. 9. *And be it enacted* That this act shall commence and be in force from and immediately after the first General Sessions of the Peace which may be held in the several counties respectively after the publication thereof in such county.

WINTHROP SARGENT,
Signed JOHN CLEVES SYMMES,
RUFUS PUTNAM.

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CHAPTER II.

An ACT creating the Offices of Treasurer General of the Territory and Treasurers for the Counties passed at Cincinnati in the county of Hamilton the first day of August in the year of our Lord one thousand seven hundred and ninety-two by Winthrop Sargent Secretary vested with all the powers of the Governour in the absence of the Governour of the Territory north-west of the river Ohio and John Cleves Symmes and Rufus Putnam Judges of the same.

Sec. 1. **B**E it enacted That there shall be appointed and commissioned during pleasure an officer to be stiled Treasurer-General of the Territory. **Establishment of general treasurer;**

Sec. 2. It shall be his duty to receive and keep in the treasury of the territory for the use of this territory all dues fines amerccements forfeitures revenues and emoluments which are or may hereafter be due given coming or accruing to the use and benefit of the territory according to the ordinances laws rules regulations or government thereof. **his duty;**

Sec. 3. He shall from time to time pay and appropriate such sum or sums of money as may come to his hands as treasurer in the manner and form and on such occasions as are or shall be by law directed. And for the faithful discharge of his duty as treasurer-general he shall enter into bond to the governour of the territory for the time being with two sufficient sureties in the penal sum of four thousand dollars. And the said treasurer shall be entitled to retain for his own use out of the public monies as the same shall come to his hand a sum after the rate of five per centum in full compensation for his services and all expences incident to his office. **allowance;**

Sec. 4. The said treasurer shall have power and he is hereby authorized to demand of and to sue and prosecute to judgment and effect by **power;**

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means of the attorney prosecuting the pleas of the United States (except where suit or prosecution shall have been previously instituted **power of general treasurer;**

by the attorney-general) any person or persons having in possession and neglecting to pay the same when due and owing to the territory any sum or sums of money accruing to or received for the use thereof. And for this purpose the treasurer-general shall be furnished by the clerks of the several courts of justice respectively once in every year with authenticated extracts from the records and dockets of their respective courts of all forfeitures fines amercements escheats judgments and orders entered in such courts whereby monies may be arising or accruing to the use of the territory and if any clerk as aforesaid shall neglect his duty herein he shall be liable to pay a fine to the use of the territory in the discretion of the court where tried not exceeding one hundred dollars to be levied on complaint of the treasurer-general or of the attorney prosecuting the pleas of the United States in the county and conviction thereon had in the Supreme Judicial Court of the territory or in the Court of General Quarter Sessions of the Peace in the respective counties.

to keep fair
books;

with whom
and when to
settle ac-
counts.

County
treasurers
to be ap-
pointed;

Sec. 5. The said treasurer shall keep fair and proper books of entries and accounts of all monies which may have come to his hands as treasurer-general and also of all monies by him paid out of the general treasury to whom and to what purpose paid and he shall lay the same books and accounts before the legislature of the territory and settle with that body his accounts as often as he shall be thereunto required.

Sec. 6. *And be it also enacted* That there shall be appointed and commissioned in and

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for each and every county in the territory an officer to be stiled the County Treasurer.

their duty;

to give
bond;

Sec. 7. It shall be his duty to receive and keep for the use of the county of the proper persons who ought to pay the same all monies due and owing at any time to the county or accruing to the use thereof. He shall pay or cause to be paid the same monies or such part thereof as may come to his hands in the manner and to the purposes directed by law. And for the faithful discharge of the trust and duties hereby enjoined on him the said county treasurer shall give bond with two sufficient sureties to the governour for the time being in the sum of one thousand five hundred dollars.

Sec. 8. And each county treasurer by means of the attorney-general or person officiating as such in his county shall have power and he is hereby authorised to enforce the payment of all dues fines ameracements forfeitures revenues and emoluments which are or may hereafter be due given coming or accruing to the use of the county in the same manner as the treasurer-general is by this act authorised to do in respect of monies due or accruing to the use of this territory.

their power;

Sec. 9. He shall annually lay before the legislature of the territory an account of all monies that shall have been raised in the county to which he belongs by assessment or by any other way or means by him received as county treasurer and how the same has been disposed of. And no further assessment shall be made on the several towns and places in the county to which he belongs until the said amount has been offered to the legislature and allowed by them.

with whom
and when to
settle.

[16]

Sec. 10. As a compensation for all services and expences incidental to his office the said county treasurer shall and may retain for his own use out of all the public monies as the same shall come to his hands a sum after the rate of five per centum.

County
treasurer's
allowance.

WINTHROP SARGENT
Signed JOHN CLEVES SYMMES
RUFUS PUTNAM.

CHAPTER III.

An ACT directing the manner in which Money shall be raised and levied to defray the Charges which may arise within the several Counties in the Territory passed at Cincinnati the first day of August in the year of our Lord one thousand seven hundred and ninety-two by Winthrop Sargent Secretary and now vested with all the powers of the Governour of the Territory north-west of the river Ohio and John Cleves Symmes and Rufus Putnam Judges.

Sec. 1. **B**E it enacted That the Court of General Quarter Sessions of the Peace at the last term which shall be held within each of the counties next preceding the first day of January annually shall make an estimate of such sum or sums of money as

Courts to estimate expenses of counties;

they according to their best skill and judgment shall think sufficient to defray the necessary charges of their respective counties for one year specifying as nearly as may be the purposes for which such sum or sums may be necessary and which may properly be considered as county charges which estimate the clerk of the said court is hereby directed to lay before the governour and two or more of the judges of the territory from time to time as soon as may be after such estimate shall have been formed so that such sum as may be necessary for the purposes aforesaid and approved of by the legislature may be laid on the inhabitants of each county respectively.

to be laid
before the
governor, &c.

[17]

how ap-
portioned.

Sec. 2. *And be it enacted* That the sums which shall from time to time be allowed by the legislature and laid on the several counties for the purposes aforesaid shall be apportioned on the inhabitants of the several towns or districts within the respective counties by commissioners annually to be appointed by the judges of the Court of Common Pleas and the number of said commissioners shall be ascertained by the following rule. In every town or district one commissioner shall be appointed and when any town or district shall consist of sixty male inhabitants of twenty one years of age and upwards they shall have two commissioners and if of one hundred such inhabitants or more they shall have three commissioners. And the said commissioners when appointed shall meet at a time and place to be ascertained by the said judges of the Court of Common Pleas and proceed to apportion the said sum or sums to be allowed by the legislature on the inhabitants of the said towns or districts within the respective counties as aforesaid in which apportionment the said commissioners shall have special respect to wealth and numbers and may direct the whole assessment to be made in money or specific articles most agreeable with the necessity of the public and convenience of the people. And the better to enable the commissioners to make such apportionment consistent with equity and the abilities of the people they are hereby empowered to take a list of the male inhabitants from eighteen years old and upwards with stocks of cattle yearly value of improved lands and every other species of property which may be in the county and ought to affect the apportionment.

Sec. 3. *And be it further enacted* That the said judges of the Court of Common Pleas in

**Judges to
appoint
assessors.**

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each county respectively may and they are hereby authorised and required annually to appoint in each township village or district three judicious men two of whom shall have power to assess and apportion on the inhabitants of their respective towns villages and districts for which they may be appointed assessors the sum or sums which by order of the commissioners is directed to be assessed on the inhabitants of such town village or district.

**Judges may
appoint
assessors;
their power;**

Sec. 4. And the said assessors in making any assessment by virtue of this law shall assess the individuals of their town village or district according to the best of their judgment in just proportion to their wealth in the county and ability to pay either in money or specific articles agreeably to the order of assessment they shall receive from the commissioners and all assessors appointed as aforesaid shall severally take the following oath before one of the justices of the peace in the county viz. "I

**to take
oath.**

do solemnly and sincerely swear (or affirm as the case may be) that I will to the best of my judgment and information impartially and faithfully execute the office of assessor in the township of agreeably to law and justice so help me God."

Sec. 5. *And be it further enacted* That all appointments of commissioners and assessors under this law shall be for one year only and any person not being an officer of the territory appointed assessor refusing to take the oath or affirmation and do the duties of his appointment shall pay a fine of twenty dollars for the use of the county where he belongs and the said judges shall appoint another in his stead. Provided that no man shall be compelled to serve as assessor more than one year in three.

**Term of
appointments
herein.**

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Sec. 6. *And be it further enacted* That within the time limited by the order of assessment the assessors of each township village or district shall lodge with the prothonotary of the Court of Common Pleas a list of the assessment by them made in pursuance of such order of assessment under their hands and seals on penalty of paying a fine

**Duty of
assessors.**

**Duty of
prothono-
tary.**

not exceeding fifty dollars each to the use of the county. And the prothonotary shall from the assessor's list lodged as aforesaid make out a duplicate thereof with a warrant of distress under his hand and the seal of the court directed to the sheriff or constable or to such other person as the Court of Common Pleas shall appoint requiring him to collect and pay the same to the treasurer of the county for the use of the county as aforesaid.

**Proceedings
to be had
against
persons
refusing
to pay tax.**

Sec. 7. *And be it further enacted* That if any person shall refuse to pay the sum or sums which he shall be assessed as his proportion of any rate or assessment laid as aforesaid (to defray the expenses of the county to which he belongs) in the list or duplicate committed to any sheriff constable or collector by virtue of the warrant to him given it shall and may be lawful for such sheriff constable or collector and he is hereby authorised and required in such case to distrain the person so refusing by his goods or chattels and the distress so taken to keep for the space of four days at the cost and charges of the owner thereof and if the owner do not pay the sum or sums of money so assessed on him (or if the tax be in specific articles he do not deliver or tender the same at the place assigned) within the space of four days then the said distress shall be openly sold at public auction by the said officer for the payment of the said money notice of such sale being set up in some public place in the same

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**Proceedings to
be had against
persons refus-
ing to pay tax.**

town village or district forty-eight hours before the sale and after the expiration of the four days aforesaid. And the overplus arising by such sale if any over and above the charges of taking and keeping the said distress to be immediately returned to the owner with an account in writing of the sale and charges thereon.

**In what cases
the body may
be taken.**

Sec. 8. *And be it also enacted* That if any person assessed as aforesaid shall refuse or neglect to pay the sum or sums so assessed for the space of twelve days after demand thereof being made and shall also neglect to shew to the officer sufficient goods or chattels whereon distress may be levied in every such case the officer may take the body of the person so refusing into his custody and him commit to the common jail of the county there to remain until the same be paid or he be thence delivered by due order of law. And the keeper of the jail in the several counties is hereby authorised and

required to receive such delinquent into the common jail as aforesaid. Provided nevertheless that in all cases where in the opinion of two or more justices of the peace there is just ground to fear that any person or persons assessed as aforesaid may abscond before the expiration of the said twelve days in such case it shall be in the power of the sheriff constable or collector to demand immediate payment and proceed as is heretofore directed.

Sec. 9. *Provided always and be it further enacted* That if any person or the inhabitants of any town village or district shall think himself or themselves unequally or unreasonably assessed if the inhabitants of a town village or district they may by petition apply to the judges of the General Court judges of the Court of Common Pleas in the county where such town

Persons un-
equally taxed
how to pro-
ceed.

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village or district lies or justices of the court of General Quarter Sessions of the Peace who are hereby empowered in their several courts to abate or remit the sum in which the complainants are assessed or which was apportioned on them or such part thereof as they shall judge ought to be abated or remitted and an order of the Supreme Judicial Court of the Court of Common Pleas or of the Court of General Quarter Sessions of the Peace shall be a sufficient warrant to the treasurer of the county to discount or repay the same. And if the complaint be against the assessors for the unequal assessment of individuals they may petition the judges of the Supreme Court the judges of the Court of Common Pleas or the justices of the Court of General Quarter Sessions of the Peace who are hereby empowered in their respective courts to redress the grievances complained of if any exist and the person in whose hands the money or specific articles may be which are so remitted or abated shall restore the same to the person in whose favor redress is allowed on the order of either of the aforesaid courts.

WINTHROP SARGENT
Signed JOHN CLEVES SYMMES
RUFUS PUTNAM.

CHAPTER IV.

An ACT for opening and regulating High Ways passed at Cincinnati in the county of Hamilton the first day of August in the year of our Lord one thousand seven hundred and ninety-two by Winthrop Sargent Secretary now vested with all the powers of the Governour and John Cleves Symmes and Rufus Putnam Judges.

Proceedings
to be had for
opening high-
ways, &c.

Sec. 1. **B**E it enacted That whenever a petition signed by twelve or more citizens dwelling within any county in the territory shall be presented to the justices specially

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Proceedings
to be had for
opening high-
ways.

named in the commission for holding the court of General Quarter Sessions of the Peace for such county while in session praying the said court to order a public high-way to be laid out through a particular part of the same county the said justices are hereby authorised and required to order a proper surveyor with two other men to repair to the ground pointed out in the said petition and at the proper expense of the petitioners to view and survey the same truly measuring the distance noting the several courses monumenting and numbering every mile's end and conspicuously marking or blazing the trees through the whole length of the way and erecting monuments where there shall happen to be no trees which survey so made shall be reported to the next sessions of the court and if no sufficient objections to such proposed high-way are presented to the said court at the same sessions to which such report shall be made then the justices aforesaid shall on the last day of their sitting in such sessions cause such report to be entered of record filing at the same time the original in the office of the clerk of the said court.

Sec. 2. And thereupon the justices shall order the supervisors of the high-ways in the several townships in the said county or of such townships as they in their discretion may think proper and contiguous thereto to open such high-way in such proportions as the said justices may think right and equitable each supervisor with the inhabitants of his own township opening and rendering

commodious for travelling a given distance or proportion assigned by the justices of the said road or high-way according to the greater or less number of citizens in each township whose inhabitants may be ordered to assist in opening the said high-way.

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Sec. 3. *And be it enacted* That where objections against the opening of such high-way shall be presented to the said justices in due time as aforesaid they shall appoint three disinterested men of the county who at the proper expense of such objectors or opposers of the proposed high-way shall repair to the ground and impartially view and examine the same and according to their best and most candid judgment make report in writing to the said justices at their next succeeding sessions of the propriety or impropriety usefulness or inutility of such road or proposed high-way after the reading and due consideration of which the said justices may proceed according to their judgment and order the said road to be established and laid out according to the prayer of the first petitioners or for that time reject the high-way and dismiss the petition.

Proceedings on objection to opening high-ways.

Sec. 4. *And be it further enacted* That the said justices in every county as soon as may be after the publication of this act in the several counties respectively shall proceed in their sessions to appoint once every year a proper number of supervisors or overseers of the high-ways in each and every township in the several counties or districts whose province and duty it shall be to obey the orders of the said justices for the laying out of high-ways whenever such orders shall be given in manner aforesaid. And it shall also be the duty of the said supervisors of the high-ways to superintend all public roads and high-ways in the township for which they may be assigned supervisors or overseers and keep them in proper repair and fit for the use of travellers and passengers by the labour and assistance of the inhabitants of the township in which they may severally be supervisors. And in case of omission of this their duty each default-

Supervisors to be appointed;

their duty;

penalty on neglect thereof;

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ing supervisor of the high-ways shall be liable and subjected to a fine of five dollars for each and every default to be recovered with costs for the use of the township by any person who will prosecute for the

penalty on neglect thereof.

same for the purpose of aiding the inhabitants of such town to form causeways and smaller bridges where it may be necessary to hire teams for the drawing of timber therefor which fine shall be inflicted by any justice of the peace to whom complaint is made.

Sec. 5. *And be it further enacted* That every male inhabitant of sixteen years of age and upwards on being duly warned to work on the high-ways by the supervisor in the township to which such inhabitant may belong shall repair to the place and at the time by the said supervisor appointed with such utensils and tools as may be ordered him wherewith he is to labour and there abide and obey the direction of such supervisor during the day in opening and repairing the high-way. And this duty every male as aforesaid shall be subject to perform so many days not exceeding ten in each year as may in the opinion of the supervisor be necessary for the opening of new and repairing of old high-ways. Provided always that only an equal number of day's labour shall be exacted from any such citizen all such male inhabitants serving alike either in person or by procuring a good hand to labour in their stead or by their team to the acceptance of the supervisor.

Sec. 6. And in case any male inhabitant as aforesaid upon receiving three day's notice thereto by the proper supervisor of the high-way shall neglect or refuse to attend at the time and place which may be appointed as aforesaid or shall waste the day in idleness and inattention to the duty assigned him such delinquent

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shall forfeit and pay to the supervisor who warned him to work fifty cents for the sole benefit of the said supervisor for every such default to be recovered with costs by an action of debt in any court where the same may be cognizable and moreover be further liable to work an equal number of days yearly on the high-way with the other male inhabitants of the township in the same manner as though no such default had been made.

Sec. 7. And where the delinquent person shall happen to be a minor apprentice or servant the father guardian or mother of such minor or the master of such apprentice or servant (as the case may be) so making default shall become liable to the action in the same manner as though they were principal defaulters.

Duty of inhabitants;

forfeiture on neglect thereof.

Forfeiture on refusing, &c. to work on the high-way;

by whom paid in case of minors, &c.

Sec. 8. *And be it enacted* That when in the opinion of the said justices it may be necessary to have constructed and built within the county a bridge or bridges of larger dimensions and such as cannot be erected but at considerable expense the building of which would be an unreasonable burthen to the inhabitants of any township singly in such case the said justices are hereby authorised to make an estimate of the probable expenses which will accrue by building such large bridge or bridges as aforesaid which shall be included in the general estimate of county charges yearly to be made and submitted to the consideration of the legislature.

Expense of
bridges
how de-
frayed.

WINTHROP SARGENT
Signed JOHN CLEVES SYMMES
RUFUS PUTNAM.

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CHAPTER V.

An ACT directing the building and establishing of a Court-house County Jail Pillory Whipping-post and Stocks in every county. Passed at Cincinnati in the county of Hamilton the first day of August in the year of our Lord one thousand seven hundred and ninety-two by Winthrop Sargent Secretary now vested with all the powers of the Governour and John Cleves Symmes and Rufus Putnam Judges.

Sec. 1. **B**E it enacted That as soon as provision can be made therefor agreeably to "An Act directing the manner in which money shall be raised and levied to defray the charges which may arise within the several counties in the territory" there shall be erected and established in each and every county not having the same already established therein a good and convenient court-house for the legal adjudication of causes and a strong and sufficient common jail or prison for the reception and confinement of debtors and criminals well secured by timber iron bars grates bolts and locks and also a pillory whipping-post and so many stocks as may be convenient for the punishment of offenders and every jail so to be erected shall consist of two apartments one of which shall be appropriated to

Court-houses
to be erected
and estab-
lished in
each county;

the reception of the debtors and the other shall be used for the safe keeping of persons charged with or convicted of crimes.

Sec. 2. *And be it enacted* That every court-house and jail to be erected as aforesaid shall be formed of such materials and to such dimensions and on such plans as shall be directed by the judges of the county Court of Common Pleas or a majority of them in each county who are hereby authorised to plan and project the same and to accept as a gift or to purchase for the use of the county so much ground as

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they may judge convenient and necessary whereon to build all or any of the structures aforesaid which purchase money shall be defrayed by the county and laid in the estimate hereafter directed to be made.

Sec. 3. *And be it enacted* That the said judges of the Common Pleas or a majority of them in each and every county shall appoint two commissioners of industry and knowledge sufficient to plan and execute the work necessary for carrying this law into effect by drawing the draught superintending the foundation and erecting and completing of such court-house jail pillory whipping-post and several stocks respectively and for the faithful discharge of their duty in this behalf the said commissioners shall enter into bonds of two hundred dollars with sufficient sureties to the judges of the Common Pleas in trust for the county well and truly to account with the said judges as often as they may thereunto be required by them for the disposition of all money and other property by them received from time to time from the judges or the treasurer of the county or from any other person or by any means whatever for the purpose of aiding or assisting in building the said court-house jail and other structures in the county to which the commissioners may severally belong and on default in the commissioners for want of attention or competent knowledge to carry on the work with propriety the said judges shall have power to discharge one or both of them and place others in their stead taking the same surety from them.

Sec. 4. *And be it also enacted* That every county now or hereafter to be erected and laid off within the said territory shall defray all expenses that may attend the building and keeping in good and sufficient repair within it-

of what materials and dimensions;

commissioners to be appointed to superintend the building of them;

to give bond.

Each county to defray expense of court-house, &c.

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self the court-house jail pillory whipping-post and stocks hereby ordered and to this purpose for the greater forwarding of the business it shall be lawful for the judges aforesaid and they are hereby authorised to draw out of the hands of the treasurer of the county any sums of money which he may have received belonging to the county not otherwise appropriated and the said judges are hereby directed to apply the same wholly to the purposes of making preparations for and advances towards building the said court-house and jail but in every county where there is no jail already provided the judges shall first appropriate all the monies they may draw from the treasurer towards building and finishing a proper jail for the reception of debtors and criminals. And the treasurer of each and every county is hereby authorized and directed to pay to the said judges or on their order to the commissioners any sum or sums of money which he may have received belonging to the county and not otherwise appropriated always taking duplicate receipts for all payments by him made to the judges or to the said commissioners by order of the judges one of which receipts the treasurer shall lodge with the clerk of the Court of General Quarter Sessions.

In what cases judges shall draw money, &c.

Sec. 5. *And be it enacted* That in order to make sufficient provision in each county of labour money and proper materials necessary for the several purposes aforesaid the justices of the Court of General Quarter Sessions of the Peace or a majority of them in each county shall make out an estimate of the probable expenses attending the carrying into effect the aforesaid several buildings and shall lay the same before the governour and judges of the territory as soon as may be after such estimate

Money for erecting court-houses how to be provided.

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can be made that the legislature may direct the raising of the same or such part thereof as they may deem necessary.

WINTHROP SARGENT
Signed JOHN CLEVES SYMMES
RUFUS PUTNAM.

CHAPTER VI.

An ACT for the better regulation of Prisons passed at Cincinnati in the county of Hamilton the first day of August in the year of our Lord one thousand seven hundred and ninety-two by Winthrop Sargent Secretary and now vested with all the powers of the Governour and John Cleves Symmes and Rufus Putnam Judges.

In what cases the sheriff shall be liable on escape of prisoner;

Sec. 1. **B**E it enacted That where the escape of any prisoner in a civil or quitam action shall happen through the insufficiency of the jail or the negligence of the sheriff or jailer the sheriff of the county in which the escape happens shall stand chargeable to the plaintiff creditor or other person at whose suit or for whose debt he or she was committed or to whose use any forfeiture was adjudged against such prisoner.

and county assessed for amount of the debt.

Sec. 2. And in case the escape shall happen through the insufficiency of the jail the Court of Common Pleas in the county shall have power and authority hereby to assess the sum or sums for which such prisoner stood committed upon the inhabitants of the county in the same manner as is directed by the act entitled "An Act directing the manner in which money shall be raised and levied to defray the charges which may arise within the several counties in the territory" and to order the county treasurer to pay the same when collected to the sheriff of the county that the sheriff may be indemnified.

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In what cases sheriff may bring action against a county.

Sec. 3. And if the Court of Common Pleas shall not cause such assessment to be made and if the treasurer shall not pay such sum or sums of money within six months next after the demand shall be laid before the said court then the sheriff of the county may bring his action against the inhabitants of such county to be heard and tried either in that or in one of the adjoining counties at the election of the plaintiff and an attested copy of the writ being left (thirty days before the sitting of the court where the action is brought) with the county treasurer by the coroner of the same county shall be held and adjudged to be sufficient and legal service of the writ and notice of the suit. And the justices of the Court of General Quarter Sessions of the Peace shall have full power to appoint an agent or attorney to appear

on behalf of the county and defend such action and if judgment shall be given against the county the contents thereof may be raised by execution levied upon the monies belonging to the county and then in the hands of the county treasurer which shall be made manifest by the said treasurer's books for which purpose the officer having the execution shall have leave of the treasurer in his presence to peruse his books and examine his accounts with the county and if the county funds then in the hands of the treasurer shall be found insufficient to discharge the execution and costs thereon then so much of the monies which the treasurer may next afterwards receive belonging to the county as may be necessary to discharge the balance on the execution and costs shall be and are hereby pledged attached and bound by virtue of such execution and shall be immediately paid over by the treasurer so soon as they come to his hands until such execution be fully discharged.

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Sec. 4. *And be it further enacted* That if any person or persons shall directly or indirectly by any ways or means howsoever without the knowledge or privity of the keeper convey any instrument tool or other thing whatsoever to any prisoner or into any prison whereby any prisoner might break the prison or work himself or herself unlawfully out of the same every person so offending shall forfeit and pay such fine as by the direction of the court shall be imposed not exceeding one hundred dollars according to the nature of the cause of the prisoner's commitment or suffer such corporal punishment not exceeding forty stripes as the court shall inflict and if it shall so happen that any prisoner shall make his or her escape by means of any instrument tool or other thing so conveyed without the knowledge and privity of the keeper the person so conveying the same shall be liable to pay all such sums of money as the prisoner stood committed for if on civil process and shall also have inflicted upon him or her all such punishment as the escaped prisoner would be liable unto if a criminal and had been convicted of the charge for which he or she had been committed unless such prisoner would be liable to capital punishment in which case the person assisting in such escape shall be punished by fine imprisonment whipping pillory or setting on the gallows with a rope about his or her neck or any one or more of the

Persons aiding in escape of prisoners how punished.

said punishments as the court having cognizance thereof shall think proper to inflict.

In what case jailer to be liable for punishment due the prisoner.

Sec. 5. *And be it further enacted* That if any jailer or prison-keeper shall voluntarily suffer any prisoner committed unto him to escape he shall suffer and undergo the like pains punishment and penalties as the prisoner so escaping should or ought by law to have suffered and

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In what case jailer to be liable for punishment due the prisoner;

undergone for the crime or crimes wherewith he stood charged if he had been convicted thereof. And if any jailer or prison-keeper shall through negligence suffer any prisoner accused of any crime to escape he shall pay such fine as the justices of the court before whom he is convicted shall in their discretion inflict according to the nature of the offence for which the escaped prisoner stood committed.

Sec. 6. *Provided nevertheless* That if any person who may be committed for debt shall violently escape from prison without connivance of the sheriff or keeper and the sheriff the jailer or the prison-keeper shall within three months next after such escape recover the prisoner so escaped and recommit him to prison again then the sheriff shall be liable to nothing farther than the costs of such action or actions as may have been commenced against him for such escape.

duty of sheriff and jailer herein;

Sec. 7. *And be it further enacted* That all warrants mittimus writs and instruments of writing of any kind or the attested copies of them by which any prisoner may be committed enlarged or liberated shall be safely kept (regularly filed in their order of time) in a suitable box for the purpose provided by the keeper of the jail under the sheriff's direction and upon the death or removal of any sheriff the box with the contents thereof shall be delivered to his successor in the office on the penalty of one hundred and fifty dollars to be paid by the sheriff removed or his executors or administrators in case of the death of the sheriff to be recovered by any person who shall prosecute therefor to effect in any court having jurisdiction to try the same.

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duty of justices herein.

Sec. 8. And it shall be the duty of the said justices at the beginning of every Court of Quarter Sessions of the Peace to enquire into the state of the prisons in their respective counties with regard to the sufficiency of such prisons the condition and accommodation of

the prisoners and shall from time to time take such legal measures as may best tend to secure the prisoners from escape sickness and infection and to have the jails cleansed from filth and vermin.

Sec. 9. The sheriff shall keep separate rooms for the sexes except where they are lawfully married and be responsible that his jailer at all times provide proper meat and drink for all criminals committed to the prison of the county if such prisoners have no other convenient way of supplying themselves with provisions which shall always pass to them through the keeper's hands and in every case where the sheriff or jailer shall be at the expense of furnishing meat drink or fire-wood to a prisoner in jail for a crime or at the suit of the United States who is not of sufficient ability in point of property to repay or indemnify such sheriff or jailer their reasonable expense and charges for supplying such prisoner in every such case the sheriff or jailer shall make out his account thereof and on oath shall testify the truth of the same before the justices of the Court of General Quarter Sessions of the Peace who shall tax the same as they shall think just and reasonable and lay the amount thereof in the yearly estimate of county charges to be submitted to the legislature for their allowance.

Sheriff to keep separate rooms for the sexes, &c.

Sec. 10. *And be it enacted* That in every case where any person is committed to prison in a civil action either on mesne process or in execution for debt trespass slander or other

Sheriff to provide certain food.

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cause of action at the suit of one citizen against another or at the suit of an alien ally against a citizen or at the suit of a citizen against an alien ally in every such case it shall be the duty of the sheriff to provide only the daily bread and water of such prisoner and he is hereby directed to furnish the same regularly to every such prisoner who is not of sufficient ability in point of property to provide for his or her own support while in prison and the expense and charges accruing to the sheriff or jailer herein shall be repaid to him by the prisoner so soon as the prisoner shall be liberated from the jail for the recovery of which the sheriff or jailer shall have his action at law against the prisoner in any court where the same may be cognizable and when any prisoner shall be committed to jail in a civil action as aforesaid and shall provide for his or her own support in a way wherein the sheriff or jailer shall have no concern it shall be the duty

Sheriff to provide certain food, &c.

of the jailer or prison-keeper to admit to the wicket grate or small window of the prison in which such prisoner shall be confined any person who may come to administer to the wants of such prisoner by furnishing him or her with meat and drink which shall be conveyed through such small window or grate that the security of the prison be not too frequently exposed by opening the doors thereof.

Disposition of
the fines and
penalties
herein.

Sec. 11. *And be it enacted* That all fines and penalties arising upon the breach of this act shall be for the use of the county where the offence is committed or the duty neglected and the same remedy shall be had for the recovery thereof as in other cases where duties are enjoined by statute and no particular mode of prosecution directed. In cases of default it shall be the duty of the attorney prosecuting

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the pleas of the United States to prosecute for the same either by writ or on indictment and the fine when recovered shall be paid to the county treasurer for the use of the county.

WINTHROP SARGENT

Signed JOHN CLEVES SYMMES
RUFUS PUTNAM.

CHAPTER VII.

An ACT for the disposition of Strays passed at Cincinnati the first day of August in the year of our Lord one thousand seven hundred and ninety-two by Winthrop Sargent Secretary now vested with all the powers of the Governour and John Cleves Symmes and Rufus Putnam Judges.

Sec. 1. **B**E it enacted and it is hereby enacted That the open woods and uninclosed grounds within the territory shall be taken and considered as the common pasture or herbage of the citizens thereof saving to all persons their right of fencing.

Sec. 2. And if any person after the first day of March and before the first day of December yearly and every year shall take up or confine lead ride or drive away any domestic animal of any kind running in the uninclosed grounds of the territory and committing no trespass he she or they so taking up or molesting such beast unless

Grounds
considered as
common
pasture.

In certain
cases for-
feiture on
confining
domestic
animals,
&c.

such animal be previously advertised by the owner as a stray shall forfeit and pay to the owner of the beast ten per cent. on the value of the said beast which valuation shall be made by the judge or jury before whom the cause is tried and moreover return the animal to the owner without delay and the owner shall have an action in replevin for the beast and shall also recover such further damages and costs as the court may adjudge where the action is brought and the court shall award execution accordingly.

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Sec. 3. And if any person or persons shall presume to take up and lead ride or drive away any beast running in uninclosed grounds as aforesaid and shall convey the same out of the county such person so offending shall be indicted therefor at the suit of the United States and on conviction shall suffer such imprisonment fine or corporal punishment (not extending to life or limb) as the justices of the court shall inflict and shall also pay to the owner of the beast when known double the value of the same together with costs of suit to be recovered in any court where cognizable.

In what cases persons riding, &c. domestic animals shall be punished.

Sec. 4. And whenever any beast shall break into any enclosure surrounded by lawful fence the owner of such field or some other person under his or her authority may take up and secure the said beast agreeably to the act entitled "An Act regulating the enclosures of grounds." And on all such occasions the clerk of the township shall (after raising damages charges and costs from the sale of one or more of the beasts agreeably to the aforesaid act) cause the remaining beasts if any to be turned again into the open woods or commons at all times from the first day of March to the first day of December.

Proceedings to be had on beasts breaking into enclosures.

Sec. 5. *And be it enacted* That from and after the first day of December to the first day of March yearly and every year it shall be lawful for any citizen of the territory finding horses or neat cattle running astray in the woods or commons or trespassing for whom there shall appear no owner living within six miles of the place to take up and secure such stray and convey it so soon as may be done to the clerk of the township in which such stray is found and deliver it to him agreeably to the act entitled "An Act to authorize and require

When a stray may be taken up.

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“the Courts of General Quarter Sessions of the Peace to divide the counties into townships and to alter the boundaries of the same “when necessary and also to appoint constables overseers of the poor “and clerks of townships and for other purposes therein mentioned,” for which service the person driving such strays to the clerk of the township shall be entitled to receive from him on the sale of the strays five cents on the dollar value of the strays delivered and the clerk shall appraise the same and give a certificate thereof.

Sec. 6. And the clerk of the several townships respectively whenever any stray shall be brought to him shall forthwith receive the same into his charge and care and provide for its proper keeping and support at as reasonable a rate as the same can be procured and shall proceed without delay to advertize agreeably to the last mentioned act. And after continuing such advertisements six weeks and no owner appearing to prove property before the nearest justice of the peace and pay charges in such case the clerk shall proceed to sell the said stray at vendue and on the sale and delivery of every such beast he shall give to the purchaser a certificate thereof descriptive of the beast with a receipt for the money paid therefor which certificate shall be evidence of title for the same to the purchaser.

Sec. 7. And the clerk of the township shall in all cases have five cents in the dollar value for his services if the beast be reclaimed before sale and ten cents in the dollar value if the stray be sold agreeably to law and after deducting his own fees as also the charges of keeping the stray and the allowance made herein to the person bringing in the stray the clerk shall pay

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the residue of the proceeds of sale to the treasurer of the county for the use of the county taking his receipt therefor which he shall transmit to the clerk of the Court of Quarter Sessions for the county. And on default thereof in the town clerk he shall be liable to an action for such sum with costs at the suit of the county treasurer in any court where the same may be cognizable.

**Duty of
county clerk
in cases of
astrays.**

**His
allowance.**

Sec. 8. And if after sale as aforesaid the owner of such stray shall by tracing out the property discover it to have been sold by the clerk as aforesaid and the proceeds of sale deposited in the hands of the county treasurer such owner may apply to the justices of the Court of Quarter Sessions and exhibit before them the proofs of title to such stray and if in the opinion of the said justices such claimant had title in the stray at the time of sale the said justices may and are hereby authorised to issue their order under the hand of the clerk and the seal of the court directing the county treasurer to repay the money that came to his hands by the sale of such beast and the county treasurer is hereby directed to obey such order.

Persons claim-
ing such
astrays how
to be in-
demnified.

Sec. 9. *And be it further enacted* That so much of the act entitled "An Act to authorise and require the Court of General Quarter Sessions of the Peace to divide the counties into townships and to alter the boundaries of the same when necessary and also to appoint constables overseers of the poor and clerks of townships and for other purposes therein mentioned" as is repugnant to this law be and the same is hereby repealed.

Part of
certain
act repealed.

WINTHROP SARGENT

Signed JOHN CLEVES SYMMES
RUFUS PUTNAM.

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CHAPTER VIII.

An ACT to repeal certain parts of an act entitled an act "creating the office of Clerk of the Legislature" passed at Cincinnati in the county of Hamilton the first day of August in the year of our Lord one thousand seven hundred and ninety-two by Winthrop Sargent Secretary now vested with all the powers of the Governour and John Cleves Symmes and Rufus Putnam Judges.

WHEREAS the general government has made certain provision for publishing the laws of this territory

Be it therefore enacted That so much of the act entitled "An Act creating the office of clerk of the legislature" as makes it obligatory

Act creating
clerk to the

legislature
repealed.

upon the said clerk to procure and furnish authenticated copies of the laws of this territory to the governour to each of the territorial judges to the several Courts of Common Pleas and Quarter Sessions of the Peace and judges of probate be the same is hereby repealed.

WINTHROP SARGENT

Signed JOHN CLEVES SYMMES
RUFUS PUTNAM.

CHAPTER IX.

An ACT supplementary to a law entitled a "Law regulating Marriages" passed at Cincinnati in the county of Hamilton and Territory of the United States north west of the river Ohio the first day of August in the year of our Lord one thousand seven hundred and ninety-two by Winthrop Sargent Secretary now vested with all the powers of the Governour and John Cleves Symmes and Rufus Putnam Judges.

Justices
empowered
to solemnize
marriages

BE it enacted by the authority aforesaid That from and after passing this act each and every justice of the peace shall and he is hereby authorized and empowered to solemnize marriages within his own county on the bans being duly published and certified agree-

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ably to the aforesaid law or by special license from the governour.

WINTHROP SARGENT

Signed JOHN CLEVES SYMMES
RUFUS PUTNAM.

CHAPTER X.

An ACT to regulate the admission of Attornies passed at Cincinnati county of Hamilton Territory of the United States north-west of the river Ohio the first day of August Anno Domini one thousand seven hundred and ninety-two by Winthrop Sargent Secretary now vested with all the powers of the Governour and John Cleves Symmes and Rufus Putnam Judges.

Sec. 1. **B**E it enacted That from and after the first day of January next no person shall be admitted or practise as an attorney in any of the courts of this territory unless he is a

Attornies
how to be
admitted
to practice.

person of good moral character and well affected to the government of the United States and of this territory and shall pass an examination of his professional abilities before one or more of the territorial judges and obtain from him or them before whom he may be examined a certificate of possessing the proper abilities and qualifications to render him useful in the office of an attorney. And further shall in open court have taken and subscribed the oath prescribed to all officers by an act of the United States and an oath in tenor following

"I swear that I will do no falsehood nor consent to the doing of
 "any in the courts of justice and if I know of an intention to commit
 "any I will give knowledge thereof to the justices of the said courts
 "or some of them that it may be prevented. I will not wittingly or
 "willingly promote or sue any false groundless or unlawful suit nor
 "give

To take oath.

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"aid or consent to the same and I will conduct myself in the
 "office of an attorney within the said courts according to the best of
 "my knowledge and discretion and with all good fidelity as well to
 "the courts as my clients. So help me God."

Sec. 2. *And it is enacted* That parties may plead and manage
 their own causes personally or by the assistance of such counsel as
 they shall see fit to engage but the plaintiff or plaintiffs in any suit
 shall not be allowed to manage their cause by more than two attorneys
 nor shall any defendant employ a greater number. Provided that
 where there shall be only two attorneys attending the courts in any
 of the counties of this territory neither the plaintiff nor defendant
 shall be allowed more than one nor in any cause shall fees for more
 than one attorney be taxed or allowed.

Parties may
 manage
 their own
 causes.

WINTHROP SARGENT

Signed JOHN CLEVES SYMMES

RUFUS PUTNAM.

CHAPTER XI.

*An ACT empowering the Judge of Probate to appoint Guardians to
 Minors and others passed at Cincinnati in the county of Hamil-
 ton by Winthrop Sargent Secretary vested with all the powers
 of the Governour of the Territory and John Cleves Symmes and
 Rufus Putnam Judges the first day of August in the year of our
 Lord one thousand seven hundred and ninety-two.*

Proceedings to
be had in
the appointing
of guardians.

Sec. 1. **B**E *it enacted* That the judge of probate in each county respectively when and so often as there shall be occasion be and hereby is empowered to allow of guardians that shall be chosen by minors of fourteen years of age and to appoint guardians for such as shall be within or under that age taking sufficient security of such guardians for the faith-

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Guardians
how to be
appointed.

ful discharge of their trust and to account either with the judge or minor when such minor shall arrive at the age of twenty-one years or at such other time as the judge upon complaint made to him shall direct and when any minor above the age of fourteen years shall be cited by the judge of probate to choose a guardian and such minor shall refuse or neglect to appear or when appearing shall refuse to choose a guardian or any guardian chosen by such minor shall be unable to give sufficient security or shall refuse the trust in every such case the judge of probate shall have the same power to appoint a guardian as though such minor was under the age of fourteen years. Provided nevertheless that when a minor above the age of fourteen years shall choose a guardian such minor may have that choice certified to the judge by a justice of the peace in the same county or by the town clerk which choice so certified shall be deemed as good and valid as if done in the said judge's presence.

Power of
judges of
probate.

Sec. 2. *And be it further enacted* That it shall be in the power of the judges of the probate of wills within their respective counties from time to time (upon request made by the friends or relations of any idiot non compos or lunatic person or by any overseer of the poor in the town where such idiot non compos or lunatic lives or is an inhabitant) by his writ to direct the sheriff of the county to summon twelve freeholders good and discreet men of the same township to make inquisition thereinto and if the person said to be an idiot lunatic or distracted person shall be adjudged by such inquest (or the major part of them) to be incapable to take care of him or herself and they shall certify the same under their hands to the judge the said judge of probate shall be em-

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powered to assign some suitable person or persons to be guardian

or guardians to such idiot lunatic non compos or distracted person directing and empowering such guardian or guardians to take care of the person and estate both real and personal of such person and to make a true and perfect inventory of the said estate to be returned into and filed in the probate office of such county.

Sec. 3. *And be it further enacted* That the guardian or guardians appointed as aforesaid shall improve frugally and without waste or destruction the estate of the idiot non compos lunatic or distracted person and apply the annual income and profits thereof for the comfortable maintenance and support of the said idiot non compos lunatic or distracted person and also of his or her household or family (if any such there be) and the said guardian or guardians are hereby empowered to settle accounts receive (and if need be) to sue for and recover all just debts due to the said idiot lunatic non compos or distracted person from any person or persons whomsoever and to manage improve or divide the real estate in as full and ample a manner as the said idiot lunatic non compos or distracted person might or could were they restored to the full use of their rational faculties and shall also be subject to the payment of all just debts owing by such person which were contracted before his or her distraction out of their personal estate or in case that be insufficient then out of the real estate in such way and manner as executors or administrators may or shall by law be enabled to discharge the debts of deceased persons when the personal estate of such deceased persons shall be found insufficient. And in case any such idiot lunatic or distracted person shall be re-

Duty of
guardians.

power.

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stored to the use of his or her reason the residue and remainder of the estate real and personal shall be returned and delivered to him or her and in case of his or her death to his or her heirs executors or administrators the guardian or guardians having first such a reasonable allowance out of the same for their charge and trouble as the judge of probate shall order.

Sec. 4. *And be it further enacted* That the guardian or guardians appointed as aforesaid shall give bond to the judge of probate for the time being in a reasonable sum with sufficient sureties for the faithful discharge of the trust reposed in them and more especially for the

Guardians to
give bond.

rendering a just and true account of their guardianship when and so often as they shall be thereunto required.

In what cases judges may appoint guardians.

Sec. 5. *And be it further enacted* That the judges of probate in their respective counties may also as occasion may require appoint guardians for the children of lunatics ideots non compos or distracted persons in the same way and manner as though their parents were naturally dead. And whereas to the dishonour of human nature and the great injury of society individuals often times spend lessen and waste their estates by excessive drinking gaming idleness and debauchery and thereby involve themselves and families in distress misery and ruin and subject the town or county to which they belong to expense and charge for their maintenance and support.

Duty of overseers on persons wasting their estates &c.

Sec. 6. *Be it therefore enacted* That when any person by excessive drinking gaming idleness or debauchery of any kind shall so spend waste or lessen his or her estate as thereby to expose himself or herself or his or her family or any of them to want or suffering circum-

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Duty of overseers on persons wasting their estates.

stances or shall by thus spending wasting or lessening his or her estate endanger or expose the Town or County to which he or she belongs (in the judgment of the overseers of the poor thereof) to charge and expense for the maintenance or support of him or her or his or her family or any of them it shall be the duty of the overseers or overseer of the poor of the Town to which such person belongs (more especially if any of the friends or relations of such person shall request it of them) in such case to lodge a complaint with the judge of probate for the County to which the person spending wasting or lessening his estate as aforesaid doth belong. And if it shall appear to the judge of probate and two of the judges of the Common Pleas whom he shall call to his assistance that the person complained of comes within the description of this act and has had due notice of the complaint exhibited against him or her as the case may be then and in that case the said judge of probate shall appoint some suitable and discreet person or persons guardian or guardians to such person. And no sale or bargain of any real or personal estate made by such person or persons after the appointment of guardianship as aforesaid shall be held valid in law nor shall he or she be able to contract any debt or make any assumption. And the guardian or guardians that may be

thus appointed shall in discharging the duties of their appointment have the same authority pursue the same method and be under similar obligation for a faithful discharge of their trust as guardians appointed for idiots lunatics or persons non compos mentis.

Sec. 7. *And be it further enacted* That executors administrators and guardians shall not be compelled to plead specially to any action or

Executors,
&c. not to
plead specially
to any action.

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suit at law brought against them in their said capacity but may under the general issue give any special matter in evidence.

WINTHROP SARGENT
Signed JOHN CLEVES SYMMES
RUFUS PUTNAM.

CHAPTER XII.

An ACT prescribing forms of writs in civil causes and directing the mode of proceeding therein passed at Cincinnati the first day of August in the year of our Lord one thousand seven hundred and ninety-two by Winthrop Sargent Secretary now vested with all the powers of the Governour of the Territory and John Cleves Symmes and Rufus Putnam Judges.

Sec. 1. **B**E it enacted That all writs and process issuing from the Court of Common Pleas in the several Counties shall be in the name of the United States and bear test of the first judge who is not a party and be under the seal of the Court and signed by the Prothonotary thereof and shall have force be obeyed and executed in the proper County where issued. And every original process in the Court of Common Pleas shall be by summons capias or replevin which shall be served on the defendant four days before the setting of the Court where they are returnable.

Writs to be in
name of
United States,
&c.

Sec. 2. *And be it further enacted* That in all civil actions the original process in the following cases between party and party shall be made out in the forms following: That is to say the form of summons shall be—

Form of
summons.

(Seal) "Territory of the United States North-West of the river
"Ohio County ss.
"The United States to the sheriff of our said County of
" Greeting"

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"We command you that you summon A. B. of said County (addition
"here) if he may be found in your bailiwick to appear before our
"judges of our County Court of Common Pleas to be holden at
" in and for our said County of on
"the Tuesday of next then and there in our
"said Court to answer to C. D. late of (addition) in
"a plea of to the damage of the said C. D. as he saith
"the sum of dollars which shall then and there be
"made to appear with other damages and of this writ make due
"return.

"Witness E. F. Esquire first judge of our said Court at
"the day of in the year of our Lord
H. I. Prothonotary"

Form of
capias.

The form of a Capias or Attachment of the person shall be in the
words following viz

(Seal) "Territory of the United States North-West of the river
"Ohio County ss
"The United States to the sheriff of our said county of
" Greeting

"We command you to take into your custody the body of A. B. of
"said County (addition) if he may be found in your bailiwick and
"him safely keep so that you have before our Judges of
"our County Court of Common Pleas next to be holden at
"within and for our said County on the Tuesday of
" next then and there in our said Court to answer unto
"C. D. late of (addition) in a plea of to the
"damage of the said C. D. as he saith the sum of dollars
"which shall then and there be made to appear with other damages
"and of this writ make due return. Witness E. F. Esquire, first

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"Judge of our said Court at the day of
"in the year of our Lord

"H. I. Prothonotary."

The form of a writ of replevin to be issued out of the County Court of Common Pleas. Form of writ of replevin.

(Seal) "Territory of the United States North-West of the river
"Ohio County ss.

"The United States to the Sheriff of said County of

"Greeting.

"Whereas A. B. of (addition) before the judges of our
"County Court of Common Pleas in and for said County hath set
"up title to and property in a certain (here describe with
"certainty the article or thing to be replevied) which is wrongfully
"taken and withheld from the said A. B. and is now in the posses-
"sion of C. D. of (addition) as is said.

"These are therefore to require and command you upon sight
"hereof to replevy and take into your custody charge and keeping the
"said (here describe again the things to be replevied) if to be found
"in your bailiwick and the same at all times have ready as you may
"hereafter be directed by the Judges of our said Court to deliver to
"the said A. B. in case shall establish property
"in and claim thereto in our said Court to be held at on
"the Tuesday in next. You are also hereby
"commanded to summons the said C. D. or such other person in
"whose possession the said (here describe the articles again) may be
"found to appear before our said Judges at our said Court at the
"time and place for holding their next term as aforesaid and put
"in plea whereby the said C. D. or other person may
"shew if any thing they have to shew to the contrary of the claim of
"the aforesaid A. B. Hereof fail not and of

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"this writ make due return at said Court together with your pro-
"ceedings herein."

"Witness E. F. Esquire first Judge of our said Court at

"the day of in the year of our Lord "

"H. I. Prothonotary."

The FORM of a WRIT of EXECUTION, viz.

(Seal) "Territory of the United States northwest of the river Ohio Writ of execution.
" County ss.

"The United States to the sheriff of our said county of

" Greeting

"Whereas A. B. late of (addition) by the consideration
 "of our Judges of our County Court of Common Pleas holden at
 " for and within our said County on the Tues-
 "day of last recovered judgment against C. D. of
 "(addition) for the sum of dollars cents (debt
 "or damages) together with dollars cents costs
 "of suit as to us appears of record in our said Court whereof execu-
 "tion remains to be done. We command you therefore that of the
 "goods and chattels of the said C. D. within your bailiwork you
 "cause distress to be made and thereof levy and pay unto the said
 "A. B. the aforesaid sums being dollars cents
 "in the whole with cents more for this writ and thereof
 "also to satisfy yourself your own fees and for want of goods or
 "chattels of the said C. D. to be by shewn unto you or
 "found within your bailiwick we command you to take the body of
 "the said C. D. and commit to our jail in said County
 "and detain in your custody within our said jail until
 " pay the full sums above mentioned with your own fees
 "or that be discharged by the said A. B. the creditor or
 "otherwise by order of law. Hereof fail not

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"and of this writ make due return with your proceedings therein unto
 "our said Court at the next term to be held at in and for
 "said County on the day of next ensuing.
 "Witness E. F. first Judge of our said Court the day
 "of in the year of our Lord

"H. I. Prothonotary."

Precepts to be
in name of
United States.

Sec. 3. *And be it further enacted* That all precepts issued by a
 Judge of the Common Pleas for the trial of small causes shall be in
 the name of the United States and shall be under the seal of such
 judge and signed by him and shall have force and be executed in the
 county where such judge resides and all original process issued by a
 judge for the trial of small causes shall be by summons or capias which
 shall be served and executed five days before the day therein set for
 the trial and not more than twelve days. And the forms of the
 several precepts in the following cases shall be as follows that is to
 say.

A SUMMONS

(Seal) "Territory of the United States Northwest of the river Ohio **Form of**
 " County ss. **summons;**
 "To the constable of the town of or to any or
 "either of the constables of said county Greeting.
 "In the name of the United States you are hereby required to sum-
 "mon and give notice unto C. D. of in the county afore-
 "said (addition) if he may be found in your precinct that he appear
 "before me E. F. Esquire one of the judges of the court of common
 "pleas for the county aforesaid at my dwelling-house in
 "on the day of at of the clock in the
 " noon then and there to answer to A. B. of

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" (addition) in a plea of to the damage of the said A.
 "B. as he saith the sum of as shall then and there be made
 "to appear together with other damages and of this summons with
 "your doings herein you are to make true return unto me at or be-
 "fore the said day of trial. Dated at the day
 "of in the year of our Lord ."
 "E. F."

The FORM of a CAPIAS or WARRANT, viz.

(Seal) "Territory of the United States Northwest of the Ohio **of capias or**
 " County ss. **warrant;**
 "To the constable of the town of or to any or
 "either of the constables in the said county
 "Greeting.
 "In the name of the United States you are hereby required to take
 "the body of C. D. of (addition) if may be
 "found in your precinct and safely keep so that
 "may be had before me E. F. Esquire one of the Judges of the Court
 "of Common Pleas for the county aforesaid at my dwelling-house
 "in on the day of at
 " of the clock in the noon then and there to
 "answer to A. B. of (addition) in a plea of to the dam-
 "age of the said A. B. as he saith the sum of as shall then
 "and there appear with other damages. Hereof fail not and make

“due return of this warrant and of your doings therein unto me at
 “or before the said day of trial dated at the day of
 “in the year of our Lord .”

“E. F.”

The FORM of an EXECUTION.

of execution.

(Seal) “Territory of the United States Northwest of the river Ohio
 “ County ss.

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Form of
 execution.

“The United States to the constable of the town of
 “or to any or either of the constables of said county
 “ Greeting

“Whereas A. B. of (addition) on the day of
 “before E. F. Esquire one of our Judges of the Court of Common
 “Pleas for our county aforesaid recovered judgment against C. D.
 “of (addition) for the sum of (debt or damage) and
 “ for costs of suit as to us appears of record on the
 “docket of the said judge whereof execution remains to be done.
 “We therefore command you that of the goods and chattels of the
 “said C. D. within your precinct you cause distress to be made and
 “thereof levy and pay unto the said A. B. the aforesaid sums being
 “ in the whole and also that out of the goods and chattels
 “of the said C. D. you levy more for this execution to-
 “gether with your own fees and for want of such goods or chattels
 “of the said C. D. to be by shewn unto you or found
 “within your precinct We command you to take the body of the
 “said C. D. and commit unto our jail in our said county
 “and we command the keeper thereof accordingly to receive the said
 “C. D. into our said jail and therein safely keep until
 “ pay the full sums above-mentioned together with your
 “fees or that be discharged by the said A. B. the creditor
 “or otherwise by order of law. Hereof fail not and of this precept
 “make return within forty days next coming together with your
 “doings therein unto our said judge.

“Witness E. F. the aforesaid judge at the
 “day of in the year of our Lord .”

“E. F.”

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Sec. 4. *And be it further enacted* That where the process is by summons the service shall be made by the officers reading the summons in the hearing of the defendant or some of his or her family and giving a copy thereof if demanded and when the party is not to be found by the officer and has no family the service shall be made by the officers leaving an attested copy of the summons at the last and usual place of the defendants abode. And when process is by capias or warrant the service thereof shall be good and legal so far as to oblige the defendant to answer and submit by the officers arresting or attaching the person of the defendant.

**Service of
summons
how to be
made.**

Sec. 5. *And be it further enacted* That when any defendant shall be duly served with process and return thereof shall be made into the Court where the same is returnable and he or she shall not appear by attorney nor in person to plead within the time ordered by a rule of Court had for the purpose such default shall be recorded and the charge in the declaration shall be taken and deemed to be true and the Court shall thereupon give judgment and assess such damages as they shall find upon enquiry the plaintiff shall have sustained.

**Proceedings
on default
of persons
summoned.**

Provided nevertheless That if the defendant shall come into court before the judge of the pleas for the trial of small causes shall have adjourned his Court or dismissed his suitors or if in the Court of Common Pleas before the jury returned to try the cause is discharged, and shall pay down to the adverse party the costs already accruing or so much thereof as the Court shall judge reasonable then the Court may admit the defendant to have the same day in Court as if such default had never been recorded.

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Sec. 6. *And it also enacted* That when any plaintiff shall in any stage of the action become non suit or discontinue the cause the defendant shall recover costs against such plaintiff. And that in all actions as well those of qui tam as others and in all cases the party prevailing shall be entitled to legal costs against the other.

**In cases of
non suit.**

Sec. 7. *And be it further enacted* That no person imprisoned upon mesne process shall be held in prison upon such process more than thirty days next after entering up final judgement upon the writ

**Of persons
imprisoned
upon mesne
process.**

whereby he or she is committed unless he or she shall be continued there by having his or her body taken anew in execution nor shall the prison-keeper discharge any such prisoner unless judgment is given in his or her favour until thirty days next after the said judgment is entered up unless the party at whose suit such prisoner was committed shall give order in writing for the prisoner's discharge and the jailer be paid his legal fees.

Sec. 8. *And be it further enacted* That all original writs issuing out of the Court of Common Pleas shall before they are served be endorsed on the back thereof by the plaintiff or plaintiffs or one of them with his or her name at length if he she or they be inhabitants of the Territory or by his or her agent or attorney being an inhabitant thereof or by some responsible person who is an inhabitant of this Territory. Provided that the Court may upon motion (in consideration that the agent or attorney who endorsed the writ is not of ability for the purpose hereafter mentioned) order that the plaintiff shall procure a new endorser and such new endorser shall be held in the same manner as if the endorsement had been made before the writ was served. And unless the plaintiff shall procure such new endorser when directed thereto

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by the Court he or she shall become non suit and the plaintiff agent or attorney who shall so endorse his or her name upon an original writ shall be liable (in case of the avoidance or inability of the plaintiff) to pay the defendant all such costs as he or she shall recover and also to pay all prison charges that may happen where the plaintiff fails to support the action.

Sec. 9. *And be it further enacted* That when any action shall be brought to recover a demand or debt due on bond bill note of hand bargain promise book account an account stated by the parties a quantum merruit quantum valebat or for services done upon an agreed price the defendant may file notice of any bond bill note of hand bargain promise assumption or account he or she hath which ought to be set off against the demand of the plaintiff in the clerk's or prothonotary's office seven days before the setting of the Court of Common Pleas where the action is brought or if the suit be before a judge of the Common Pleas in his Court for the trial of small

Writs how
to be en-
dorsed.

Proceedings
to be had to
recover
debts, &c.

causes the account or other matter pleaded shall be filed before the judge two days before the day of trial and upon the general issue give the same in evidence against the plaintiff's demand. And if upon the trial it shall appear that there is a balance due to the defendant he or she shall recover the same in the same manner as if he or she had brought suit therefor and shall have judgment and execution thereon against the plaintiff and when a plaintiff shall at the same Court bring divers actions which in their nature might have been joined in one he or she shall recover no more costs than in one action only.

Sec. 10. *And be it further enacted* That no summons writ precept declaration process re-

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turn judgment or other proceedings in the Courts or Course of Justice shall be abated arrested quashed reversed or set aside for any kind of circumstantial errors or mistakes when the person and case may be rightly understood by the Court nor through default or want of form only and the Court on motion may order amendments made therein in aid of justice.

Sec. 11. *And be it further enacted* That execution shall not issue in any case within the jurisdiction of the aforesaid Courts respectively until the expiration of twenty days after entering up of judgment when the party may claim his or her execution or at any time within one year after judgment Provided there be no writ of error certiorari or supersedeas awarded in the cause. Provided nevertheless that when the party obtaining judgment in any action pending in the said County Court of Common Pleas or in the Court of a Judge of Common Pleas for the trial of small causes shall make oath (before the said Courts respectively) that he or she "verily and truly believes that if execution be stayed for the space of twenty days there will be great danger of the debt or contents of the judgment being for ever lost" in that case execution shall issue immediately.

Sec. 12. *And be it further enacted* That when any goods or chattels shall be taken to satisfy an execution issuing upon a judgment obtained such goods or chattels shall be safely kept by the officer at the expense of the debtor for the space of five days next after they are so taken and if within that time the owner or some other person on his or her behalf shall not redeem the same by otherwise satisfying

Summons,
&c. not to be
quashed for
want of form.

When execu-
tion shall
issue.

Proceedings to
be had on
taking goods,
&c.

the execution such goods and chattels shall be sold at public vendue to the highest bidder having first been advertised by posting up notification of the time and place

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four days before the sale in the town or place where the sale is to be. And the money arising upon such sale shall be applied to the paying of charges and satisfying the execution and the officer levying the same shall return the overplus (if any there be) to the debtor and shall make return of the execution with his doings therein particularly describing the goods taken and sold and the sum which each of the articles sold at. And if any officer shall be guilty of any fraud in the sale or in the return he shall be liable to the debtor to pay him three times the sum defrauded to be recovered by action of the case.

WINTHROP SARGENT

Signed JOHN CLEVES SYMMES
RUFUS PUTNAM.

CHAPTER XIII.

An ACT establishing and regulating the Fees of the several Officers and other persons therein mentioned passed at Cincinnati in the county of Hamilton the first day of August in the year of our Lord one thousand seven hundred and ninety-two by Winthrop Sargent Secretary now vested with all the powers of the Governour and John Cleves Symmes and Rufus Putnam Judges.

Sec. 1. **B**E it enacted That from and after the 1st day of January next the fees of the several officers and other persons herein after mentioned shall be as follows, viz.

JUDGE of COMMON PLEAS in his Court for the trial of small causes.

For every precept summons warrant capias or writ of attachment to bring the defendant into court.	twenty cents
For the declaration to the person drawing the same	twenty cents
For a subpaena for one or more persons	ten cents

Fees.
Of judge
of Common
Pleas.

For swearing one or more witnesses at the same time	five cents	
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For entering an action on his docket	five cents	Fees.
For the trial of an issue	twenty cents	
For entering up judgment and recording the same	twenty cents	
For examining allowing and taxing a bill of cost	five cents	
For an execution	twenty-five cents	

For a copy of any evidence original paper or record at the rate of for every hundred words.	six cents	
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For a recognizance or bail bond including principal and surety	twenty cents	
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JUSTICE of the PEACE in his Court for hearing allegations in criminal matters.		Of justice of peace.
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For every hundred words of an examination taken	ten cents	
For hearing a complaint and issuing a warrant	twenty cents	
For trying an issue joined before him	twenty cents	
For entering a judgment and recording the same	twenty cents	
For granting a mittimus	twenty cents	

For taking an affidavit out of court in order to be read on the trial of any cause	six cents	
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For his travel out in order to take an affidavit and returning from the place per mile.	three cents	
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For writing a deposition caption and notification at the rate of for every hundred words.	ten cents	
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For administering an oath to one or more witnesses or other persons at the same time	five cents	
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For a certificate of an oath administered	five cents	Fees.
For taking the acknowledgment of a deed with one or more seals provided it be at one and the same time and certifying of it	twenty cents	

Of judge of
probate.

JUDGE of PROBATES FEES.

For granting a letter of administration	fifty cents
For granting a letter of guardianship	thirty cents
For a decree respecting the probate of a will or codicil	fifty cents
For examining and allowing an inventory and making an entry thereof swearing executors or administrators	twenty cents
For swearing appraisers of an estate where he does it and giving a certificate of the same	ten cents
For examining and allowing an account	thirty cents
A decree for settling intestate estates	thirty cents
For a citation	ten cents
For a summons or subpaena for witnesses	ten cents
For a quietus	fifteen cents
For a warrant to appraise or divide an estate	twenty-five cents
For issuing a commission to receive and examine creditor's claims when estates are represented insolvent	fifteen cents
For an order of distribution	fifteen cents
For granting an appeal to the Court of Probate	fifteen cents

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Fees.

*The CLERK of the ORPHANS COURT FEES.*Of clerk of
Orphans
Court.

For writing a bond and letter of administration	thirty cents
For writing a bond and letter of guardianship and recording the same	fifty cents
For drawing a decree respecting the probate of a will or codicil	thirty cents
Writing a bond for an executor or administrator	fifteen cents
For writing a warrant to appraise the estate of persons deceased	fifteen cents
For writing a warrant to divide an intestate estate among the heirs	fifteen cents
For writing a warrant to set off a widow's dower	fifteen cents
For writing a warrant to appoint auditors for examining the claims of an insolvent estate	fifteen cents

For entering on an inventory the oath of the executor and administrator	five cents
For entering the official account of an executor administrator or guardian	ten cents
For drawing up a decree on the settlement of an estate	fifteen cents
For drawing an order of destribution agreeable to the will	fifteen cents
For drawing a quietus	fifteen cents
For drawing a citation	ten cents
For drawing a summons for a witness or witnesses if he does it	ten cents
For proportioning an insolvent estate among the creditors every creditor's proportion being severally distinguished at the rate of every twelve creditors	fifty cents

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For entering an appeal to the Court of Probate	ten cents	Fees.
For recording a will inventory or other matter for every hundred words at the rate of	eight cents	
For a copy of a will inventory or other papers for every hundred words	six cents	
For drawing a bond of appeal	fifteen cents	

The FEES in the COURT of PROBATE.

For receiving and entering an appeal to the court	one hundred cents
For giving a final decree to the court	one hundred cents
To the clerk for entering an appeal	ten cents
To the clerk for entering the final decree	ten cents
To the clerk for recording a final decree and all other papers at the rate of	eight cents
for every hundred words.	
To the clerk for all copies	six cents
for every hundred words.	

In the COUNTY COURT of COMMON PLEAS

The JUDGES FEES

On the entry of every action	fifty cents
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Of judges in the county court.

For every action where an issue in fact or law is joined	one hundred cents
For taxing a bill of costs	ten cents
For taking special bail	twenty cents
For allowing a writ of error	fifteen cents
For granting a reference	fifteen cents
For approving of the report of referees	fifteen cents
On surrender of the principal in court by sureties	twenty cents

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Fees.	For granting a writ of protection	twenty cents
	For hearing a petition and making an order there- on	twenty cents
	For proving a deed	twenty-five cents
	For every order appointing assessors or respecting assessments to be paid by the county	one dollar
	For appointing commissioners to be paid by the county.	two dollars

**Of protho-
notary of
common
pleas.**

*The FEES of the PROTHONOTARY of the COM-
MON PLEAS*

For every action entered in court	fifteen cents
For entering and recording a verdict or a report of referees	fifteen cents
For every action withdrawn or non suit	five cents
On every confession of judgment default joinder or demurrer	ten cents
For entering up judgment and recording the same at large	twenty cents
For entering satisfaction of judgment on record	five cents
For entering allowance to every writ of error	ten cents
For examining each bill of cost	five cents
For every copy of a rule of court	ten cents
For continuing each cause to the next term	ten cents
For entering the surrender of a principal in court	ten cents
For entering a rule of court upon submitting a cause to referees	ten cents

For every blank writ <i>capias</i> or summons with the seal of the court	twenty cents
For a blank <i>scire facias</i> or <i>replevin</i> with the seal annexed	twenty cents

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For an execution in personal matters	twenty-five cents	Fees.
For every writ of trespass and ejectionment	twenty five cents	
For every writ of possession in real actions	twenty-five cents	
For each warrant for collecting assessments to be paid by the county.	twenty cents	
For making out duplicates of county assessments to be paid by the county at the rate of for every hundred words.	eight cents	
For a <i>venire facias</i> for jurymen in a cause traversed	ten cents	

In the COURT of GENERAL QUARTER SESSIONS
The JUSTICES FEES.

**Of justices
in court of
gen. quarter
sessions.**

For every recognizance taken appeal received or granted or writ of <i>certiorari</i> allowed	fifteen cents
On the trial of each cause	fifty cents
For every oath administered in court	five cents
For awarding a <i>mittimus</i>	fifteen cents
For every order passed respecting the poor highway or other services for the county to be paid out of the county treasury.	fifteen cents
For every recommendation for a license	one dollar
For taxing a bill of costs	ten cents
For granting a writ of protection	twenty cents
On surrender of the principal in court by sureties	twenty cents
For hearing a petition and making an order thereon	twenty cents

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The CLERK of the SESSIONS FEES.

**Fees.
Of clerk of
sessions.**

For entering an indictment complaint or presentment	ten cents
For recording the judgment of court thereon	ten cents

For taking every recognizance or bond therein	fifteen cents
For discharging a recognizance	five cents
For drawing a warrant for apprehending criminals	twenty cents
For each subpoena for one or more witnesses	ten cents
For each recognizance for inn-holders or retailers	twenty cents
For each order or recommendation for a license including the recording of such license when certified to the sessions by the commissioner	fifteen cents
For reading a petition and entering the order of court thereon	five cents
For examining and casting grand jurors accounts of service and order of court thereon	five cents
For examining any other account	ten cents
For every order for high ways	fifteen cents
For recording every report of a high way accepted by the court at the rate of for every hundred words	eight cents
For entering an appeal or allowance of a writ of certiorari and recognizing the principal and sureties	fifteen cents
For copies of all records or original papers for every hundred words.	six cents

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In the GENERAL or SUPREME JUDICIAL COURT
JUDGES FEES.

**Fees.
Of judges in
supreme
court.**

On the entering an action or complaint	one dollar
For taking special bail	thirty cents
For allowing a writ of error certiorari habeas corpus or other writ of allowance on motion in Court or at his chamber	forty cents
For granting a writ of protection	twenty-five cents
For proving a deed	forty cents
For hearing a petition and making order thereon for the partition of or relating to real estates	one dollar
Judgment on partition of real estates	thirty cents

For taxing a bill of costs	fifty cents
For examining and admitting every attorney to practise	three dollars
For signing a judgment roll	thirty cents
For every oath administered	five cents
For a writ of supercedeas	one dollar
For every justification or disallowance of bail	forty cents

CLERK'S FEES *in the Supreme Judicial Court*Of clerk in
supreme
court.

For every writ of capias attachment scire facias partition replevin supersedeas trespass and ejectment review and every other writ for bringing the defendant into court.	fifty cents
For entering each action on the return of the writ	twenty-five cents
For every complaint entered by him	twenty-five cents

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For receiving and recording a verdict	fifteen cents	Fees.
For an execution	twenty-five cents	
For a writ of facias habere possessionem	fifty cents	
For a writ of habeas corpus	thirty cents	
For copies of all records at the rate of for every hundred words.	six cents	
For entering a rule of court	fifteen cents	
For entering every confession of judgment default joinder or demurrer	fifteen cents	
On every action withdrawn or non suit	fifteen cents	
For entering an appearance	ten cents	
Entering satisfaction of a judgment on record	ten cents	
For examining each bill of cost	ten cents	
For continuing each cause over and entering the same at the next term	fifteen cents	
For filing each paper	two cents	
For entering up judgment and recording the same at large	fifty cents	
For every writ with the seal of the court affixed other than is before mentioned	fifty cents	

For each venire facias for jurymen in a traverse cause	twenty cents
For every subpoena for one or more witnesses	twenty cents
For every recognizance including principal and sureties	twenty cents
For entering a discharge of a recognizance by proclamation	fifteen cents

In all criminal causes his fees shall be fifty per centum over and above the allowance or fees given to the clerk of the sessions for the same services.

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Fees.
Of attorneys.

ATTORNIES FEES to be allowed to the party recovering costs

For a pleading fee when council is employed on an issue in law or fact joined in the Supreme Court	two dollars
For all other causes in the Supreme Court and for all causes in the Court of Common Pleas and Court of General Quarter Sessions of the Peace where an issue in fact or law is joined	one hundred & fifty cents
And for all other causes in the Common Pleas and Court of Quarter Sessions as a retaining fee	one dollar
In criminal causes where one or more defendants are tried by jury at the same time or where a cause is determined by an issue at law a pleading fee for the council in the Supreme Court (but to one counsel) only	two dollars
And when no trial is had by jury nor the cause determined by an issue in law	one dollar & an half

And in the Court of General Quarter Sessions of the Peace the fees shall be the same as is allowed in the Court of Common Pleas.

Of attorney of
United States.

To the ATTORNEY for the UNITED STATES

For drawing an indictment in the Sessions	fifty cents
For drawing an indictment in the Supreme Court	one dollar

For bringing a cause to issue in the Sessions of the Peace	fifty cents
For bringing a cause to issue in the General or Supreme Judicial Court	one dollar

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For all other services one fourth more than the fees of other attorneys for similar services. Fees.

*For the attendance of Witnesses.***To witnesses.**

In all civil or criminal causes in the Supreme Court Court of Common Pleas and Court of General Quarter Sessions of the Peace for each days attendance	thirty cents
And three cents for each miles travel going and returning	
For each days attendance before a judge of the Pleas in trials of small causes or before a justice of the Peace	twenty-five cents
per day and the same allowance for travel fees as at other courts provided each witness do give an account to the clerk or prothonotary of each days attendance and the distance travelled.	

CORONERS FEES**To coroners.**

For serving a writ summons or execution and for travel in returning the same and for returning on an inquisition the same allowance as is by this act allowed to the sheriff.	
For a bail bond in the General Court	thirty cents
For a bail bond in all other courts	fifteen cents
On every trial where the sheriff stands not indifferent	fifteen cents
For attending to the jury	fifteen cents
For granting a venire and taking inquisition on a dead body	seventy-five cents
For his travel and expense to take an inquisition per day	seventy-five cents

Fees.	To the foreman of the jury taking an inquisition at the rate of per day	sixty cents
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	To every other juryman per day and for travel of the jurors three cents per mile.	fifty cents
	<i>To a CONSTABLE.</i>	
To a constable.	For summoning a jury and attendance on a coroner on view of a dead body per day.	seventy-five cents
	For serving a warrant or capias or summons for each person named therein and served on	thirty cents
	For a copy of any precept left to complete the service at the rate of for every hundred words.	six cents
	For serving a subpoena on each person named therein	ten cents
	For serving an execution	twenty-five cents
	For attending the vendue for the sale of goods taken in execution	fifty cents
	To each constable attending a grand jury not more than two at one term	forty cents
	To the constable attending the jury for the trial of a cause if done by a constable	twenty cents
	To each constable who shall attend the General or Supreme Judicial Court Common Pleas or Court of Quarter Sessions by their order per day to be paid out of the county treasury	fifty cents

SHERIFFS FEES

Sheriff for serving summons. For the service of an original summons warrant capias attachment scire facias writ of dower writ of ejectment writ

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Fees. of partition and writ of replevin sixty cents

- for every person named in any such writ or process on which the same is actually served.
- For every copy where the law requires one to be made out to complete the service of any writ or summons the sheriff is allowed six cents for every hundred words thereof.
- For a bail bond and writing the same including principal and sureties fifteen cents to be paid by the person admitted to bail.
- For serving a writ of possession exclusive of the poundage on the costs of court one hundred and sixty cents and if on more than one piece of land eighty cents for each.
- For collecting the costs on a writ of possession the same
- Poundage as in personal actions.
- To sheriffs aid in criminal cases to each person including expenses for every twelve hours and so in proportion for a less time fifty cents
- And for each mile travel going out and returning home three cents per mile.
- For serving a summons or subpoena on witnesses in criminal cases ten cents
- For each witness served with notice and the sheriffs travelling fees the same as in the service of writs unless in special cases when the

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court may increase the same to what they think reasonable.

For levying execution in personal actions for the first hundred dollars or under five per centum when above one hundred dollars and not exceeding two hundred dollars two and an half per centum and when above two hundred dollars and not exceeding three hundred dollars one and a half per centum and for all above three hundred dollars one per centum.

**Fees.
For levying
execution.**

Travelling fees for the service of any writ summons execution or other process to him directed three cents per mile out the travel to be computed from the place of service to the court where the writ or execution shall be returned by the way that is most commonly used. But one travel only shall be allowed to one writ or execution and

Travelling.

if the same be served on more persons than one the travel to be computed from that place of service most remote from the place of return with all further necessary travel in serving such writ or execution the travelling fees of service to be endorsed by the sheriff or his deputy on each mesne process execution or other writ otherwise not to be allowed.

For serving
execution,
&c.

For serving execution upon judgment of court for
partition of real estates or for assigning dower

one hundred cents

per day and travel out from the place of his
abode three cents per mile.

For attending every trial in court

ten cents

For attending on a grand jury by his deputy

forty cents

For attending on a traverse jury by his deputy
to be paid with the jurors fees.

twenty cents

For summoning each traverse

Fees.

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jury and returning the panel thereof

fifty cents

To each appraiser of real estates for extending
execution or assigning dower

seventy-five cents

per day and so in proportion for a longer or
shorter time.

Of sheriff.

CRIERS FEES.

For calling a traverse jury

five cents

On each default non suit judgment complaint
entered verdict or demurrer

ten cents

To the crier for discharging a recognizance by
proclamation

fifteen cents

And all fees allowed the crier shall be paid to
the clerks of the
respective courts for the use of the crier.

Jailre.

JAILERS FEES.

For turning the key on the commitment of each
prisoner

fifteen cents

in and fifteen cents out.

For dieting each person such sum weekly as the Court of
Sessions shall judge reasonable.

GRAND JUROR'S FEES.

Grand jurors.

To the foreman	sixty cents per day
To each other juror	fifty cents per day
For travel in going out and returning home to each juror to be paid out of the county treasury.	three cents per mile

TRAVERSE JURORS FEES.

Traverse jurors.

To the foreman in every cause tried by jury at the Supreme Court Court of Common Pleas and Court of General Sessions of the Peace	twenty cents
And to every other juror serving on the jury	fifteen cents.

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FEES OF MARRIAGES

Fees.
Of marriages.

To the town clerk or justice of the peace for publishing the bans of matrimony and making a record thereof	twenty-five cents
For every certificate of a publishment	ten cents
For each marriage to the minister or magistrate	one hundred & ten cents

FEES IN THE SECRETARY'S OFFICE

For a certificate under the seal of the Territory for the benefit of a particular person	one dollar
For every order of notice from the legislature upon petition	twelve cents for every hundred words for recording and for all copies
eight cents for every hundred words and every other order of the legislature for the benefit of particular persons at the same rate.	
For every commission to which fees are annexed under the seal of the Territory	one dollar
A commission to a field officer of militia	one dollar
A captains commission	seventy-five cents
A commission to a subaltern officer	fifty cents

For commissions.

COUNTY REGISTERS FEES

To county registers.

For entering and recording a deed of partition or other instrument of writing and for certifying on the original the time when the book and page where the same is recorded ten cents for every hundred words thereof the fees to be paid at offering the instrument for registry.

For all copies six cents for every hundred words.
 For entering in the margin the discharge of a mortgage to be paid by the person discharging the same fifteen cents
 For recording a marriage certified by a minister or a magis-

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trate to be paid by a minister or magistrate ten cents

Fees.

Commissioners of assessments.

COMMISSIONERS of ASSESSMENTS

For each days attendance when convened on the business of apportioning the county assessment on the several towns and districts sixty cents per day each man

In what cases paid in kind.

For travelling fees going out and returning home three cents per mile to be paid to them out of the treasury of the county.

And whereas a dollar varies in its real value in the several counties of the territory some provision in kind ought to be made Therefore

Be it enacted That for every cent allowed by this act one quart of Indian corn may be demanded and taken by the person to whom the fee is coming, as an equivalent for the cent always at the election of the person receiving the same whether to accept of his fee in Indian corn or in specie at the sum affixed by the foregoing table of fees one quart of Indian corn being always equal to one cent and so at that rate for a greater or a less sum.

Forfeiture on demanding unlawful fees.

And be it further enacted That if any person shall demand any greater fee or fees for any of the services aforesaid than are by this law provided he or they shall forfeit and pay for every offence the sum of ten dollars with costs of suit to the use of any person who will sue therefor before any one of the judges of the Court of Common Pleas within one year after such offence is committed.

WINTHROP SARGENT

Signed JOHN CLEVES SYMMES
 RUFUS PUTNAM.

A true Copy from the Records by
 WINTHROP SARGENT *Secretary.*

DEPARTMENT OF STATE, to wit.

I hereby certify, that the foregoing "Copy of laws passed in the Territory of the United States, North-west of the river Ohio, from July to December, 1792, inclusive," has been carefully collated with, and rendered literally conformable to the original, on file in the office of the Department of State.

GEO. TAYLOR, jr. Chief Clerk.

20 January, 1794.

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LAWS

OF THE

TERRITORY *OF THE* UNITED STATES

NORTH-WEST *OF THE* OHIO:

Adopted and made by the GOVERNOUR and JUDGES, in their Legislative Capacity, at a Session begun on Friday, the XXIX day of May, one thousand, seven hundred and ninety-five, and ending on Tuesday the twenty-fifth day of August following:

WITH AN

APPENDIX

OF

RESOLUTIONS

AND THE

ORDINANCE

FOR THE GOVERNMENT OF THE

TERRITORY.

By Authority.

CINCINNATI:

PRINTED BY *W. MAXWELL.*

M,DCC,XCVI.

AN ORDINANCE FOR THE GOVERNMENT OF
THE TERRITORY OF THE UNITED STATES,
NORTH-WEST OF THE RIVER OHIO.

BE IT ORDAINED by the United States in Congress assembled, that the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Be it ordained by the authority aforesaid, that the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child in equal parts; the descendants of a deceased child or grand-child, to take the share of their deceased parent in equal parts among them: and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate, shall have in equal parts among them their deceased parents' share; and there shall in no case be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as herein after mentioned, estates in the said territory may be devised or bequeathed by wills

B

iv.

in writing, signed and sealed by him or her, in whom the estate may be (being of full age) and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed and delivered by the person being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts and registers shall be appointed for that purpose; and personal property may be transferred by delivery, saving however, to the French and Canadian inhabitants, and other

N. W. Territory to be one district, but subject to become two.

How intestates' estates, real and personal, shall descend.

Dower saved.

Disposition of estates by will, till laws adopted;

and of real estates by deed.

Wills to be proved, and deeds recorded.

How personal property may be transferred:—

saving to certain French descendants their laws & customs, as to the descent and conveyance of real estate.

Governor, for what term to be commissioned—His qualification.

Secretary, for what term commissioned.

His qualification & duties.

Three Territorial judges:

their power & qualification.

The gov. and judges to adopt & publish the laws, and report them.

Powers of this governor.

settlers of the Kaskaskies, Saint Vincents, and the neighbouring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to descent and conveyance of property.

Be it ordained by the authority aforesaid that there shall be appointed from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office. There shall be appointed from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked, he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department;

v.

and transmit authentic copies of such acts and proceedings, every six months, to the secretary of Congress: There shall also be appointed a court to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behaviour.

The governor and judges, or a majority of them, shall adopt and publish in the district, such laws of the original states, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress, from time to time, which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

The governor for the time being, shall be commander in chief of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same: after the general assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall du-

Farther powers of the governor.

Powers and duties of magistrates, how to be regulated & and defined.

vi
ring the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof—and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

Laws adopted or made, their force.

The governor to lay out counties and townships, where Indian titles extinguished.

So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly: provided that for every five hundred free male inhabitants there shall be one representative, and so on progressively with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty five, after which the number and proportion of representatives shall be regulated by the legislature; *Provided* that no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years and be a resident in the district, or unless he shall have resided in the district there years, and in either case shall likewise hold in his own right, in fee simple, two hundred acres of land within the same:—*Provided also*, that a freehold in fifty acres of land in the district, having been a citizen of

5000 free males may elect representatives to a gen. assembly;

In what proportion.

Qualifications of representatives.

Proviso, for further qualifications of representatives:

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one of the states, and being resident in the district; or the like free-

hold and two years residence in the district shall be necessary to qualify a man as an elector of a representative.

their term of service, &c.

The representative thus elected, shall serve for the term of two years, and in case of the death of a representative, or removal from office the governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve for the residue of the term.

The general assembly how composed,

The general assembly, or legislature, shall consist of the governor, legislative council and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress, any three of whom to be a quorum, and the members of the council, shall be nominated and appointed in the following manner, towit: as soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and, when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress; one of whom Congress shall appoint and commission for the residue of the term: and every five years, four months at least before the expiration of the time of service of the members of council, the said house shall nominate ten persons, qualified as aforesaid, and return their names

how to be convened.

A council to be appointed, &c. and vacancies to be supplied.

viii. to Congress, five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives, shall have authority to make laws in all cases for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed by a majority in the house, and by a majority in the council shall be referred to the governor for his assent; but no bill or legislative act whatever, shall be of any force without his assent. The governor

The gov. legislative council and house of representatives to make laws.

Assent of the gov. required to all laws— He may convene, prorogue & dissolve the assembly.

shall have power to convene, prorogue and dissolve the general assembly, when in his opinion it shall be expedient.

The governor, judges, legislative council, secretary, and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office, the governor before the president of Congress, and all other officers before the governor, As soon as a legislature shall be formed in the district, the council and house, assembled in one room, shall have authority by joint ballot to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting, during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions and governments, which for ever hereafter shall be formed in the said territory;—to provide also for the establishment of states, and permanent government therein, and for their admission to a

ix.

share in the federal councils on an equal footing with the original states, at as early periods as may be consistent with the general interest.

It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact between the original states and the people and states in the said territory, and for ever remain unalterable, unless by common consent, to wit:

ARTICLE I. No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments in the said territory.

ART. II. The inhabitants of the said territory shall always be entitled to the benefit of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law; all persons shall be bailable unless for capital offences, where the proof shall be evident or the presumption great; all fines shall be moderate, and no cruel or unusual punishments shall be inflicted;

Oaths of fidelity to be taken by officers of government.

Legislative council and representatives to elect a delegate to Congress, and who may debate but not vote.

Preamble towards

the basis of a future government.

Clause declaratory of the following articles of compact:

Art. 1. For religious liberty.

Art. 2. Securing the benefit of hab. cor. trial by jury, representation of the people, and proceedings according to

the common law. Who shall be liable. Fines to be moderate; no cruel or unusual punishments to be inflicted, &c.

No ex post facto laws to be made

Art. 3. Education to be encouraged, and good faith to the Indians observed.

Art. 4. The territory and states to be formed therein, to remain a part of the union;

subject to a proportion of the federal debts.

Not to interfere with the primary disposal of

the soil by the United States.

no man shall be deprived of his liberty or property but by the judgment of his peers, or the law of the land; and should the public exigencies make it necessary for the common preservation to take any person's property, or to demand his particular services, full compensation shall be made for the same;—and in the just preservation of rights and property it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever interfere with, or affect private contracts or engagements, bona fide and without fraud previously formed.

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ART. III. Religion, morality and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall for ever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

ART. IV. The said territory, and the states which may be formed therein, shall for ever remain a part of this confederacy of the United States of America, subject to the articles of confederation, and to such alteration therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory, shall be subject to pay a part of the federal debts contracted or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by Congress according to the same common rule and measure by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion, shall be laid and levied by the authority and direction of the legislatures of the district or districts or new states as in the original states, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts, or new states, shall never interfere with the primary disposal of the soil by the

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United States in Congress assembled, nor with any regulations Con-

gress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same shall be common highways, and for ever free, as well to the inhabitants of the said Territory, as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost or duty therefor.

ART. V. There shall be formed in the said Territory, not less than three nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of session and consent to the same, shall become fixed and established as follows, to wit: The western state in the said Territory, shall be bounded by the Mississippi, the Ohio and Wabash rivers; a direct line drawn, from the Wabash and Post Vincents due north to the territorial line between the United States and Canada, and by the said territorial line to the Lake of the Woods and Mississippi. The middle state shall be bounded by the said direct line, the Wabash from Post Vincent's to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by said territorial line. The eastern state shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: provided however, and it is further understood and declared, that the boundries of these three

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states, shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of lake Michigan: and whenever any of the said states shall have sixty thousand free inhabitants therein, such state shall be admitted by its delegates into the Congress of the United States, on an equal footing with the original states in all respects whatsoever; and shall be at liberty to form a permanent constitution and state government: *provided* the constitution and government so to be formed, shall be

U. States lands not to be taxed; nor those of non-residents higher than others. Waters declared common highways.

Art. 5. Not less than 3 nor more than 5 states to be formed in the territory.

Their bounds.

Reserving to Congress power to lay off one or two states more.

When 60,000 inhabitants in a state, it shall be admitted into the union,

Proviso. The constitution and government of such new state to be republican.—But an union with the U. S. may be allowed at an earlier period.

Art. 6. No slavery is permitted.

Offenders escaping into other states may be reclaimed.

Resolutions of the 23d. April 1784, repealed.

republican, and in conformity to the principles contained in these articles and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than sixty thousand.

ART. VI. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in punishment of crimes whereof the party shall have been duly convicted: *provided* always, that any person escaping into the same, from whom labour or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labour or service as aforesaid.

Be it ordained by the authority aforesaid, that the resolutions of the 23d. of April, 1784, relative to the subject of this ordinance, be, and the

same are hereby repealed and declared null and void.

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DONE by the United States in Congress assembled, the 13th. day of July, in the year of our Lord 1787, and of their sovereignty and independence the 12th.

CHA. THOMSON, Secy.

LAWS

OF THE

TERRITORY *of the* UNITED STATESNORTH-WEST *of the* OHIO.TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }

A LAW subjecting Real Estate to execution for debt. *Adopted from the Pennsylvanian code, and published at Cincinnati, the first day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governor, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

Sect. 1. **T**O THE END, that no creditors may be defrauded of debts justly due to them, from persons who have sufficient real, if not personal, estates to satisfy the same; all lands, tenements and hereditaments, whatsoever, where no sufficient personal estate can be found, shall be liable to be seized and sold, upon judgment and execution obtained.

II, *Provided always*, That when any debt is hereafter recovered, and damages awarded; or when any debt is acknowledged before such as have, or shall have, power to take cognizance thereof, and executions are awarded thereupon, to be levied upon the lands, tenements or hereditaments

Preamble.

Real estate may be taken in execution for debt, where no personal estate be found:

But otherwise, where the profits will pay debt and costs within 7 years

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of any person or persons, whatsoever; it shall not be lawful for any sheriff, or other officer, by virtue of such executions, or of any writ or writs thereupon, to sell, or expose to sale, any such lands, tenements or hereditaments, which shall or may yield yearly rents or profits, beyond all reprises, sufficient within the space of seven years, to pay or satisfy such debts or damages, with costs of suit: but all those lands, tenements and hereditaments, shall, by virtue of the writ or writs of execution, be delivered to the party obtaining the same, until the debt or damages be levied by a reasonable extent, in the same manner and method as lands are delivered upon writs of elegit in England.

If not, then the
lands &c.
may be sold.

III. *Provided nevertheless,* That if the clear profits of such lands or tenements shall not be found, by inquest of twelve men, to be sufficient, within seven years, to satisfy the debt or damages in such executions; or, if before the extent be out, any other debts or damages shall be recovered against the same debtor or defendant, his heirs, executors or administrators, which, with what remains due upon such extent, cannot all be satisfied out of the yearly profits of the lands or tenements, so extended within seven years; then, and in every such case, the sheriff or other officer shall, accordingly, certify the same upon the return of such executions; whereupon a writ or writs of venditioni exponas shall issue forth, to sell such lands and tenements, for and towards satisfaction of what shall remain due upon such extent; as also, towards satisfaction of all the rest of the said debts or damages, in manner as is hereinafter directed, concerning the sale of other lands.

Duty of the
sheriff herein.

IV, It shall and may be lawful for the sheriff,

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His further
duties, before
and after sale.

or other officer, by a writ of levavi facias, to seize and take all other lands, tenements and hereditaments in execution; and thereupon, with all convenient speed, either with or without any writ of venditioni exponas, to make public sale thereof, for the most they will yield; and pay the price or value of the same to the party towards satisfaction of his debt, damages and costs. But before any such sale be made, the sheriff, or other officer, shall cause so many writings to be made upon

parchment, or good paper, as the debtor or defendant shall reasonably desire or request; or so many, without such request, as may be sufficient to signify and give notice of such sales or vendues, and of the day and hour when, and the place where the same will be, and what lands or tenements are to be so sold, and where they lie: which notice shall be given to the defendant, and the said parchments or papers fixed by the sheriff, or other officers, in the most public places of the county, at least ten days before sale, And upon such sale, the sheriff, or other officer, shall make return thereof, endorsed or annexed to the said levavi facias; and give the buyer a deed, duly executed and acknowledged, in court, for what is sold. But in case the said lands and heriditaments, so to be exposed, cannot be sold; then the officer shall make return upon the writ, that he exposed such lands or tenements to sale, and the same remained in his hands unsold, for want of buyers: which return shall not make the officer liable to answer the debt or damages contained in such writ; but the writ of levavi facias shall, forthwith, be awarded and directed to the proper officer, commanding him to deliver to the party such part or parts of those lands, tenements

Notice to defendant at least 10 days before sale.

Where the estate cannot be sold, for want of buyers, a levavi facias to issue:

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and hereditaments, as shall satisfy his debt, damages and interest, from the time of the judgment given, with costs of suit, according to the valuation of twelve men; to hold to him as his free tenement, in satisfaction of his debt, damages and costs, or so much thereof as those lands, by the valuation thereof, as aforesaid, shall amount unto: and if it fall short, the party may afterwards have execution for the residue against the defendant's body, lands or goods, as the laws of this Territory shall direct and appoint, from time to time, concerning other executions. All which said lands, tenements, hereditaments and premises, so as aforesaid to be sold or delivered by the sheriff, or officer aforesaid, with all their appurtenances, shall or may be quietly and peaceably held and enjoyed by the person or persons, or bodies politic, to whom the same shall be sold or delivered, and by his and their heirs, successors and assigns, as fully and amply, and for such estate and estates, and under such rents and services, as he or they, for whose debt or duty the same shall be sold or delivered, might, could or ought to do, at, or before, the taking thereof in execution.

Except as to
defendant's
chief seat.

V. *Provided always*, That the messuage, lands or tenements upon which the defendant is chiefly seated, shall not be exposed to sale, before the expiration of one whole year, after judgment is given; to the intent, that the defendant, or any other for him, may redeem the same.

Proceedings in
mortgages
when default
made.

VI. Where default or defaults have been, or shall be, made or suffered by any mortgagor or mortgagors of lands, tenements, or other hereditaments within this Territory; or by his, her or their heirs, executors, administrators and as-

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Mortgagee
may sue out a
sci. fa.
within twelve
months after
default.

signs, of or in payment of the mortgage-money, or performance of the condition or conditions which they, or any of them, should have paid or performed, or ought to pay or perform, in such manner and form, and according to the purport and effect of the respective provisoes, conditions or covenants, comprized in their deeds of mortgage or defeazance, and at the days, times and places, in the same deeds, respectively, mentioned and contained; in every such case, it shall and may be lawful to and for the mortgagee or mortgagees, and him, her or them that grant the said deeds of defeazance, and his or their heirs, executors, administrators or assigns, any time after the expiration of twelve months, next ensuing the last day whereon the said mortgage-money ought to be paid, or other conditions performed, as aforesaid; to sue forth a writ or writs of scire facias; which the clerk of the court of common pleas, for the county where the said mortgaged lands or hereditaments lie, is hereby empowered and required to make out and dispatch, directed to the proper officer; requiring him, by honest and lawful men of the neighbourhood, to make known to the mortgagor or mortgagors, his, her or their heirs, executors or administrators, that he or they be and appear before the magistrates, judges or justices of the said court or courts, to shew, if anything he or they have to say, wherefore the said mortgaged premises ought not to be seized and taken in execution, for payment of the said mortgage-money, with interest; or to satisfy the damages which the plaintiff in such scire facias, shall, upon the record, suggest for the breach or non-performance of the said conditions. And if the defendant in such scire facias appear, he or she may

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plead satisfaction or payment of part, or all, the mortgage-money, or any other lawful plea, in avoidance of the deed or debt, as the case may require: but if the defendants in such scire facias will not appear on the day whereon the same writ shall be made returnable, then, if the case be such as damages, only, are to be recovered, an inquest shall be forthwith charged to enquire thereof; and the definitive judgment therein, as well as all other judgments to be given upon such scire facias, shall be entered, that the plaintiff in the scire facias shall have execution, by levari facias, directed to the proper officer: by virtue whereof, the said mortgaged premises shall be taken in execution, and exposed to sale, in manner aforesaid; and, upon sale, conveyed to the buyer or buyers thereof, and the money, or price of the same, rendered to the mortgagee or creditor; but, for want of buyers, to be delivered to the mortgagee, or creditor, in manner and form as is herein above directed, concerning other lands and hereditaments to be sold or delivered upon executions, for other debts or damages. And when the said lands and hereditaments shall be sold, or delivered, as aforesaid, the person or persons to whom they shall be sold or delivered, shall and may hold and enjoy the same, with their appurtenances, for such estate or estates as they were sold or delivered, clearly discharged and freed from all equity and benefit of redemption, and all other incumbrances made or suffered by the mortgagors, their heirs or assigns: and such sales shall be available in law: and the respective vendees, mortgagees, or creditors, their heirs and assigns, shall hold and enjoy the same, freed and discharged, as aforesaid. But before such

Defendant may appear & plead payment.

On failure, an inquest, & afterwards a levari facias to sell the premises.

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sales be made, notice shall be given, in writing, in manner and form as is herein above directed, concerning the sales of lands upon executions; any law or usage, to the contrary, notwithstanding.

VII. *Provided also*, That when any of the said lands, tenements or hereditaments which, by the direction and authority of this law, are to be sold for the payment of debts and damages, in manner aforesaid, shall be sold for more than will satisfy the same debts, or damages, and reasonable costs; then the sheriff, or other officer who

Sheriff to render overplus money (if any) to the mortgagor, or defendant.

shall make the sale, must render the overplus to the debtor or defendant; and then, and not before, the said officer shall be discharged thereof, upon record, in the same court where he shall make return of his proceedings concerning the said sales.

VIII. *Provided also*, That no sale or delivery which shall be made, by virtue of this law, shall be extended to create any further term or estate to the vendees, mortgagees or creditors, than the lands or hereditaments, so sold or delivered, shall appear to be mortgaged for, by the said respective mortgages or defeazible deeds.

IX. *Provided also*, That if any of the said judgments, which do or shall warrant the awarding of the said writs of execution whereupon any lands, tenements or hereditaments, have been or shall be sold, shall, at any time hereafter, be reversed for any error or errors; then, and in every such case, none of the said lands, tenements or hereditaments, so, as aforesaid, taken or sold, or to be taken or sold upon executions, nor any part thereof, shall be restored, nor the sheriff's sale or delivery thereof avoided; but restitution,

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in such cases, shall be made only of the money or price for which such lands were or shall be sold.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the fifteenth day of August, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

No new term or estate to be created by the sale.

If judgment on which execution is awarded, be reversed, for error, the lands &c. sold, not to be restored—but the purchase-money to be paid over to the Plt. in error.

TERRITORY OF THE UNITED STATES }
 NORTH-WEST OF THE OHIO. }



A LAW allowing Domestic Attachments.
Adopted from the Pennsylvanian code, and published at Cincinnati, the first day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.

AR. ST. CLAIR,
 JOHN C. SYMMES,
 G. TURNER.

Sect. I. **T**HE judges and justices of the respective county courts within this Territory, shall and are hereby empowered to grant writs of attachment; which attachments, so granted, shall be duly served, by the respective sheriffs or coroners, as the case may require, upon the goods and chattels of such person or persons a-

Writs of attachment to be granted by the

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gainst whom the same shall be awarded, in whose hands or possession the same shall be found, returnable to the next succeeding court, respectively; where the party may proceed to trial, and shall have judgment granted the third court after the effects are seized.

inferior courts.

II, The person or persons, whose goods or effects are so attached, shall be defendant in the attachment; and the person in whose hands, or possession, the same goods or effects are attached, shall be called the garnishee; and shall be obliged to appear in court, at the return of the attachment, and answer what shall be objected against him, and abide the judgment of court; and shall be allowed, out of the effects attached, reasonable satisfaction for his attendance.

The garnishee to answer at return of attachment, and be allowed reasonable satisfaction for attending.

III, The manner of executing writs shall be by the officer's going to the house, or to the person in whose hands, or possession, the defendant's goods, or effects, are supposed to be, and then and there declaring, in the presence of one or more credible persons of the neighbourhood, that he attacheth the same goods, or other effects.

How the writ shall be executed.

From and after which declaration, the goods, money or effects, so attached, shall remain in the officer's power, and be by him secured, in order to answer and abide the judgment of court, in that case, unless the garnishee will give security therefor. And if the plaintiff in the attachment obtain a verdict, judgment and execution, for the money and goods in the garnishee's possession; yet the defendant in the attachment may, at any time, before the money be paid, put in bail to the plaintiff's action, upon which the attachment is grounded; whereby the garnishee will and shall be immediately discharged. And if an attachment

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shall be made for goods or effects, and the garnishee plead he had no goods or effects in his hands, at the time of the attachment, or at any time after, and the plaintiff prove the contrary; the jury, in such case, being satisfied that the proof is plain and full, shall find for the plaintiff, and say, what goods or effects they find in the garnishee's hands: whereupon judgment shall be entered, that appraisement may be made of the said goods or effects, so found by the jury; and a precept shall be granted, requiring the sheriff to get the same appraised: and if the garnishee will not produce them, then execution shall be forthwith awarded for the value thereof, according to appraisement, to be levied upon the lands, tenements, goods and chattels of the garnishee.

IV. *Provided always,* That no attachment shall hereafter be granted against any person or persons' effects, but such, only, as, at the time of granting such writs, are not resident or residing within this Territory; or are about to remove or make their escape out of the same, and shall refuse to give sufficient security to the complainant, for his debt or other demand, before he depart the said Territory.

V. *Provided also,* That after judgment obtained by the plaintiff, upon any attachments against non-residents, the plaintiff shall, before sale and after execution is awarded, find security; who shall undertake for the plaintiff, that if the defendant in the attachment shall, within a year and a day next following, by himself, or attorney, come into court, and disprove or avoid the debt recovered by the plaintiff against him, or shall discharge the same, with costs; that then the plaintiff shall restore, to the defendant, the goods

Judgment, how entered; appraisement to be made.

Precept thereon to the sheriff; and, on failure of garnishee, execution.

No attachment to issue against effects, but where the owner is non-resident, about to escape, or shall refuse to give security.

How plaintiff to proceed, after judgment obtained.

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or effects, or value thereof, by the plaintiff attached and condemned, or so much thereof as shall be disproved or discharged; or else they shall and will do it for him.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the fifteenth day of August, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,,
G. TURNER.

TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



A LAW regulating Domestic Attachments. *Adopted from the Pennsylvanian code, and published at Cincinnati, the first day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

Sect. I. **I**F any person shall absent him or herself out of this Territory, or abscond from his or her usual place of abode (not taking care to satisfy his or her just debts) it shall and may be lawful for any justice of the peace, of the county where such person's estate may be found,

**Proceedings
against ab-
sconding
debtors.**

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to grant a writ of attachment, for any debt not exceeding the sum of twelve dollars, directed to any constable of the same county, to attach the goods and chattels, or other effects, of such person to answer the creditor: but before the granting any such attachment, the person or persons requesting the same, or some other credible person or persons, for him or them, shall, upon oath or affirmation, declare, that

the defendant in such attachment is indebted to the plaintiff, therein named, in a sum not exceeding twelve dollars; and that the defendant is and has been absconded from the place of his usual abode, for the space of six days, with a design to defraud his creditors, as is believed: and that the defendant has not left a clear, fee-simple estate, in lands or tenements within this Territory, sufficient to pay his debts, so far as the plaintiff, or deponent, knows or believes. Which oath, or affirmation, the justice of the peace, that grants such writ, is hereby empowered and required to administer. And if any attachment be granted otherwise, or contrary to the true intent and meaning hereof, the justice of the peace, so granting the same, shall, for every such offence, forfeit the sum of twelve dollars, for the use of him or her that will sue for same.

Further proceedings to be had.

II. As soon as the justice of the peace, before whom the writ of attachment is returnable, accepts the constable's return thereof, the said justice shall immediately appoint two substantial freeholders, to take into their custody all the goods and chattels attached: for which they shall be accountable, until they shall dispose of the same, as hereinafter is directed; and shall, also, forthwith publish his said proceedings, by advertise-

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ments, in the most public places, near the late dwelling place of the person so, as aforesaid, absenting; and likewise in one, or more, of the public news-papers within this Territory; appointing the time and place for all the creditors of the person, against whose effects and estate the attachment is granted, to appear, then and there to discover and make proof of their demands: and if, after a full and careful examination, it shall appear, that there is a just debt due to any one person from the said defendant, exceeding the sum of twelve dollars; then, and in every such case, the said justice of the peace, shall no further proceed; but shall deliver and certify to the prothonotary of the court of common pleas, for the same county, the said attachment, and all proceedings thereon had before him: whereupon, it shall and may be lawful, for the justices of the said court, to grant and issue one writ of attachment, only, to the person or persons who obtained the said attachment from the said justice of the peace (if he demand the same) or, if not, then to any other creditor of the

When the debt appears to exceed 12 dollars. Justice of the peace to cease further proceedings, and certify the case up to Common Pleas.

Proceedings of the Common Pleas thereupon;

defendant, to the sheriff of the same county directed, requiring him to attach all the goods, chattels, rights and credits, lands, tenements and hereditaments of the said defendant, within his bailiwick. By virtue of which writ, the said sheriff shall, together with the residue of the said defendant's real and personal estate in the same county, attach, and take into his custody, all the goods and chattels of the said defendant (or the product of such part of them, as may be sold, according to the direction of this law) then in the hands and possession of the said freeholders, and, upon the return of the said writ of at-

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tachment, by the said sheriff, the justices of the said court of Common Pleas, and all other persons acting under their authority, shall proceed thereon, in like manner, and shall have the same jurisdiction and powers, for the discovering, selling, collecting, compelling payment of, receiving and distributing the estate, real and personal, of the defendant among his creditors, as they might or could have had, if the said writ of attachment had, according to the laws of this Territory, issued out of the same court.

III. When any attachment shall be granted by any justice of the peace, or any writ of attachment shall issue out of any inferior court, according to the directions of this law, no second or other attachment, or writ of attachment, granted or issued by the said justice, or any other justice within the same county, or by the justices of the same inferior court, against the real or personal estate of the same defendant, or the execution of them, or any of them, shall bind or affect the right, title, interest or property of, or in, the real or personal estate of the same defendant, within the same county, or any part thereof; while the proceedings on the said first attachment, or writ of attachment, remain undetermined: any law, usage or custom, to the contrary, notwithstanding.

IV. When the said justice of the peace shall accept of the return of an attachment, from the constable, as above directed; if it shall appear to the same justice, that any cattle or other chattels, necessary to be maintained at expense, or any perishable goods, have been attached, by virtue of the same attachment; it shall and may be lawful for the same justice, to order sale of them to

and of the
sheriff.

When one
attachment is
issued, no se-
cond writ of
that nature
shall be had
till the former
be determined
on.

When certain
chattels, or
perishable
goods are
attached, they
may be sold,
within ten
days.

Proceedings
herein.

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be made, by the said freeholders, within ten days: of which public notice shall be given, at least six days before the sale thereof, by advertisements to be set up at the most public places, near the place of sale; and that the money arising therefrom shall be lodged in the hands of the freeholders, aforesaid, to be attached or distributed among the creditors, in the manner hereinbefore or hereafter directed and appointed.

How justices
of the peace,
&c. may proceed where no
debt above
12 dollars
shall appear.

V. If no such debt exceeding twelve dollars shall, to the said justice of the peace, appear to be due from the said defendant; then the said goods, chattels and other effects, in the hands of the said freeholders, shall be brought to an appraisement, but not sold (except as herein before excepted) until the expiration of three months, next after the granting the attachments to the end, that the debtor may have time to redeem them, if he see cause. And if, after the expiration of three months, as aforesaid, the debtor shall not appear and redeem them; on notice thereof, given to the justice of the peace, he shall forthwith order and direct the said freeholders to make sale thereof; and out of the money arising therefrom, and all other money then in their hands, from any part of the defendant's estate arising (reasonable charges first deducted) to make payment to the creditors, who shall appear and make proof of their debts, within the said three months, in proportion of their respective debts; and the overplus, if any, to be returned to the owner. But, before any such sale is made, the freeholders aforesaid shall give, at least, ten days notice thereof, by advertising in the most public places, the time and place of such sale: and the constable shall receive fifty cents, for serving

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such attachment, and twenty-five cents for serving execution.

Proceedings of
freeholders,
appraising
attached
property, to be
put on record.

VI. The freeholders, aforesaid, within six days next after making such sale and distribution, as is herein before directed, shall render a true account of their proceedings to the justice of the peace, who granted the attachment to be by him kept as a record of their proceedings therein.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the fifteenth day of August, next ensuing:

IN TESTIMONY whereof, we *Arthur St. Clair, John Cleves Symmes and George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

TERRITORY OF THE UNITED STATES)
NORTH-WEST OF THE OHIO. }



A LAW for the easy and speedy Recovery of Small Debts. *Adopted from the Pennsylvanian code, and published at Cincinnati, the third day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

Sect. I. UPON complaint made to any justice of a court of common pleas, or jus-

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tice of the peace, against any person for any debt, or demand, under five dollars, it shall and may be lawful for such justice, and he is hereby empowered and required to issue forth his warrant in the nature of a summons, capias or attachment, as the case may require, directed to the constable of the township, or district where the defendant dwells, or can be found; commanding him to bring such defendant, or causing him to come with the plaintiff, before him or the next justice, forthwith: and when such justice hath heard the proofs, by the oaths or affirmations of one or more witnesses, and the allegations of both parties, or such of them as will be present, he shall, forthwith, give judgment in the matter; which shall be final and conclusive to both complainant and defendant, without further appeal. But the justice, who gives judgment, shall keep fair entries of the names of the complainants and defendants, and the debt or sum contained in such judgment, with the day and year when the same was given, and execution, if required, shall be awarded, by the justice, against the body, or goods and effects of the defendant or person

How debt under 5 dollars, is recoverable.

No appeal.

The justice giving judgment, to enter every cause.

Execution.

The body not
to be taken,
where goods
can be had.

refusing to comply with such judgment, directed to the constable. If the defendant produce effects sufficient to satisfy the sum, contained in such execution, his body shall not be held any longer; but, for want of such effects, the constable is hereby required to take such defendant into the jail of the proper county; and the sheriff or keeper of such jail, is hereby required to receive the person, so taken in execution, and him safely keep, till the sum recovered, with costs, be paid, or satisfaction made by goods, or otherwise; which goods shall, within three days after, be sold

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by public vendue, and the overplus, if any, after reasonable charges deducted, returned to the owner.

II. No court shall have cognizance of any of the said debts, or demands, under five dollars; nor shall the same be determined by any justice, in any other way, than this law directs; any law or usage to the contrary, in anywise, notwithstanding.

III. *Provided always*, That nothing herein contained, shall extend to enable any of the said justices, within the respective counties, to hear any debt for rents, or where the title of real estates comes into question.

Debt from 5 to
12 Dol. inclu-
sive, where
cognizable.

Proceedings
thereon, by
warrant or
capias:

IV. All actions of debt, or other demand, for the value of five dollars, and upwards, and not exceeding twelve dollars (except such actions as are hereinafter excepted) are hereby made cognizable before any justice of the Common Pleas, or justice of the peace, in the county in which the defendant shall be, or reside: and the said justices are hereby respectively empowered and required, upon complaint to either of them made for any such debt or demand, to issue a warrant in the nature of a summons, or capias, as the case may require, directed to the constable of the township or district where the defendant dwells, or can be found; or to some other constable, near to him; commanding such constable to bring, such defendant or cause him to appear, before the said justice, at the time and in the manner following; that is to say: in cases, where process shall be in the nature of a capias, forthwith after the service thereof; but where a summons shall be issued, then on some certain day therein to be expressed, not less than five, nor exceeding eight days, from the date of such process, And at the time ap-

If by capias
then, &c.

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pointed, for the hearing of any such cause, the said justice, having heard and examined the parties, with their proofs and allegations, shall give judgment thereupon, as the true merits and right of the cause shall appear to him; or, at the request of the parties, auditors or referees shall be named by them, and being approved of by the justice, shall proceed to hear and examine the proofs and allegations of the plaintiff and defendant: and, upon the return of such auditors, the said justice shall give judgment thereupon, accordingly; with such costs, only, in either case, as by law are allowed in debts under five dollars.

Referrees may be appointed.

Judgment.

V. *Provided always*, That the process against a freeholder shall be by summons, only; and service thereof shall be made on the person, or a copy thereof left at the house of the defendant, in the presence of one or more of his family, or neighbours, at least four days before the time appointed for a hearing. And if the defendant do not appear at the time appointed, then, on oath or affirmation, made by the constable, that the said summons was duly served, in manner aforesaid, the justice who granted the same summons, may, either then, or on such further day as he shall deem consistent with reason and the nature of the case, to appoint (and not otherwise) proceed to hear and determine such cause, or causes, in the defendant's absence; and give judgment, and award execution thereupon, as if the defendant had been personally present.

Proceedings against freeholders.

Judgment thereon.

VI. After judgment given, in any of the cases aforesaid, the justice who pronounced the same shall grant execution thereupon, directed to the constable aforesaid; commanding him to levy the debt or damages and costs of the defendant's

Execution, in such cases, & proceedings against the goods

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goods and chattels, who, by virtue thereof, shall, within the space of ten days, next afterwards, expose the same to sale by public vendue, returning the overplus, if any be, to the defendant: and, for want of sufficient distress, to take the body of such defendant into custody, and him or her to carry and convey to the common jail of the county. And the sheriff, or keeper of such jail, is hereby required to receive the person or persons, so taken in execution, and him, her, or them, safely to keep, until the sum recovered, with costs, be fully paid. And

When the body may be taken.

Sheriff to answer for escapes.

in default of such safe-keeping, to be liable to answer the damages to the party grieved, in such manner as, by law, is provided in case of escapes: but in case no assets belonging to the defendant, sufficient to pay the debt and costs, can be found; it shall and may be lawful for the plaintiff to apply to the justice who pronounced the judgment, for a transcript thereof; and on filing the same in the prothonotary's office of the court of Common Pleas, in that county in which the recovery shall be had, it shall and may be lawful for the plaintiff to levy the sum recovered, with costs of suit, on the lands and tenements of the defendant, either by fieri facias, venditioni exponas, or a liberari facias, as the case may require, in like manner as, by law, is provided in other cases.

When the lands and tenements of defendant may be levied on.

Execution against free holders not to issue within 3 months unless, &c.

VII. *Provided always,* That no such execution shall be issued against any freeholder, in less than the space of three months, next after the entry of such judgment, unless the plaintiff, or some body for him or her, shall, on oath, or affirmation, declare, that he or she hath good reason to believe that the debt will, by such delay, be lost; for that at the end of the said term, or before it,

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he or she believes the defendant will not have sufficient assets in the county, on which the said debt may be levied; and if any judgment to be given, as aforesaid, shall be against a person, not a freeholder, such person shall have the execution against him or her respited for the like term of three months, on his or her entering into recognizance to the plaintiff with one sufficient security, in the nature of special bail; on condition to deliver the body of the defendant to the sheriff of the county, at or any time before the expiration of the time so to be allowed; or that the money adjudged to be due, shall then be paid. And in default of giving such security, shall be committed to the common jail of the county; there to remain until the debt and costs shall be paid; or such defendant otherwise legally discharged.

costs to defendant.

VIII. *Provided also,* That where the plaintiff, in any case, shall become nonsuit, or judgment shall pass against him, then the justice is hereby required to assess the defendant his reasonable costs, to be levied in manner aforesaid.

Appeal allowed.

IX. *Provided also,* That if any person or persons shall conceive him her or themselves aggrieved by any such judgment, so to be given,

(cases determined on the return of auditors or referees, as aforesaid, only excepted) it shall and may be lawful for such person or persons, at any time within the space of six days next following the giving of such judgment, but not after, to appeal therefrom, to the court of Common Pleas, next to be holden for the county in which such suit shall be commenced; he, she or they first entering into recognizance with at least one sufficient security, at least in double value of the debt or damages sued for (and sufficient to answer all

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costs) to prosecute the said appeal, with effect, and to abide the order of the said court; or in default thereof to be sent, by mittimus, to the sheriff of the county, by him to be kept, until he, she or they, shall give such security, or be otherwise legally discharged.

X. The said justice shall cause fair entries to be made in books, by them to be provided, for that purpose, of the names of the plaintiff and defendant, in all such cases as may come before them; with the debt and costs adjudged, and the time when the same judgment was given. And upon any appeal made from any such judgment, the justice, who pronounced the same, shall send a transcript thereof to the prothonotary of the court of Common Pleas for the county in which such appeal is made, on or before the first day of the term next following any such appeal: for which transcript, or any other, obtained by virtue of this law, the justice shall be allowed, in the costs to be taxed, eighteen cents and no more.

Justices to keep dockets, and how.

Justices' duty in case of appeal.

XI. At the court to which any such appeal shall be made, the person so appealing, shall cause an entry of his suit to be made by the prothonotary of such court; and shall either have his appearance entered, or give bail to the action, as the nature of the case may require; or on neglect thereof, and application of the appellee to the court, for that end, the appellant's default shall be recorded, the first judgment affirmed, with reasonable costs, and execution shall be issued out, of the said court against the defendant's body, goods, or chattels, as is usual in other cases. And in case the defendant shall appeal, or give bail, as aforesaid, the plaintiff or defendant in the appeal, as the case may require, shall file his or

Proceedings in the court appealed to.

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her declaration, and the adverse party plead to issue, in such time as shall be directed by the court; so always that the cause be tried by a jury of the country, in the usual manner, either at the court to which such appeal is made, or the next term at farthest; unless the court, on cause to them shewn, shall think fit to give the parties a farther day: and as the verdict shall be rendered in any of the said causes, the court shall give judgment thereupon as the nature of the case may require, with cost of suit.

Further proceedings.

XII. *Provided always,* That if the parties, appellant and appellee, or either of them, shall neglect or refuse to file his or her declaration, or to plead to issue, in such time as shall be directed by court, a nonsuit or a judgment, by default, may be entered, for want thereof as usual.

What costs to be taxed.

XIII. *Provided also,* That the costs to be taxed in such suit, to the several officers and others concerned for the services by them respectively to be done, shall be two third parts only of the costs now usually taken in the said courts of Common Pleas.

Justices trying out of court, not to sit on the same cause in court.

XIV. *Provided also,* That none of the justices, who, by virtue of this law, shall hear and determine any of the causes, aforesaid, out of court, shall afterwards, sit on the hearing, and determining the same cause, on an appeal made to any of the courts of Common Pleas, aforesaid.

No costs recoverable, unless, &c.

XV. If any person or persons, whomsoever, shall commence, sue or prosecute any suit or suits, for any debts or demands made cognizable, as aforesaid, in other manner than is directed by this law, and shall obtain a verdict or judgment therein, for debt or damages, which, without costs of suit, shall not amount to more

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than twelve dollars, (not having caused an oath or affirmation to be made, before the obtaining of the writ of summons or capias and filed the same in the prothonotary's office, respectively, that he, she or they, so making oath or affirmation, did truly believe the debt due, or damage sustained exceeded the sum of twelve dollars) he she or they, so prosecuting, shall not recover any costs, in such suit: any law, usage or custom, to the contrary, notwithstanding.

XVI. *Provided also*, That this law, nor any thing herein contained, shall be deemed, construed or understood to extend to actions of debt for rent, debt upon bonds for performance of covenants, to actions of covenant, to actions of replevin, or upon any real contract; nor to actions of trespass on the case for trover and conversion, or slander, nor to actions of trespass, for assault and battery or imprisonment; nor to such actions where the title of lands shall anyway come in question.

Particular debts declared not within this law.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of October, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST, CLAIR,
JOHN C. SYMMES,
G. TURNER,

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TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



A LAW concerning defalcation,
Adopted from the Pennsylvanian code, and published at Cincinnati, the third day of June, one thousand, seven-hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

Sect. I. **I**F two, or more, dealing together, be indebted to each other upon bonds, bills, bargains, promises, accounts, or the like, and one of them commence an action, in any court; if the defendant cannot gainsay the deed, bargain or assumption, upon which he is sued, it shall be lawful for such defendant to plead payment of all, or part of the debt, or sum, demanded; and give any bond, bill, receipt, account or bargain in evidence: and if it shall appear, that the defendant hath fully paid, or satisfied, the debt or

Where two or more are dealing together, & one sue out an action, how defendant to plead.

sum demanded, the jury shall find for the defendant; and judgment shall be entered, that the plaintiff shall take nothing by his writ, and shall pay the costs. And if it shall appear, that any part of the sum demanded be paid, then so much as is found to be paid shall be defalked; and the plaintiff shall have judgment for the residue, only, with costs of suit. But if it appear to the jury, that the plaintiff is overpaid, then they shall give in their verdict for the defendant, and, withal, certify to the court, how much they find the plaintiff to be indebted, or

Farther proceedings.

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in arrear, to the defendant, more than will answer the debt or sum demanded: and the sum or sums, so certified, shall be recorded with the verdict, and shall be deemed as a debt of record; and if the plaintiff refuse to pay the same, the defendant, for recovery thereof, shall have a scire facias against the plaintiff in the said action, and have execution for the same, with the costs of that action.

sci. fa.

II. *Provided always*, That in all cases where a tender shall be made, and full payment be offered by discount, or otherwise, in such specie as the party, by contract or agreement, ought to do, and the party to whom such tender shall be made doth refuse the same, and yet afterwards will sue for the debt or goods, so tendered; the plaintiff shall not recover any costs in such suit.

Proviso, as to tender.

III. *Provided also*, That in all cases, where the plaintiff and defendant, having accounts to produce one against another, shall, by themselves, or attornies or agents; consent to a rule of court, for referring the adjustment thereof, to certain persons, mutually chosen by them in open court (the award or report of such referees being made according to the submission of the parties, approved of by the court, and entered upon the record, or roll) shall have the same effect, and be deemed and taken to be as available in law, as a verdict given by twelve men: and the party, to whom any sum or sums of money are thereby awarded to be paid, shall have judgment, or a scire facias, for the recovery thereof, as the case may require, and as is herein before directed, concerning sums found and settled by a jury; any

Where accounts between two parties, what proceedings to be had.

sci. fa.

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law or usage to the contrary, in anywise notwithstanding.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of October, next ensuing: IN TESTIMONY whereof, we Arthur St. Clair, John Cleves Symmes and George Turner, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

A LAW for the trial and punishment of Larceny, under a dollar and a half. *Adopted from the Pennsylvanian code, and published at Cincinnati, the fifth day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

Sect. I. IF any person shall be convicted, either by his or her own confession, or the testimony of credible evidence, before any two justices of the peace, in their respective counties, of having feloniously stolen any money, goods or chattels (the same being under the value of five shillings, now equal to one hundred and fifty cents) the offender shall have judgment, to be immediately and publicly whipped, upon his or her bare back, not exceeding fifteen lashes; or be fined in any sum, at the discretion of

Persons stealing under the value of 150 cents, how punishable before 2 justices.

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the said justices, not exceeding, three dollars; and if able, to make restitution, besides, to the party wronged: paying also the charges of prosecution and whipping: or, otherwise, shall be sent to the work house, to be kept at hard labour: and, for want of such work-house, to be committed to prison, for such charges, for a term not exceeding twelve days; any law to the contrary, notwithstanding.

Party accused may, on request, have trial before the quarter sessions, on recognizance for appearance there—except servants, unless &c

II. *Provided always*, That if the party, so charged with such larceny, request to be tried at the court of general quarter sessions of the peace, to be held for the county respectively, the same shall be granted by the said justices; the offending party giving security to appear and answer at the said court: otherwise he or she shall be committed, as is usual in such cases. But, if the party so charged with larceny be a servant or servants, he, she or they shall not have any appeal, unless the master, mistress or friend of the party charged shall become security for his, her or their appearance at the next court, as, in such cases, is usual.

Justices to record their proceedings herein.

III, One or more of the justices who shall render judgment, by virtue of this law, shall keep fair records of his or their proceedings therein.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the fifteenth day of August, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes and George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

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TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

A LAW to prevent unnecessary Delays in Causes, after Issue joined. *Adopted from the Pennsylvanian code, and published at Cincinnati, the fifth day of June, one thousand, seven hundred and nine-ty-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

Sect. I. **W**HERE any issue is or shall be joined, in any action or suit at law, in any of the courts of this Territory and the plaintiff or plaintiffs, in any such action or suit, hath or have neglected or shall neglect to bring such issue on to be tried, according

Plaintiff neglecting to bring on trial in due course

to the course and practice of the said courts, respectively; it shall and may by lawful for the judges, or justices, of the said courts, respectively, at any time after such neglect, upon motion made in open court (due notice thereof having been given, in open court, the preceding term) to give the like judgment for the defendant or defendants, in every such action or suit, as in cases of non-suit; unless the said judges or justices shall, upon just cause and reasonable terms, allow any further time or times, for the trial of such issue, And if the plaintiff or plaintiffs shall neglect to try such issue within the time or times so allowed; then, and in every such case, the said judges, or justices, shall proceed to give judgment, as aforesaid.

II. *Provided always*, That all judgments given,

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by virtue of this law, shall be of the like force and effect as judgments upon non suit, and of no other force or effect.

III. *Provided also*, That the defendant or defendants shall, upon judgment, be awarded his, her or their costs, in any action or suit, where he, she or they would, upon non-suit, be entitled to the same; and in no other action or suit whatsoever.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the fifteenth day of August next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

to suffer a non suit; unless further time be allowed by the court;

And, for the next neglect, judgment to go against him.

Judgments by this law, to be as judgments on non-suit.

Defendant to have costs.

TERRITORY OF THE UNITED STATES }
 NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
 JOHN C. SYMMES,
 G. TURNER.

A LAW establishing Courts of Judicature. *Adopted from the Pennsylvanian code, and published at Cincinnati, the sixth day of June, one thousand seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

Court of Gen. quarter sessions established.

Sect. I. **T**HERE shall be a court stiled The, General quarter Sessions of the peace, holden and kept four times in every year,

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Terms thereof in Washington.

in every county, viz. In the county of Washington, at the town of Marietta, on the third Tuesdays of March and June, and the first Tuesdays of September and December, yearly and every year; in the county of Hamilton, at the town of Cincinnati, on the first Tusdays of February, May, Augnst and November, yearly every year; in the county of St. Clair, to be holden as followeth, (to wit) in the district of Kaskaskia; on the first Tuesdays of January, March, June and August; in the district of Kahokia, on the first Tuesdays of February, April, July and October; and in the district of Prairie-du Rocher, on the first Tuesdays of May, August, November and February, yearly and every year: and in the county of Knox, on the first Tuesdays of February, May, August and November. yearly and every year.

in Hamilton;

in St. Clair;

in Knox.

3 justies to form this bench.

II. There shall be a competent number of justices in every county, nominated and authorized by the Governour, by commission under the seal of the Territory: which said justices, or any three of them, shall and may hold the said General sessions of the peace, according to law.

May hold special sessions.

III. The said justices of the peace, or any three of them, may, pursuant to their said commissions, hold special and private sessions, when, and as often as occasion shall require. And the said justices, and every of them, shall have full power and authority, in or out of sessions, to take all manner of recognizances and obligations, as

Their powers and duties, as to recognizances:

any justices of the peace, in any of the United States, may, can, or usually do: which said recognizances and obligations, shall be made to the United States. And all recognizances for the peace, behaviour, or for appearance, which shall

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be taken by any of the said justices, out of sessions, shall be certified into their said General sessions, of the peace, to be holden next after the taking thereof: every recognizance, taken before any of them, for suspicions of any manner of felony, or other crime not triable in the said court of quarter-sessions of the peace, shall be certified before the judges of the General court, or court of Oyer and Terminer, at their next succeeding court to be holden next after the taking thereof, without concealment of, or detaining or embezzling the same. But in case any person or persons shall forfeit his or their recognizances of the peace, behaviour or appearance, for any cause whatsoever; then the said recognizance, so forfeited, with the record of the default or cause of forfeiture, shall be sent and certified, without delay, by the justices of the peace, into the said General Court, or court of Oyer and Terminer, as the case may require; that thence process may issue against the said parties, according to law. All which forfeitures shall be levied by the proper officers and go to the Territory.

How to be certified.

IV. All fines and americiaments, which shall be laid before the justices of the said courts of General quarter-sessions of the peace, shall be taxed, afferred and set, duly and truly, according to the quality of the offence, without partiality or affection; and shall be yearly estreated by the clerks of the said courts, respectively, into the said General Court or court of Oyer and Terminer: to the intent, that process may be awarded to the sheriff of every county, as the case may require, for levying such of their fines and americiaments, as shall be unpaid, to the uses for which they are, or shall be appropriated.

How fines shall be set, and estreated.

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V. *Provided always*, That the said courts of the General quarter-sessions of the peace, may be kept and continued for the space of three legal days, or seventy-two hours, in every of the said counties, respectively, at any of the said times hereinbefore appointed to hold and keep the said court and sessions there.

Quarter-sessions shall sit no more than 72 hours.

Their proceedings as to persons indicted, or out-lawed, and removing into other counties.

VI. To the end, that persons indicted or out-lawed for felonies, or other offences, in one county, or town corporate, who dwell, remove or be received, into another county, or town corporate, may be brought to justice; it is hereby directed, that the justices, or any of them, shall and may direct their writs, or precepts, to all or any of the sheriffs, or other officers of the said counties, (where need shall be) to take such persons indicted or out-lawed. And it shall and may be lawful to and for the said justices, and every of them, to issue forth subpoenas, and other warrants, under their respective hands and seal of the county, into any county or place of this Territory, for summoning or bringing any person, or persons, to give evidence in and upon any matter or cause whatsoever, now or hereafter examinable, or in any ways triable by or before them, or any of them; under such pains and penalties as subpoenas, or warrants of that kind, usually are or ought, by law, to be granted or awarded.

Appeal given to the general court.

VII. If any person or persons shall find him or themselves aggrieved by the judgment of any of the said courts of general quarter sessions of the peace, or any other courts of record, within this Territory; it shall and may be lawful to and for the party or parties so aggrieved, to have his or their writ or writs of error, which shall be

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granted, of course, in manner as other writs are to be granted and made returnable to the General court.

The general court established.

Its sittings in Washington and in Hamilton;

Supreme powers of this court.

VIII. There shall be holden and kept, twice in every year, a Supreme court of record, which shall be called and stiled, *The General court*; the sittings of which court to commence at Marietta, in the county of Washington, on the third Tuesday of October, yearly and every year; and on the third Tuesday of March, at the town of Cincinnati, in the county of Hamilton, yearly and every year. And the judges of the said court, and every of them, shall have power and authority, when and as often as there may be occasion, to issue forth writs of habeas corpus, certiorari, and writs of error, and all remedial and other writs and process, returnable to the said court, and grantable by the said judges, by virtue of their office.

Where issue joined therein shall be tried.

IX. *Provided always*, That upon any issue joined in the said General-court, such issue shall be tried in the county whence the

cause was removed, before the judges aforesaid, or any one of them, as a *circuit court*; who are hereby empowered and required, if occasion require, to go the circuit, twice in every year, into the counties of St. Clair and Knox, and such other counties as may hereafter be erected, to try such issues in fact as shall be depending in the said General court, and removed out of either the counties aforesaid; (when and where they may try all issues joined); or to be joined, in the same General court, and to do, generally, all those things that shall be necessary for the trial of any issue, as fully as justices of nisi prius in any of the United States may or can do.

Circuit courts established in St. Clair, Knox, and other counties to be erected
One judge to form the bench—
Terms discretionary,

Their powers.

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X. The said judges, or any two of them, shall, in their said court, hear and determine all causes, matters and things, cognizable in the said court; and also hear and determine all and all manner of pleas, complaints and causes, which shall be removed, or brought there, from the respective General quarter-sessions of the peace, and courts of common pleas, or from any other court to be holden for the respective counties; and to examine and correct all and all manner of errors of the justices of the inferior courts, in their judgments, process and proceedings in the said courts; as well in all pleas of the United States, as in all pleas real, personal and mixed: and thereupon to reverse or affirm, the said judgments, as the law doth or shall direct: And also to examine, correct and punish the contempts, omissions and neglects, favours, corruptions and defaults of all or any of the justices of the peace, sheriffs, coroners, clerks and other officers, within the said respective counties.

Not less than 2 judges to form the general court.

Their powers and duties.
Shall correct the errors of inferior courts;

and punish the contempts, corruptions, &c. of justices sheriffs, coroners, and other officers.

And also, shall award process for levying, as well of such fines, forfeitures and amerciaments, as shall be estreated into the said General court, as of the fines, forfeitures and amerciaments, which shall be lost, taxed and set there, and not paid to the uses to which they are, or shall be, appropriated: and, generally, shall minister ample justice to all persons, and amply exercise the jurisdictions and powers herein mentioned, concerning all and singular the premises, according to law.

Further powers and duties of the Territorial judges.

XI. All the said writs shall run in the name & style of *the United States of America*, and bear test in the name of the presiding judge: but if he be plaintiff or defendant, then, in the name of

State of process, and how tested.

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one of the other judges; and shall be sealed with the judicial seal of the said court, and made returnable to the next court after the date of such writs.

General Court
to deliver
the jails of
persons com-
mitted for cap-
ital offences.

XII. The judges of the general court have power, from time to time, to deliver the jails of all persons who now are, or hereafter shall be committed for treasons, murders and such other crimes as, by the laws of this Territory, now are, or hereafter shall be, made capital, or felonies of death, as aforesaid: and for that end, from time to time, to issue forth such necessary precepts and process, and force obedience thereto, as justices of assize, justices of Oyer and Terminer, and of jail-delivery, may, or can do within the United States.

Travelling ex-
pences of the
judges, attor-
ney-general
and clerk, &c.
to be paid by
the public:

When by the
Territory;

And when by
the county.

To pass
ferries free.

Jurymen to be
fined, for non-
attendance.

XIII. The charges and expences of the judges, attorney-general, and clerk of the General-Court, with their servants, in travelling their circuits, and while holding the General and Circuit-Courts, shall be paid in manner following, that is to say; all such expences as shall happen in their circuits through any of the counties, where they shall not hold their said court, shall be paid by the Territory; and all such expences as shall accrue from the time of their coming into, and during their continuance in the county where they shall hold their said court, by the treasurer of the same county, out of the county stock. And they the said judges, attorney-general, and clerk, with their servants, shall pass and repass, and shall be conveyed by the ferry-men over all the several ferries within this Territory, without paying any ferriage, fee or reward for the same.

XIV. In order to compel the due attendance of jury-men on the said circuit and *nisi prius* courts, and all other courts within this Territory,

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it is hereby declared, that if any person shall be duly summoned to attend any court of judicature, to serve on a jury, or on any inquest required by law, and shall neglect or refuse to give his attendance, on the day, and during the time his service is necessary; every such person, so offending, shall be fined, for every such offence in the General court, and court of Oyer and Terminer, by the judges thereof, any sum not exceeding eight dollars: and for every such offence, in the court of Common Pleas, or court of quarter-sessions of

If in the Gen-
eral Court, not
exceeding 8
dollars.

the peace for any county of the Territory, by the justices thereof, any sum, not exceeding five dollars: unless such delinquent shall, at the same or next succeeding court, render to the judges or justices thereof, a reasonable excuse for such neglect or refusal, to be allowed by such of them as shall be present: which said judges or justices are hereby empowered and required, on failure of such delinquent, to render such reasonable excuse, to issue a writ to the sheriff of the county, to levy the said fines on the goods and chattels of every such delinquent; to be paid to the overseers of the poor of the township, where he shall reside, to the use of the poor thereof.

If in the inferior courts, not exceeding 5 dollars.

Process to compel payment thereof;

Such fines to go to the poor.

XV. A competent number of persons shall be commissioned by the governour, under the seal of the Territory, as justices of the Common Pleas; who shall hold and keep a court of Record, in every county, and which shall be stiled and called, *the court of Common Pleas of (naming the particular county)* and shall be holden four times in every year, in each county, at the place where the General quarter-sessions of the peace shall be respectively kept. Which said

Justices and courts of Common Pleas established.

To be held four times, yearly, in every county.

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justices, or any three of them, according to the tenor and direction of their commissions, shall hold pleas of assize, scire facias, replevins, and hear and determine all and all manner of pleas, actions, suits and causes, civil, personal, real and mixed, according to law.

3 justices to make a bench.

Their powers and duties.

XVI. Every of the said justices shall and are hereby empowered to grant under the seal of their respective courts, replevins, writs of partition, writs of view, and all other writs and process upon the said pleas and actions, cognizable in the said respective courts, as occasion may require.

Further powers of this court.

XVII. The said justices of the said respective courts, last mentioned, shall and are hereby empowered to issue forth subpœnas, under their respective hands and seal of the court, into any county or place within this Territory, for summoning or bringing any person or persons to give evidence in, or upon, the trial of any matter or cause, whatsoever, depending before them, or any of them; under such pains and penalties as, by the rules of the common law, and course of the practice of the General court, are usually appointed.

May subpœna out of its county.

Process may run into another county, in certain cases.

XVIII. Upon any judgment obtained in any of the said courts of Common Pleas, and execution returned by the sheriff, or coronor, of the proper county, where such judgment was obtained, that the party is not to be found, or hath no lands or tenements, goods or chattels, in that county; and thereupon it is testified, that the party skulks, or lies hid, or hath lands, tenements, goods or chattels in another county, in this Territory; it shall and may be lawful to and for the court that issued out such execution, to grant, and they are hereby required to grant an *alias* execution,

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with a testatum, directed to the sheriff, or coronor, of the county or place where such person lies hid, or where his lands or effects are; commanding him to execute the same, according to the tenor of such writ or writs, and make return thereof to the court of Common Pleas where such recovery is had or judgment given. And if the sheriff, or coronor, to whom such writ or writs shall be directed, shall refuse or neglect to execute and return the same accordingly, he shall be amerced in the county where he ought to return it, and be liable to the action of the party grieved: and the said amerciaments shall be truly and duly set, according to the quality of the offence, and estreated, by the prothonotaries of the respective courts of Common Pleas, into the next succeeding General court, or court of Oyer and Terminer, in course; that thence process may issue against the offenders, for levying such fines and amerciaments as shall be unpaid, to the uses for which they are, or shall be appropriated.

Penalty on sheriff, or coroner neglecting to execute such process:

How to be estreated.

Causes continued over to the new terms.

XIX. All suits, actions and causes before the General court, or the courts of Common Pleas and General quarter-sessions of the peace, that shall remain undetermined, shall be continued over to the next respective term, ensuing under the authority of this law.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the fifteenth day of August, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

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TERRITORY OF THE UNITED STATES }
 NORTH-WEST OF THE OHIO. }



A LAW for the Limitation of Actions.

Adopted from the Pennsylvanian code, and published at Cincinnati, the tenth day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.

AR. ST. CLAIR,
 JOHN C. SYMMES,
 G. TURNER.

Sect. I. **A**LL actions of trespass quare clausum fregit, detinue, trover and replevin for taking away goods and cattle; of account and upon the case (other than such accounts as concern the trade of merchandize between merchant and merchant, their factors or servants) all actions of debt, grounded upon any lending or contract, without specialty; of debt for arrearages of rent, of trespass, assault, menace, battery, wounding and imprisonment, or any of them, which shall be sued or brought at any time, hereafter, shall be commenced and sued within the time and limitation hereafter expressed, and not after (that is to say) actions upon the case, other than for slander, actions for account, and actions for trespass, debt, detinue, replevin for goods or cattle, and actions of trespass quare clausum fregit, within three years; or within six years, next after the cause of such actions, or suit, and not afterwards: and actions of trespass, of assault, menace, battery, wounding, imprisonment, or any of them, within one year, next after the taking effect hereof; or within two years, next after the cause of such actions or suit, and not afterwards; and ac-

Limitation of actions of trespass quare clausum fregit, detinue, trover and replevin; of account (other than, &c.) of debt for rent, of trespass, assault, menace, battery, wounding and imprisonment.

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tions upon the case, for words, within one year, next after the words spoken, and not afterwards.

II. If, in any of the said actions or suits, judgment be given for the plaintiff, and the same be reversed by error; or a verdict pass for the plaintiff, and, upon matter alledged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing by his

If judgment thereon be reversed for error, plaintiff may bring

fresh suit
in 12 months

plaint, writ or bill; then, and in every such case, the party, plaintiff, his heirs, executors or administrators (as the case may require) may commence a new action or suit, from time to time, within a year after such judgment reversed or given against the plaintiff, as aforesaid, and not afterwards.

In actions of
trespass quare
clausum fregit
where deft.
sets up no
title to the
land, &c. he
may tender
amends.

III. In all actions of trespass quare clausum fregit, hereafter to be brought, wherein the defendant or defendants shall disclaim, in his or their plea, to make any title or claim to the land in which the trespass is, by the declaration, supposed to be done (and the trespass be by negligence, or involuntary) the defendant or defendants shall be admitted to plead a disclaimer, and that the trespass was by negligence, or involuntary; and a tender or offer of sufficient amends for such trespass, before the action brought: whereupon, or upon some of them, the plaintiff or plaintiffs shall be enforced to join issue: and if the said issue be found for the defendant or defendants; or if the plaintiff or plaintiffs shall be non-suited, the plaintiff or plaintiffs shall be clearly barred from the said action or actions, and all other suits concerning the same.

Where, in
actions for
slander, the
jury find
damages.

IV. In all actions upon the case, for slanderous words, to be sued or prosecuted by any person or persons, in any court, if the jury upon trial of the issue, in such action, or the jury

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under 5 dol-
lars, plaintiff
shall recover
no more costs.

that shall enquire of the damages, do find or assess the damages, under five dollars; then the plaintiff or plaintiffs, in such action, shall have and recover only so much costs as the damages so given, or assessed, do amount unto, without any further increase of the same; any law or usage, to the contrary, notwithstanding.

Proviso favour-
ing minors,
feme-coverts,
unsound minds,
or persons be-
yond sea, or
imprisoned.

V. *Provided nevertheless*, That if any person or persons, who is or shall be entitled to any such action of trespass, detinue, trover, replevin, actions of account, or debt, actions for trespass, for assault, menace, battery, wounding or imprisonment, or actions upon the case for words, be, or at the time of any cause of such action, given or accrued, fallen or come, shall be, within the age of twenty one years, feme-covert non compos mentis, imprisoned or beyond sea; that, then, such person or persons shall be at liberty to bring the same actions, so as they take the same within such times as hereby

before limited, after their coming to, or being of full age, discoverture, of sound memory, at large, or returning into this Territory as other persons.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of October, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST, CLAIR,
JOHN C. SYMMES
G. TURNER.

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TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

A LAW for the relief of persons conscientiously scrupulous to take an Oath in the common form. *Adopted from the Pennsylvanian code, and published at Cincinnati, the eleventh day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

Sect. I. **A**LL and all manner of crimes, offences, matters, causes and things, to be enquired of, heard, tried and determined, or done or performed, by virtue of any law, or otherwise, shall and may be enquired of, heard tried and determined by judges, justices, witnesses and inquest. And all other persons, qualifying themselves according to their conscientious persuasions, respectively;—those of the people commonly called *Quakers*, by taking the solemn affirmation; and those of the persuasions who swear with uplifted hand, or hands, by taking an oath in the following words: *I A. B. do swear by Almighty God, the searcher of all*

How witnesses
shall be qualified.

The oath for those who swear with up-lifted hand.

Hearts, that I will (and so forth) as I shall answer to God, at the Great Day.

And that

Which oath, so taken by persons who conscientiously refuse to take an oath, in the common

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form, shall be deemed and taken, in law, to have the same effect with an oath taken in the common form.

Pains and penalty on, such as falsely swear or affirm.

II. If any person shall be legally convicted of taking a false affirmation or of falsely swearing under the form herein particularly, prescribed, he or she, shall incur and suffer the same pains, penalties, disabilities and forfeitures as persons, convicted of wilful and corrupt perjury, do incur and suffer by law.

Proviso, as to oaths to government.

III. *Provided always*, That nothing herein contained shall be held, deemed or construed to enable any such person to receive, take or exercise any office, judicial or ministerial, before he shall take the oath or oaths to the government, according to his conscience, and agreeably to the directions of an act of the United States, entitled "an act prescribing the time and manner of administering certain oaths,"—and also the oath of office.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of October, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

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TERRITORY OF THE UNITED STATES }
 NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
 JOHN C. SYMMES,
 G. TURNER.

A LAW for the recovery of Fines and Forfeitures, and directing how the same are to be estreated. *Adopted from the Pennsylvanian code, and published at Cincinnati, the eleventh day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

Sect. I.

ALL fines, issues, amerciaments forfeited recognizances, sum and sums of money to be paid in lieu and satisfaction of them, or any of them, and all other forfeitures, whatsoever, which, after the twenty fifth day of August one thousand, seven hundred and ninety five, shall be set, imposed, lost or forfeited in the General or circuit courts, or in any of the courts of common pleas, courts of General quarter sessions of the peace, or before any special commissioners of Oyer and Terminer, in any county of the Territory, shall, by the judges, justices, prothonotaries and clerks of the said courts, respectively, be certified, and estreated in and into the said General court (*viz.*) at the term of November next, in the county of Washington, and of October next, in the county of Hamilton, expressing the cause of the loss, the court, the nature of the writ, and names of the parties between whom the said issues and amerciaments are lost.

Fines, &c.
 how to be estreated into the General court to be held in Washington and Hamilton next terms.

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II. All fines, issues, amerciaments, forfeited recognizances, sum and sums of money to be paid in lieu or satisfaction of them, or any of them, and all other forfeitures, whatsoever, arising in any of the said courts, from the said October and November terms of the year one thousand, seven hundred and ninety five; shall be, and are hereby

How to be estreated afterwards.

ordained and required to be certified and estreated, in, and into, the said General court, viz. at Cincinnati, on the first day of the term of the said court, there to be held, on the third Tuesday of March, in every year; and from the said term of March, to the first day of the term of the said court, to be held at Marietta, on the third Tuesday of October, yearly and every year; on pain that every officer or minister of or belonging to the said courts, or any of them, who, by this or any other law ought to make certificates or estreats of any of the said fines, issues, amerciaments and forfeitures, making default, or offending therein, shall forfeit and pay eighty dollars for every such default that shall be made, in certifying and estreating, as aforesaid; the one moiety to the Territory, and the other moiety to such person, or persons, as will sue for the same; to be recovered in any court of record, by action of debt, bill or information, wherein no essoin, protection or wager of law, and but one imparlance shall be allowed.

Penalty on default.

Duty herein of clerks of the peace.

III. All the clerks of the peace shall make and deliver, yearly, to the sheriff of the respective county, where the sessions of the peace is or shall be kept, within ten days, after the twenty fifth day of August, in every year, a true and perfect estreat, or schedule, of all fines, issues, amerciaments, forfeited recognizances, sum and

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sums of money, and other forfeitures, whatsoever, which shall happen to be imposed, set, lost, or forfeited, in any of the said sessions of the peace, respectively; which shall be held before the first day of September, by or upon any person or persons, whatsoever, due to the Territory.

Further duties.

IV. And also, shall yearly and every year, on or before the third Tuesday of October, make and deliver into the said General court, or circuit court (which shall first sit) a true and perfect duplicate, certificate and estreat of all the schedules so delivered to the said respective sheriffs; that so they may be charged with the money levied and received by them, respectively, upon such schedules, delivered as aforesaid; on pain that every person and persons, offending herein, for every such default or failure made shall forfeit and pay the sum of eighty dollars; the one moiety to the Territory,

and the other moiety to such person or persons as will sue for the same, to be recovered as aforesaid.

V. The judges of the said General court shall award process for levying, as well of such fines, forfeitures, issues and americiaments as shall be estreated into the General court, as of all the fines, forfeitures, issues and americiaments which shall be lost, taxed and set there, and not paid to the uses to which they shall be appropriated.

Territorial judges to award process for levying estreats.

VI. No judge, justice, officer or minister of or belonging to any of the said courts, nor any prothonotary or clerk of the said general or other courts, clerk of the peace, nor any officer or minister under them, or any of them; nor other person or persons, whatsoever, shall spare, take off, discharge, or, wittingly or willingly, conceal any indictment, fine, issue, americiament, for-

No officer whatever shall spare, conceal, &c. indictments fines, estreats, &c.

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feited recognizance, or other forfeiture, whatsoever, exhibited, set, imposed, lost or forfeited, in any of the courts above mentioned, or before any of the judges, justices or commissioners, of or belonging to the same; or any sum or sums of money paid, or to be paid to any officer or officers, in lieu or satisfaction of any fine or forfeitures; unless it be by rule, or order of court, where such indictment, fine, issue, americiament, forfeited recognizance, or other forfeiture, is or shall be exhibited, set, imposed, lost or forfeited: nor shall any of the said judges, justices, officers or ministers, aforesaid, or any other, wittingly or willingly, miscertify or estreat in or into any of the said General courts, or circui courts, any fine, issue, americiament, forfeited recognizance, or other forfeiture whatsoever, whereby the process of the said General court, or circuit court, for the levying thereof, may be made invalid and of none effect: but every such judge, justice, officer or minister, and all & every other person and persons, offending herein, shall, for every such offence, forfeit and pay treble the value of such fine, issue, americiament, forfeited recognizance, sum or sums of money, or other forfeiture, so spared, taken off, discharged, concealed, not certified or estreated, or miscertified or estreated, as aforesaid: the one moiety thereof to the Territory, and the other moiety to such person or persons as will sue for the same, to be recovered as aforesaid.

Nor miscertify the same;

On pain of forfeiting treble value.

VII. All clerks and prothonotaries of the said court, clerks of the peace, and others, to whom it belongs to make return of estreats, into the said General court, shall deliver in all and every such estreat and estreats, upon their oaths, or af-

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Oath of those delivering estreats into court.

firmations to be administered by one or more of the judges or justices of the same court, to the effect following; that is to say: *you A. B. declare, that these estreats, now by you delivered, are truly and carefully made up and examined; and that all fines, issues, amerciaments, recognizances and forfeitures, which were set, lost, imposed or forfeited, and, in right and due course of law, ought to be estreated in the General court, or circuit court (as the case may be) are, to the best of your knowledge and understanding, herein contained; and that in the same estreats, are also contained and expressed all such fines and amerciaments as have been paid into the court from which the said estreats are made; without any wilful or fraudulent discharge, omission, misnomer or defect, whatsoever.*

Territorial judges, their duty as to estreats, & relief to parties aggrieved.

VIII. Any of the judges of the said general or circuit courts, shall view all the said estreats, and cause their clerks to enrol them in the said courts; and shall hear and determine all complaints brought before the said courts concerning immoderate fines, issues or amerciaments, estreated, as aforesaid, and give relief to the party grieved, as the law, in such cases, doth or shall direct.

How general or circuit court may proceed to command payment of estreats from officers.

IX. Where any fine or fines, sum or sums of money or other forfeitures, due to the Territory, after the said first day of September, shall be paid to any shereiff clerk, or other officer or minister, whatsoever, belonging to any court or courts; and be, according to the intent and directions of this law, certified and estreated in or into the said General court, or circuit court; then, and in such case, process or citation shall issue out of such court, directed to the sheriff or coroner of the proper county (as the case may require) against

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such officers and other persons, to whom such fines, sum or sums of money, or other forfeiture, is or shall be so paid, for levying and receiving the same; that so it may appear on return of such process or

citation, when, to whom, and how such monies are received, answered and paid.

X. All and every the said fines, sums of money, or other forfeitures (except such as may, by law, be appropriated to other purposes) which, from henceforth, shall be levied or received, according to the intent and directions of this law, shall be paid by the sheriff (or other officer, or minister, who levied or received the same) to such person as the governour shall, from time to time, appoint treasurer of the Territory: who shall pay the same to the uses to which they are, or shall be, appropriated: and the said treasurer shall, from time to time, lay an account thereof before the governour and judges in their legislative capacity, at their next session; and shall deduct five per centum, for his trouble in paying and receiving the same.

XI. The person, or persons, who are or may be empowered to issue licenses, for keeping public houses and selling wine, and other liquors, in any town or place of the Territory, shall keep a true and just account of all the said licenses, expressing the time when the person's names to whom the same were granted, and where they live: and shall certify the same to the said treasurer, once, in every half year, yearly and every year; upon pain of forfeiting and paying the sum of fifty dollars, for every such default, or neglect, in that behalf; the one moiety thereof to the Territory, and the other moiety to him or

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them that will sue for the same; to be recovered as aforesaid.

THE foregoing is hereby declared to be a law, of the Territory; to take effect accordingly: *IN TESTIMONY* whereof, we *Arthur St. Clair John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES
G. TURNER.

Estreats to be paid to the treasurer of the Territory, (except &c.) who shall account to the governour and judges.

Persons appointed to issue licenses, to certify those they issue to the treasurer.

Penalty on neglect.

TERRITORY OF THE UNITED STATES }
 NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
 JOHN C. SYMMES,
 G. TURNER.

A LAW ascertaining and regulating the Fees of the several Officers and persons therein named. *Adopted from the New-York and Pennsylvanian codes, and published at Cincinnati, the sixteenth day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

Sect. I. **N**O officer or person shall, at any time, exact or demand, for services hereafter to be rendered, any larger, or other fee than as hereinafter is provided, other than such as may, by any future law, be allowed, viz.

II. *In the General Court; judges fees; for allow-*

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Judges' fees in
 the General
 court.

ing a writ of error, sixty two and a half cents: for every supersedeas, thirty seven and a half cents: taking bail, thirty seven and a half cents: filing every bail-piece, or recognizance, twelve and a half cents: signing every writ of habeas, corpus, procedendo, certiorari or prohibition, thirty seven and a half cents: confession of a judgment, out of court, thirty seven and a half cents: taking an affidavit, twelve and a half cents: admitting a consellor at law or an attorney, one dollar and twenty five cents: to be paid to the judge or judges, present at the admission: the judge licensing a counsellor at law, or an attorney, three dollars and seventy five cents: taxing a bill of costs, seventy five cents: signing judgment, twenty five cents: in every cause, to be paid on the first motion, unless criminal, sixty two and a half cents; to be divided among the judges: attending on ballotting or striking a jury, or both, sixty two and a half cents: every attendance, on motion or argument, or special matter, at his chambers, and on examining a witness, sixty two and a half cents: every certificate, or order, upon a law for relief of insolvent debtors, thirty seven and a half cents: every warrant, order, report or certifi-

cate upon the law relative to absconding debtors, thirty seven and a half cents: every appointment of trustees, thirty seven and a half cents: taking the acknowledgment of a deed, fifty cents: every justification or allowance of bail, thirty seven and a half cents.

III. *The attorney-general's fees in the General court.* Entering every cessat processus or nolo prosequi, for each defendant, sixty two and a half cents: every process or indictment, or other common writ, per sheet, eighteen cents:

Attorney-general's fees.

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drawing every indictment or information general, seventy five cents: copying and engrossing the same, fifty cents: drawing all special indictments and pleadings, per sheet, seventy two words to a sheet, eighteen cents: a copy thereof per sheet, as aforesaid, ten cents: every motion in court, sixty two and a half cents: fee on trial, demurrer, special verdict, or in error, or in pleas confessed, three dollars: every warrant, to acknowledge satisfaction on record, seventy five cents: for the trial of every capital cause where life is concerned, eight dollars: for the whole prosecution, except drawing the indictment or information, for the trial of every other matter by bill of indictment or information, five dollars: and if the defendant shall, by habeas corpus, certiorari, or otherwise, remove any indictment or information from any court of General quarter-sessions before the judges of the General court, the attorney general shall, for his services in drawing the indictment and prosecuting the same, have the sum of eight dollars: on all other proceedings, the like fees as are, hereinafter, allowed for the like services to practitioners in the General court.

III. *Counsellors' & attornies' fees in the General court.* For retaining fee, three dollars and fifty cents; but, where several suits are brought upon one bond, or note, no more than one retaining fee shall be allowed: warrant of attorney, twenty eight cents: drawing all processes and returns, twelve and a half cents: every term fee, seventy five cents: but, no more than three to be allowed, unless the party caused that term's delay, for which it is charged: drawing bonds to prosecute, affidavits, pleadings, adjournments, suggestions,

Counsel and attornies' fee in same courts.

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and other necessary entries, each sheet of seventy two words, eighteen cents: copies on paper, six cents, per sheet: every motion, sixty two and a half cents: arguing every special motion, one dollar and twenty five cents: fee on trial, or inquest in error, one dollar and fifty cents: service of a declaration in ejectment, the same as service of process by sheriff: fee for arguing of demurrer, or special verdict, such sum as shall be allowed in the discretion of the judge who shall tax costs: a brief and copy, or copies thereof, one dollar and twelve cents: drawing up the judgment, seventy five cents: every continuance, eighteen cents: drawing a nolo prosequi, or retraxit, thirty seven and a half cents: entry thereof, eighteen cents: every notice and copy, thirty cents: attendance on balloting or striking a jury, or both, sixty two and a half cents: on examining a witness, fifty cents: on taxing a bill, twenty five cents: on giving or excepting to bail, twenty five cents: attending a judge, on other ordinary service, twenty five cents: service of notice, every notice or rule, eighteen cents: service of copy of the declaration and rule to plead, eighteen cents: copy bill of costs to be taxed, delivered to the opposite party, thirty seven and a half cents, if before issue joined or judgement; but if afterwards, seventy five cents.

Clerk of the
General court's
fees, in civil
causes.

IV *The clerk of the General court's fees in civil causes.* For sealing a writ, entering the same, filing ticket and entering on the docket, twenty eight cents: filing a declaration, twelve and a half cents: entering an appearance, twelve and a half cents: filing all other pleadings, each, twelve and a half cents: entering every rule, eighteen cents: swearing and empanneling a jury, twenty eight

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cents: the return of a writ and filing the same, twelve and a half cents: swearing each witness, six cents: swearing a constable, six cents: reading each writing, on evidence, twelve and a half cents: filing the roll, twelve and a half cents: taking the jury's verdict, and entering the same in the minutes, eighteen cents: special verdict, drawing or engrossing, twelve and a half cents, per sheet: entering judgment, twenty eight cents: a retraxit or discontinuance, twelve and a half

cents: copies of records, or the pleadings, per sheet, each sheet containing seventy two words, twelve and a half cents: attending and striking a special jury, and delivering a copy thereof to each party, seventy five cents: filing an affidavit, or other paper on request, nine cents: entering satisfaction on record, eighteen cents: searching the records within a year, eighteen cents; and for every year back, six cents.

V. *In criminal causes*, where the services are done at the request of the defendant; or where he enters a *nolo contendere*; or, on voluntary composition, has his fine mitigated; or where the service is for the case and advantage of the defendant, or prisoner; or by order of the court: for every appearance, twelve and a half cents: the discharge of any person upon bail, twelve and a half cents: every imparlance to an indictment, twelve and a half cents: drawing process against any person upon an information or other process, forty four cents: the plea to an indictment or information, six cents: reading the indictment, information or record, six cents: swearing every witness, on trial, six cents: engrossing judgment on information, eighteen cents: respiting every recognizance, nine cents: taking a recognizance, fifty six cents, and entering there-

His fees in criminal causes.

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of: copies of all indictments, informations and pleadings, per sheet, each sheet seventy two words, twelve and a half cents: relinquishing, a plea, twelve and a half cents: a submission, twelve and a half cents: judgment thereon, twelve and a half cents: a copy of the traverse, twelve and a half cents: every subpoena for four witnesses, or under, twenty eight cents: every witness more, six cents: every order or rule of court, eighteen cents: a copy of a rule of court, twelve and a half cents: taking and copying every special verdict, per sheet, each sheet containing seventy two words, eighteen cents: for the allowance and recording a warrant of *nolo prosequi*, or *cessat processus*, fifty cents.

VI. *Fees for the clerk of the circuit courts*. For entering in the judge's book, every cause to be tried, thirty seven and a half cents: filing every *nisi prius* record, thirty seven and a half cents: entering every rule, eighteen cents: swearing and empanneling a jury, twenty eight cents: entering confession of lease, entry and ouster, eighteen

Clerk of the circuit court's fees, in civil causes.

cents: swearing each witness and swearing a constable, each, six cents: reading every deed or piece of written evidence, twelve and a half cents: filing a bill of exceptions, or demurrer, each, twelve and a half cents: copies thereof, nine cents per sheet: calling plaintiff and entering his default or appearance, twelve and a half cents: taking a verdict and entering it in minutes, twenty eight cents: returning every postea, seventy five cents: entering every nonsuit, eighteen cents: entering default of juror, and discharge of others, eighteen cents.

His fees in
criminal
causes.

VII. *In criminal causes*; the same fees as are before allowed to the clerk of the General Court,

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and under the same restrictions: and if he prosecute for the United States, the like fees as are before allowed to the attorney general.

Sheriffs' fees
in the General
court.

VIII. *The sheriffs' fees in the General court*: serving a writ, fifty six cents: every mile, six cents, to be computed from the place of holding the court: bail-bond, thirty seven and a half cents: returning a writ, twelve and a half cents: summoning a jury, one dollar and twenty five cents: serving an execution for or under three hundred dollars, per each three dollars, six cents; and for every three dollars more, three cents: the allowance to the sheriff on fieri facias, or other writs for levying monies, to be taken only on the sum levied (that where any sheriff shall levy or receive any debt or damages and costs, actually previous to, or without, an actual sale of the lands, goods or chattels seized or taken, he shall be entitled to no more than one half of the allowance, on each three dollars mentioned in this law, in all cases where such debt or damages and costs shall exceed the sum of three hundred dollars): serving a writ of possession, without the aid of the posse comitatus, one dollar and twenty five cents; with the aid of the posse comitatus, three dollars and seventy five cents: every mile from the court-house, six cents: for summoning a grand jury, three dollars: executing a criminal, seven dollars and fifty cents: making a list of freeholders to strike a jury, three dollars and seventy five cents: serving a scire facias, and return, sixty eight cents: every person committed to prison, thirty seven and a half cents: the discharge of every person out of prison, being committed, thirty seven and a half

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cents: bringing up a prisoner by habeas corpus, in civil cases, one dollar and fifty cents: every mile from the place of taking him, six cents; executing a writ of enquiry, and returning, one dollar and fifty cents: attending a view in the same county, per day, one dollar and eighty seven and a half cents: the like in a foreign county, one dollar and seventy five cents, per day: attending with a prisoner before a judge, on his being surrendered by his bail, and for receiving the prisoner into custody, one dollar: for summoning a jury, on forcible entry and detainer, three dollars and seventy five cents: serving a writ of restitution, besides a milage fee of six cents, per mile, one dollar and eighty seven and a half cents: copy of every writ, eighteen cents: serving warrant of attachment, taking into custody, &c. so much as the judge who issued the warrant shall certify.

IX. *The Cryers fees in the General court.* For calling every action, nine cents: calling a jury, twelve and a half cents: swearing a witness, six cents: calling every verdict, nine cents: discharging every person, by proclamation, nine cents: calling the plaintiff, on nonsuit, nine cents: calling a defendant, on recognizance, nine cents: calling a default nine cents: ringing the bell, each action in court, twelve and a half cents.

**Cryer's fees in
General court.**

X. *Jury fees in the General court.* Every jurymen, for each action on which he is sworn as a juror, twenty five cents: every juror coming to and attending a view, and returning, per day, seventy five cents: every juror attending court from a foreign county, coming and returning, per day, fifty six cents.

**Juror's fees in
same court.**

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XI. *The fees to be allowed for witnesses summoned in the several courts, and charges for summoning them.* Each witness attending in his own county, on trial, twenty five cents, per day: attending from a foreign county, and coming and returning, per day, fifty six cents: each witness subpœna'd in the county, and detained from a foreign county, per day, fifty six cents: serving subpoena on each witness, twelve and a half cents: to a witness on a duces tecum, coming from a foreign county, attending, and returning per day, fifty six cents: except for the judge of probate or clerk of a court, attending in a

**Fees to wit-
nesses in the
several courts,
and for sum-
moning them.**

foreign county, with wills, records, or other paper evidence, on subpoena, one dollar and sixty six cents, per day.

**Surveyor's
fees**

XII. *Surveyors' fees.* For going to and returning from a view, per day, one dollar and twenty five cents, thirty miles per day: his actual service, per day, on the view, one dollar and fifty cents: for going to, attending the court, on trial, and returning, per day, one dollar and twenty five cents,

**Justices of
common pleas,
their fees.**

XIII, *The justices' fees in the court of common pleas.* For all actions in the court of common pleas, thirty seven and a half cents: signing every judgment of court, twelve and a half cents: taking bail, twenty five cents: acknowledging satisfaction, on record, nine cents: taxing and signing a bill of costs, twenty five cents: proof or acknowledgment of a deed before the judges of the court of common pleas, thirty seven and a half cents: for admitting and licensing an attorney, half the fees in such cases allowed to the judges of the General court

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**Justices of the
peace, their
fees.**

XIV. *Fees of justices of the peace, in or out of sessions.* For every warrant in criminal cases, eighteen cents: on every trial of forcible entry or detainer, two dollars and fifty cents: every precept in forcible entry or detainer, thirty seven and a half cents: every bond, or recognizance, twenty five cents: administering an oath, twelve and a half cents: every certificate, or order upon act for relief of insolvent debtors, thirty seven and a half cents: every warrant, order, report, or certificate, upon an absconding act, thirty seven and a half cents: every appointment of trustees, thirty seven and a half cents.

**Attornies' fees
in common
pleas.**

Attornies' fees in the court of common pleas. Warrant of attorney, twelve and a half cents: every necessary motion, twenty five cents: drawing every declaration and all other pleadings, per sheet, each sheet containing seventy two words, at twelve and a half cents: every copy thereof, six cents, per sheet: drawing every notice of trial, copy and serving, twenty eight cents: copy for the judge, and serving, fifteen cents: brief for trial and copy, seventy five cents: attending a judge, on taxing costs, or other necessary business, twenty five cents.

**Clerk of
sessions, his
fees.**

XV. *Fees for the clerk of the sessions.* For taking a recognizance, and drawing it up in form, thirty seven and a half cents; to be paid to the clerk, or other person who does the service: drawing every

indictment, and engrossing the same, fifty six cents: receiving, filing and reading the same, eighteen cents: subpoena for each witness, six cents: a venire, or other writ, eighteen cents: entering defendant's appearance, nine cents: an execution, twenty five cents: making up the record, twelve and a

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half cents, per sheet: copy thereof, six cents, per sheet, at seventy two words: every order on rule of court, nine cents: entering a nolo prosequi, or cessat processus, eighteen cents: a venire for a jury to enquire of riots, forcible entries, detainers, &c. twenty five cents: drawing and engrossing inquisition, and returning the same, six cents: filing record, twelve and a half cents; entering the panel and swearing the jury, twenty five cents: swearing witness and constable, each, six cents: reading each evidence or petition in court, six cents: taking and entering verdict, twelve and a half cents: entering judgment, and the fine, fifteen cents: entering defendant's confession, fifteen cents: copies of indictments and pleadings, if required, each sheet of seventy two words, six cents: receiving, reading and filing every order, brought to be allowed at the court of sessions, and entering the confirmation and recording the same, as in other cases, per sheet of seventy two words, twelve and a half cents.

XVI. *Fees of the Prothonotaries of the court of common pleas.* For every writ of *capias*, entering action, and seal, twenty eight cents: a bond given by the plaintiff, when he is not a freeholder, thirty seven and a half cents: filing declaration, six cents: copy of a declaration or other pleadings, if required, per sheet, each sheet containing seventy two words, six cents: a discontinuance, or retraxit, twelve and a half cents: altering the declaration, in ejectionment, and admitting a defendant, fifteen cents: entering every motion and rule thereon, twelve and a half cents: copy of every rule, when required, twelve and a half cents: bringing a par-

**Prothonotary's
fees in com-
mon pleas.**

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ticular record into court, twenty five cents: receiving and entering verdict, twelve and a half cents: entering a satisfaction on record, twenty five cents: entering judgment, fifteen cents: reading and

entering allowance of every habeas corpus, writ of error or certiorari, and the return, twenty five cents: an execution, twenty eight cents: transmit of the record in error, and returning it with the writ, every sheet of seventy two words, six cents: every writ of enquiry, six cents per sheet: entering defendant's appearance, six cents: drawing and filing special bail in or out of court, eighteen cents: filing every plea, replication, rejoinder or other pleading, six cents: a venire, twenty eight cents: receiving and entering the panel, and swearing the jury, eighteen cents: a habeas corpora juratorum, twenty eight cents: subpoena for each witness, six cents: reading every evidence in court, six cents: swearing each witness, six cents: swearing constable, six cents: making up and entering a record of a judgment, twelve and a half cents; per sheet: engrossing, six cents: copy of a record of a judgment, when required, six cents, per sheet of seventy two words: searching the records within one year, twelve and a half cents: and every year back, six cents: copies of records, per sheet of seventy two words, each, six cents.

**Sheriff in the
common pleas;
his fees in
civil matters.**

XVII. *The Sheriff's fees in the courts of common pleas.* For serving a writ, and taking into custody, thirty seven and a half cents: every mile as fixed by law, six cents per mile: every bail bond, thirty seven and a half cents: returning a writ, nine cents: summoning a jury, seventy five cents: attending on view, per day, one dollar: going and returning, one dollar,

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per day: serving and returning scire facias, thirty seven and a half cents: serving an execution for every three dollars, under three hundred dollars, six cents: and for every three dollars more, three cents: serving a writ of possession, with the aid of the posse comitatus, two dollars and fifty cents: every mile from the place of holding the court, six cents: serving such a writ, without the aid of the posse comitatus, one dollar and twenty five cents: every person committed to the common prison, thirty seven and a half cents: the discharge of every person out of the common prison, thirty seven and a half cents: executing a writ of enquiry, and drawing inquisition, and returning the same with the writ, one dollar and fifty cents: serving summons, twelve and a half cents, for attending with a prisoner before a judge, on his being surrendered by his bail, and for receiving

the prisoner into custody, fifty cents: in *criminal* matters, the like fees in the respective courts as for the like services in civil cases, to be allowed only where the defendant enters a *nolo contendere*, or, on voluntary composition, hath his fine mitigated, or where the services are done at the request of, or for the case or advantage of the defendant or prisoner, or by order of the court.

His fees in
criminal cases.

XVIII. *Cryers' fees in the courts of session and common pleas*, For calling a jury in each cause, twelve and a half cents: calling and swearing every witness, six cents: calling every verdict, nine cents: calling every action, nine cents: ringing the bell for every action, nine cents: discharging every person, by proclamation, nine cents.

Cryer's fees in
common pleas,
and quarter
sessions.

XIX. *Jury's fees in the courts of sessions and common pleas*. Every juryman, sworn in

Jury's fees in
same courts.

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each action, twenty five cents: every juror attending a view, per day, fifty cents.

XX. *Coroners' fees*. For the view of each body, three dollars: each juryman that sits on the body, twelve and a half cents: for witnesses, the same allowance as in the General court: serving writs, in all cases, the same as is herein before allowed to the sheriff, for the like service: the fees of coroner's inquest shall be certified by the coroner, and paid by the treasurer of the county.

Coroners' fees.

XXI. *Fees of the probate office*. For administering an oath, eighteen cents: for all copies for each folio consisting of one hundred and twenty eight words, eighteen cents: for seal, seventy five cents: for filing, eighteen cents: for a citation, exclusive of seal, fifty cents: for a letter of administration, two dollars and fifty cents: taking and filing a renunciation, and taking proof of renunciation (and which proof the judge of probate is hereby authorized and required to take) fifty cents: where a will, or administration, is contested, for hearing and determining, two dollars: for proving a will, endorsing certificate thereon, recording the same, and filing it, two dollars and fifty cents: for qualifying administrator taking bond, and writing certificate, one dollar and fifty cents: for a citation, when issued, fifty cents: for filing caveat, eighteen cents: for proving a codicil, if proved separately, endorsing certificate, recording the same and

Probate office
fees.

filing it, one dollar and fifty cents: for examining and proving an inventory or account, one dollar: for granting administration, with the will annexed, two dollars and fifty cents: for a search, eighteen cents.

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Recorders' fees

XXII. *Recorders' fees.* For recording mortgages, sixteen cents, per sheet of one hundred words; and the like fees for recording all other deeds and instruments in writing: for copies of all records and deeds, twelve cents and a half, per sheet.

Keeper of the seal, his fees.

XXIII. *To the person keeping the seal.* For making out and affixing the seal to the commission or appointments of the attorney-general, the treasurer of the Territory, the sheriffs, prothonotaries and recorders, three dollars; for each and every such commission, or appointment, one third part thereof to be to the governour's use: for the commission of a justice of the common pleas, one dollar: for every justice of the peace, named in a commission, fifty cents (one third whereof to the governour's use) and for affixing the seal to any other instrument in writing, except original laws and military commissions, seventy five cents, to his own use.

Secretary's fees.

XXIV. *To the secretary.* For copies or exemplifications of records, twelve cents, per sheet of one hundred words.

This law applies to suits now depending

XXV. This law shall be construed to extend to all suits or actions already commenced and depending in any courts of record, in this Territory, and wherein the bills of costs are not already taxed.

No other fees to be taken.

XXVI. The judges and justices of their respective courts, shall allow all bills of costs, arising within their courts, according to the table of fees, herein established, and not otherwise.

Persons may sue or defend in any court.

XXVII. All and every person and persons shall be allowed to carry on, defend and try his, her and their suit, or action, in any court of record, where cognizable.

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Courts to allow compensation for services not here noticed.

XXVIII. For any services actually performed and not enumerated in this law, the judges and justices, respectively, shall certify, or tax so much for such services, as the same are really worth, and no more.

XXIX. No counsellor, nor attorney at law, shall be admitted to make any plea at the bar of any court (except in his own case) without taking the following oath, or affirmation, in open court; nor until he shall have been examined, touching his legal abilities, by a judge of the General court, and obtained from him a certificate, that the party examined hath sufficient legal abilities, and had produced one or more certificates, in writing, to prove the goodness of his moral character:

Counsellors & attorneys, how qualified to plead.

Their examination and

You shall behave yourself in the office of counsellor at law (or attorney, as the case may be) within this court, according to the best of your learning, and with all good fidelity, as well to the court, as to the client. You shall use no falsehood, nor delay any person's cause for lucre or malice:

Oath.

(So help you God)

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of October, next ensuing: IN TESTIMONY whereof, we Arthur St. Clair, John Cleves Symmes and George Turner, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

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A LAW for establishing Orphans' courts. *Adopted from the Pennsylvanian code, and published at Cincinnati, the sixteenth day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

Sect. I. THE justices of the court of General quarter-sessions of the peace, in every county, or so many of them, as are or shall be, from time to time, enabled to hold those courts,

Orphan's court established.

Justices of the peace to hold it.

Their powers and duties over guardians, trustees, tutors, executors administrators &c.

Also over the judge of probate &c.

shall have full power, and are hereby empowered, in the same week that they are or shall be, by law, directed to hold the same courts (or at such other times as they shall see occasion) to hold and keep a court of record, in each of the said counties: which shall be stiled, *The Orphans' court*; and to award process, and cause to come before them, all and every such person and persons who, as guardians, trustees, tutors, executors, administrators, or otherwise, are or shall be intrusted with, or anywise accountable for, any lands, tenements, goods, chattels or estates belonging, or which shall belong, to any orphan or person under age; and cause them to make and exhibit, within a reasonable time, true and perfect inventories and accounts of the said estates: and to cause and oblige the judge of probate, or such person or persons as, for the time being, shall have the power of probates of wills, and granting letters of administration, in this territory, or their deputies, upon application made in

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May order payment of charges arising in execution of this law, according to discretion. Officers misbehaving as to minors, &c. how accountable.

that behalf, to bring or transmit into the said Orphans' court, true copies or duplicates of all such bonds, inventories, accounts, actings and proceedings, whatsoever, now or hereafter remaining or being in the respective offices, or elsewhere within the limits of their authority, as do or shall concern or relate to the said estates, or any of them: and to order the payment of such reasonable fees for the said copies, and for all other charges, trouble and attendance, which any officer or other person shall necessarily be put upon, in the execution of this law, as they shall think equitable and just. And if, upon hearing or examination thereof, it appears to the justices of the said court, that any of the said officers have misbehaved themselves, to the prejudice of any minor, or others concerned for them, as aforesaid, the said justices are hereby required to certify the same, accordingly; which shall be good evidence, for the party grieved, to recover his damages at common law.

Letters of administration, granted without surety, to be void;

II. And where any letters of administration shall be granted, and no bond with sureties given, as the law in that case requires, such letters of administration shall be, and are hereby declared to be void and of none effect: and the officer or person that grants the same, and

his sureties, shall be, ipso facto, liable to pay all such damages as shall accrue to any person or persons, by occasion of granting such administration: And the party to whom the same shall be so granted, may be sued, as executor in his own wrong; and shall be so taken and deemed, in any suit to be brought against him for or by reason of his said administration; or, if upon such examination it appears, that any of the said officers have not taken suffi-

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cient sureties, where the administrators may not be of ability to answer, or make good, the value of what the decedent's estate doth or shall amount to; then the said justices of the Orphans' court are hereby required and empowered, to cause all such administrators to give better security to the judge of probate, by bonds, in manner and form as the law prescribes, and under such penalties, and with such sureties as the said justices shall approve of, after they have heard the objections of creditors, or persons concerned, if any such be made during the sitting of the court. And if it appear that any of the said administrators have embezzled, wasted or misapplied, or suffered so to be, any part of the decedent's estates, or shall neglect or refuse to give bonds, with sureties, as aforesaid; then, and in every such case, the said justices shall, forthwith, by their sentence, revoke or repeal the letters of administration granted them; and thereupon the said judge of probate, or other person then empowered to grant administrations, as aforesaid, where such occasion happens, is hereby required to grant letters of administration to such person or persons, having right thereunto, as will give bonds in manner and form, aforesaid; who may have their actions of trover or detinue, for such goods or chattels as came to the possession of the former administrators; and shall be detained, wasted, embezzled or misapplied by any of them, and no satisfaction made for the same:

III. When any complaint is made to any of the said justices, that an executrix, having minors of her own, or being concerned for others, is married, or like to be espoused to another husband, without securing the minors' portions, or estates;

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or that an executor, or other person, having the care and trust of

The officer so granting them, to be liable to any damages rising therefrom.

And the party acting under them, deemed executor in his own wrong.

Power of the court where insufficient security is taken;

Also in case of waste or embezzlement.

When other letters shall be granted, and bond taken.

How minors' estates are to be secured, on complaint, that executrix, is again married or likely to marry; Or where executor is likely to be insolvent, &c.

minors' estates, is like to prove insolvent, or shall refuse or neglect to exhibit true and perfect inventories, or give full and just accounts of the said estates come to their hands, or knowledge; then, and in every such case, the same justices are hereby required, forthwith, to call an Orphans' court; who shall cause all and every such executors and trustees, as also such guardians or tutors of orphans or minors as have been formerly appointed, or shall, at any time hereafter, be appointed by the said court, to give security to the orphans or minors, by mortgage or bonds, in such sums, and with such sureties, as the said courts shall think reasonable: conditioned for the performance of their respective trusts, and for the true payment or delivery, to and for the use and behoof of such orphans as they are concerned for, or such as shall legally represent them, the legacies, portions, shares and dividends of estates, real and personal, belonging to such orphans or minors, so far as they have assets; as also for their maintainance and education as the said court shall think fit to order, for the benefit and best advantage of such orphans, as is usual in such cases.

Executors, &c. by leave of the court, placing minors' money at interest, not to be accountable in case of loss.

IV. Any of the said executors, administrators, guardians or trustees, may, by the leave and direction of the Orphans' court, put out their minors' money to interest, upon such security, as the court shall allow of: and if such security, so taken, *bona fide*, and without fraud, shall happen to prove insufficient, it shall be the minors' loss. But if no person who may be willing to take the said money at interest with such security as can be found by the person so, as aforesaid, concern-

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But otherwise, while in their own hands.

ed for the minors, nor by any others; then the said executors, administrators, guardians or trustees, shall, in such cases, be responsible for the principal money, only, until it can be put out at interest, as aforesaid.

Term of monies so lent, not to exceed 12 months.

V. *Provided always*, That the day of payment of the money, so to be put out to interest, at any one time, shall not exceed twelve months, from the date of the obligation, or other security given for the same; and so *toties quoties*, when and so often as the said money shall be paid in, or come to the hands of the said executors, guardians or trustees.

Executors, &c. how liable to interest.

VI. *Provided also*, That no executors, administrators or guardians, shall be liable to pay interest, but for the surplusage of the decedent's

estate, remaining in their hands or power, and belonging to the minors, when the accounts of their administration are, or ought to be, settled and adjusted before the said Orphans' courts, or judge of probate respectively.

VII. The justices of the said Orphans' court, in the said respective counties, shall have full power and authority to exercise all the powers, authorities and jurisdictions granted, or mentioned or intended to be granted, to the Orphans' court, in and by a law of this Territory, entitled, "a law for the better settling of intestates' estates," and to do, execute and perform, all such matters and things as the Orphans' court, in the said law, or in any other law of this Territory mentioned, might or ought to have done or performed, according to the true intent and meaning thereof; with power, also, to admit orphans or minors, when, and as often as there may be occasion, to make choice of guardians or tutors and to ap-

**Further power
of the court.**

**May appoint
guardians
tutors, &c.**

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point guardians, next friends or tutors, over such as the said court shall judge too young, or incapable, according to the rules of the common law, to make choice themselves: and, at the instance and request of the said executors, administrators, guardians or tutors, to order and direct the binding or putting out of minors, apprentices to trades, husbandry, or other employments, as shall be thought fit. And all guardians and prochein amis, who shall be appointed by any of the said Orphans' courts shall be allowed and received, without further admittance, to prosecute and defend all actions and suits relating to the orphans or minors, as the case may require, in any court or courts of this Territory.

**And bind
minors to
trades, &c.**

VIII. If any person or persons, being duly summoned to appear in any of the said Orphans' courts, ten days before the time appointed for their appearance, shall make default, the justices may send their attachments for contempts, and may force obedience to their warrants, sentences and orders, concerning any matter or thing cognizable in the same courts, by imprisonment of body, or sequestration of lands or goods.

**Power of the
court in case
of contempts.**

IX, *Provided always*, That if any person or persons shall be aggrieved, by any definitive sentence or judgment of the said Orphans'

**Appeal to the
General and
circuit courts.**

court, it shall be lawful for them to appeal from the same to the General or circuit courts: which appeal, upon security given, as is usual in such cases, shall be granted accordingly.

**Discharges or
receipts given
by executor,**

X, If any of the said executors, administrators, guardians or trustees, did or shall receive and give discharges for any sums of money, debts, rents or duties, belonging to any orphan,

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**&c. shall bind
minors and
orphans.**

or minor for whom they are or were intrusted; it is hereby declared, that all such discharges or receipts shall be binding to, and upon, the orphan or minor, when he or she attains to full age; and shall be effectual in law to discharge the person or persons that take the same

**Minors attain-
ing full age,
how they shall
act:**

XI. When any of the said minors attain to their full age, and the person or persons so, as aforesaid, intrusted or concerned for them, having rendered their accounts to the Orphans' court, according to law, and paid the minors their full due; then such minors shall acknowledge satisfaction in the said court: but in case any of them refuse so to do, then the said court shall certify how the said persons concerned have accounted and paid; which shall be a sufficient discharge to the guardians or tutors, and to the trustees, executors or administrators, who shall so account and pay: and, thereupon, all bonds entered into, for payment of such Orphans' portions, shall be delivered up and cancelled.

**But, on refusal
how the court
shall act.**

**No minor, nor
orphan to be
put under the
control of
those of dif-
ferent relig-
ions.**

XII. *Provided always,* That none of the said Orphans' courts shall have any power to order or commit the tuition or guardianship of any orphans or minors; or bind them apprentices to any person or persons, whose religious persuasion shall be different from what the parents of such orphan, or minor professed, at the time of their decease; or against the minors' own mind or inclination, so far as he or she has discretion and capacity to express, or signify the same; or to persons that are not of good repute, where others of good credit, and of the same persuasion, may or can be found.

**Power of the
court as to the**

XIII. *Provided also,* That the justices of the said courts, and all others concerned in the ex-

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**construction of
wills, &c.**

ecution of this law, shall have due regard to the direction of all last wills, and to the true intent and meaning of the testators, in all

matters and things that shall be brought before them concerning the same.

XIV. All such bonds or obligations, as are, by this or any other law of this Territory, directed or required to be given to the judge of probate; and all such bonds as, by any law are directed, to be given by the judge of probate, or by any other officers or persons in office, for the due execution of his or their respective offices or employments, are hereby declared to be to and for the use of, and in trust for, the person or persons concerned; and the benefit thereof shall be extended, from time to time, for the relief and advantage of the party grieved, by the misfeazance or nonfeazance of the officers that did or shall give the same.

Bonds given to or by the judge of probate, how and to whom liable.

XV. And when any of the said bonds shall be put in suit, and judgment thereupon obtained, the judgment shall remain in the same nature the bonds were: and no execution shall issue thereupon, before the party grieved shall, by writ of scire facias, summon the person or persons against whom the said judgment is obtained, to appear and shew cause, why execution shall not issue upon the said judgment. And if the party grieved shall prove what damages he sustained, and thereupon a verdict be found for him, the court, where such suit is, shall award execution for so much as the jury shall then find, with costs, and no more. And the former judgment is hereby declared still to remain cautionary, for the satisfaction of such others as shall

When such bonds are in suit, and judgment had, no execution shall issue before a scire facias is sued out.

Damages and costs, how to be awarded on verdict

Former judgment to stand cautionary.

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legally prove themselves damnified, and recover their damages, in manner aforesaid.

XVI. The said judge of probate, and all others, in whose hands the said bonds shall be deposited or lodged, are hereby required to give any person injured, and requesting the same, a true copy of any of the said bonds; he paying thirty seven and a half cents, for the same, and to produce the original in court, upon any trial that shall be had for the breach of any of them, if required by the court. And if the person, in whose hand the said bonds shall be lodged or come to, shall refuse or delay to give copies thereof, and produce the original in court, as aforesaid; he or they shall forfeit; and pay to the party grieved, treble damages; to be recovered against the officer that gave

Judge of probate, &c. to give copies, on demand, of such bonds.

Fee thereon.

Officer, refusing copies, to pay treble damages.

such bonds, or his sureties, by action of debt, bill, plaint or information, in any court in the Territory, where no essoin, protection or wager of law, or any more than one imparlance, shall be allowed.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of October, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

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TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

A LAW for the settlement of Intestates' Estates. *Adopted from the Pennsylvanian code, and published at Cincinnati, the sixteenth day of June, one thousand, seven hundred and ninety-five: by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the same.*

Administrators
to give bond.

Sect. I. **T**HE judge of probate, having power to grant letters of administration of the goods and chattels of persons dying intestate, within this Territory, shall upon granting such letters of administration, take sufficient bonds, with two or more able sureties (respect being had to the value of the estate) in the name of the judge of probate, with the conditions in manner and form following, *mutatis mutandis*, viz.

Condition
thereof.

II. *The condition of this obligation is such, that if the within bounden, A.B. administrator of all and singular the goods, chattels and credits of C. D. deceased, do make, or cause to be made, a true*

and perfect inventory of all and singular the goods, chattels and credits of the said deceased, which have or shall come to the hands, possession or knowledge of him the said A. B. or into the hands and possession of any other person or persons, for him; and the same so made, do exhibit, or cause to be exhibited into the office of the court of probate, in the county of _____ at or before the day of _____

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next ensuing; and the same goods, chattels and credits, and all other the goods, chattels and credits, of the said deceased, at the time of his death, which, at any time after, shall come to the hands or possession of the said A. B. or into the hands and possession of any other person, or persons, for him, do well and truly administer, according to law, and further do make, or cause to be made, a true and just account of his said administration, at or before the _____ day of _____ and all the rest and residue of the said goods, chattels and credits, which shall be found remaining upon the said administrator's account (the same being first examined and allowed of by the Orphans' court, of the county where the said administration is granted) shall deliver and pay unto such person or persons, respectively, as the said Orphans' court, in the respective county, by their decree or sentence, pursuant to the true intent and meaning of law, shall limit and appoint. And if it shall hereafter appear, that any last will and testament was made by the said deceased, and the executor or executors therein named do exhibit the same into the said probate office, making request to have it allowed and approved accordingly; if the said A. B. within bound, being thereunto required, do render and deliver the said letters of administration, approbation of such testament being first had, and made in the said probate office; then this obligation to be void and of none effect, or else to remain in full force and virtue.

III. Which bonds are hereby declared to be good, to all intents and purposes, and pleadable in any courts of justice. And also the said Orphans' court, in the respective counties shall and

**Such bond is
pleadable in
any court—**

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Orphans' court may oblige administrators to account.

Further power and duty of that court.

Children of intestates to share, equally, the estate.

When no legal representatives, wife to have one half; the other to next of kindred.

Concerning

collateral branches.

When no wife nor child, how distribution to be made.

Distribution of personal estate not to be made within the year.

may, and are hereby enabled to proceed and call such administrators to account, for and touching the goods of any person dying intestate: and—upon hearing, and due consideration thereof, to order and make just and equal distribution of what remaineth clear after all debts, funeral and just expenses of every sort, first allowed and deducted according to the ordinance of Congress, for the government of the Territory, and to the rules and limitations hereafter set down: and the same distributions to declare and settle, and to compel such administrators to observe and pay the same, by the due course of the laws of this Territory; saving to every one supposing him or themselves aggrieved, their right of appeal to the General or circuit courts.

IV. *Provided always*, That in case any child who shall have any estate by settlement, from the intestate, or shall be advanced by the said intestate, in his life time, by portion, not equal to the share which will be due to the other children, by such distribution as aforesaid; then so much of the surplusage of the estate of such intestates, to be distributed to such child or children as shall have any land, by settlement from the intestate, or were advanced in the life time of the intestate, as shall make the estate of all the said children to be equal, as nearly as can be estimated. And in case there be no children, nor any legal representatives of them; then one moiety of the said estate to be allotted to the wife of the intestate; and the residue of the said estate, to be distributed, equally, to every of the next kindred, of the intestate, who are in equal degree, and those who legally represent them. *Provided*, That there be no representatives ad-

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mitted among collaterals, after brothers' and sisters' children: and in case there be no wife; then all the said estate to be distributed equally to and among the children: and in case there be no child, then to the next of kin in equal degree, of or unto the intestate, and their legal representatives, as aforesaid; and in no other manner whatsoever.

V. *Provided also*, And to the end, that a due regard be had to creditors, that no such distribution of the goods of any person dying intestate, be made, till after one year be fully expired, after the intestate's death; and that such and every one to whom any distribution and share shall be allotted, shall give bond, with sufficient sureties, in the said Orphans' court: that if any debt or debts, truly owing by

the intestate, shall be afterwards sued for and recovered, or otherwise duly made to appear; that then, and in every such case, he or she shall respectively refund and pay back to the administrator, his or her rateable part of that debt or debts, and of the costs of suit and charges of the administrator, by reason of such debts, out of the part and share so, as aforesaid, allotted to him or her; thereby to enable the said administrator to pay and satisfy the said debt or debts so discovered, after the distribution made, as aforesaid.

VI. *Provided always,* That in all cases where, by law, administration with the will annexed ought to be granted, the judge of probate shall grant administration accordingly.

VII. If any person or persons shall die intestate, being owners of lands or tenements within this Territory at the time of their death, and leave lawful issue to survive them, but not a suf-

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ficient personal estate to pay their just debts and maintain their children; in such case, it shall be lawful for the administrator or administrators of such deceased to sell and convey such part or parts of the said lands or tenements, for defraying their just debts, maintenance of their children, and for putting them apprentices, and teaching them to read and write, and for improvement of the residue of the estate, if any be, to their advantage, as the Orphans' court of the county, where such estate lies, shall think fit to allow, order and direct, from time to time.

VIII. *Provided always,* That no lands or tenements, contained in any marriage settlement, shall, by virtue of this law be sold or disposed of, contrary to the form and effect of such settlement: nor shall any Orphans' court, allow or order any intestate's lands or tenements to be sold, before the administrator, requesting the same, doth exhibit two or more true and perfect inventories and conscionable appraisement of all the intestate's personal estate whatsoever; as also a just and true account, upon his or her solemn oath or affirmation, of all the intestate's debts which shall be then come to his or her knowledge; and if thereupon it shall appear to the court, that the intestate's personal estate will not be sufficient to pay the debts and maintain the children, until the eldest of them attains the age of twenty one years,

Party sharing estate, shall give bond to refund &c. in Orphans' court.

In what cases judge of probate may grant administration.

Where personal estate is insufficient, Orphans' court may order the real to be sold for the payment of debts, education and maintainance of children:

Except estate under marriage settlement.

Inventory to be first exhibited and other proceedings had.

or to put them out to be apprentices, and teach them to read and write then & in every such case, and not otherwise, the court shall allow such administrator to make public sale of so much of the said lands, as the court, upon the best computation they can make of the value thereof: shall judge necessary for the pur-

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poses aforesaid; reserving the mansion-house and most profitable part of the estate till the last. But before any such sale be made, the court shall order so many writings to be made by the clerk, upon parchment or good paper, as the court shall think fit, to signify and give notice of such sales, and of the day and hour when, and the place where the same will be, and what lands are to be sold, and where they lie: which notice shall be delivered to the sheriff or constables, in order to be fixed in the most public places of the county or city, at least ten days before sale; and the sheriffs and constables are hereby required to make publication accordingly: and the administrator that makes such sale shall bring his or her proceedings therein to the next Orphans' court, after the sale made. And if it shall happen that any lands be sold, by virtue of this law for more than the court's computation of the value thereof: then the administrator shall be accountable for the same, as by this law is required for intestates' personal estates.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the fifteenth day of August, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. St. CLAIR,
JOHN C. SYMMES,
G. TURNER.

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TERRITORY OF THE UNITED STATES }
 NORTH-WEST OF THE OHIO. }



A LAW to License and Regulate Taverns.
Adopted from the Pennsylvanian code, and published at Cincinnati, the seventeenth day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.

AR. ST. CLAIR,
 JOHN C. SYMMES,
 G. TURNER.

Sec. I. **F**OR preventing disorders, and the mischiefs that may happen by multiplicity of public houses of entertainment, no person or persons shall, in future, have or keep any public inn, tavern, ale-house, or dram-shop, or public house of entertainment, in any county, town or place within the Territory; unless such person or persons shall be first recommended by the justices, in their courts of General quarter sessions of the peace for the counties respectively, to the governour, for his license for so doing, under the penalty of one dollar per day, for every day on which the party offending shall keep such public inn, tavern, alehouse, dram-shop or public house of entertainment; to be recovered with costs, before any two justices of the peace, in an action *Qui Tam*: two thirds whereof shall go to the use of the poor of the township, where the offence may be committed, and the other third to the prosecutor suing for the same to effect.

Publicans to be licensed by the governour on recommendation of the General quarter sessions, under what penalties.

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II. No person, licensed as aforesaid, shall knowingly suffer any disorder, as drunkenness, or unlawful games, whatever, in such his, her or their houses, under the penalty of five dollars for the first offence; to be recovered as aforesaid: and for the second offence, to be suppressed by the justices of the said respective courts: and no such inn-keeper, tavern-keeper, or other person as aforesaid, shall presume

No disorderly conduct or unlawful games, on pain of suppression and fine.

to continue such public house of entertainment, of his own accord, after such suppression, or the expiration of his license, without new license as aforesaid, under the penalty of one dollar per day, as aforesaid, to be recovered in manner aforesaid, two third parts whereof shall go to the use of the poor of the respective townships or place, where the offence shall be committed; and the remaining third to the party prosecuting.

Good entertainment to be furnished.

III, All tavern-keepers and inn-keepers, as aforesaid, shall provide and furnish good entertainment and accommodations for man and horse; under the penalty of five dollars, to be recovered in manner and for the uses aforesaid.

Fees on every license, four dollars to the governour, and twelve to the county.

IV. The governour shall have & receive, for every license by him granted, pursuant to this law, to any person, to sell wine and other liquors, the sum of four dollars. And the person obtaining such license shall further pay to the clerk of the General quarter sessions, in open court, on receiving the recommendation required by law, the sum of twelve dollars, for the use of the county: and it shall be the duty of the said clerk to make, in court, a fair and accurate entry in a book or books, to be kept for that purpose, of every sum so received: and shall pay the county's part thereof, into the county treasury, with-

Duty of the clerk of quarter sessions herein.

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in twenty days after the rising of the said court, taking the treasurer's receipt, as his voucher for such payment.

V. *Provided always*, That where the governour, or the person or persons he may choose to appoint, for issuing such licenses, shall in any case, see fit to refuse the same, the party so paying for such license shall have his, her or their monies returned by the clerk or treasurer, as the case may be.

VI. No recommendation shall be issued by the justices of the respective counties in order to obtain license from the governour, for the keeping a public house, as directed by this law, before the person or persons desiring such recommendation, shall become bound to the governour of the Territory, with security, if required, in any sum not exceeding three hundred dollars; that he, she or they, on obtaining such license, shall, at all times, be of good behaviour, and observe all the law and ordinances which are or shall be made, or be in force,

Bond to the governour.

relating to inn-keepers or tavern-keepers within the Territory. And whoever shall keep a tavern, inn or public house of entertainment, before he or she hath given bond, as aforesaid, such person shall suffer the same penalty, as if the same had been done without license.

VII. No person or persons, other than such as are or shall be qualified so to do, by this law, shall presume under any colour or pretence, to sell, barter with, or deliver any wine, rum, brandy or other spirits, or strong water, beer, cyder or any mixed or strong liquors, to be used or within his, her or their houses, yards or sheds, or to be, with his, her or their knowledge, pri-

No person unless qualified by this law shall sell liquors, under certain quantities &c.

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vity or consent, used or drank in any shelters, places or woods, near or adjacent to them, by companies of servants, slaves or others; nor to retail or sell, to any person or persons, any rum brandy or other spirits, or strong water, by less quantity or measure than one quart; nor any wine, by less quantity or measure than one quart; nor any beer, ale or cyder, by any quantity less than two gallons; the same liquors being respectively delivered to one person and at one time, without any collusion or fraud, contrary to the true intent and meaning of this law. Every person offending herein, shall pay a fine of twelve dollars, on conviction by indictment, to the use of the proper county.

Penalty thereon.

VIII. No person or persons, keeping a public house or inn, shall trust or give credit to any person, for liquors, or any other inn or tavern reckonings, in any sum exceeding three dollars; under the penalty of forfeiting and losing such debt. And if any inn-holder or keeper of public house, or any retailer of liquors, shall receive, harbour, entertain or trust, any minor under the age of twenty one years, or any servant, knowing them or either of them to be such; or after having been cautioned or warned to the contrary by the parent, guardian, master or mistress, of such minor or servant, in the presence of one or more credible witnesses, such inn-holder, keeper of public house, or retailer of liquors, so offending, shall, for the first or second offence, being duly convicted thereof, forfeit and pay the sum of three dollars, for every such offence, over and above the loss and forfeiture of any debt such minor or servant shall or may contract for liquors or entertainment: and up-

Innholders not to give credit above 3 dollars.

Retailers and publicans not to trust nor harbour minors, servants, etc. on forfeiture &c.

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on conviction for the third offence, the license obtained by such offender is hereby declared null and void; and the person so repeatedly offending, shall forfeit and pay the sum of twelve dollars on conviction by indictment, to the use of the county, and be forever after incapable of keeping a public house or inn within this Territory.

IX. No person, shall by any means presume to furnish, supply or sell to any bond-servant or slave. any rum, brandy, spirits, or any other strong liquors or strong water, mixed or unmixed, either within or without doors; nor shall receive, harbour or entertain any slave or servant, in or about his, her or their houses; without special license had and obtained under the hand of the master or mistress of such slave or bond servant respectively; under the penalty, for the first offence, of three dollars, and for every succeeding offence, four dollars; to be recovered before any one justice of the peace of the county where the offence is committed, on the proof of one or more credible witnesses; or upon the view of any justice within the respective counties, where the fact shall be committed.

X. If any person or persons, keeping a public house or inn, or retailing liquors, as aforesaid, shall trust or credit any person for liquors retailed, or other expenses, above three dollars, as aforesaid; or shall presume to sue any such person; or shall arrest or attach any bond servant, for any debt contracted for liquors or accommodations, knowing such person to be a servant, and after he, she or they have been warned or cautioned not to entertain such bond servant, as aforesaid; all such actions and suits shall abate;

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and the person sued, and the master or mistress, in behalf of such bond servant, or the servant, him or herself being sued as aforesaid, shall and may plead this law in bar; and thereupon, the plaintiff in such suit shall become non-suit, and pay double costs.

XI. The several fines imposed by this law shall, on conviction, be levied by execution on the offender's goods; or his, her or their persons shall be committed to the county jail, until the same be paid. And all fines and forfeitures recovered by virtue hereof, which

Penalty on
selling to bond-
servants and
slaves.

What actions
brought under
this law, shall
abate.

Disposition of
the several
fines.

are not otherwise appropriated by law, shall be applied in manner following, That is to say; the one moiety thereof, shall be paid to the father, mother, guardian, master or mistress, of the minor or servant entertained, as aforesaid, or to the servant himself as the justice of the peace may direct: the other moiety shall be paid to the overseers of the poor of the township or place, where the offence is committed, for the use of such poor.

XII. Nothing herein contained shall extend to persons now holding licenses under the existing laws, until the expiration of such licenses.

Persons holding licenses, not now expired, are not within the purview hereof.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the fifteenth day of August, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

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TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



A LAW establishing the Recorder's Office *Adopted from the Pennsylvanian code, and published at Cincinnati, the eighteenth day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

Sect. I. **T**HERE shall be an office of record, in each and every county: which shall be called and stiled, *the Recorder's Office*, and shall be kept in some convenient place in the said respective counties: and the recorder shall duly attend the service of

Recorders' Offices established
Recorders' duties.

the same, and at his own proper costs and charges, shall provide parchment, or good large books of royal or other large paper, well bound and covered; wherein he shall record, in a fair and legible hand, all deeds and conveyances which shall be brought to him, for that purpose, according to the true intent and meaning of this law.

What words in deeds shall pass the fee, &c.

II. All deeds to be recorded, in pursuance of this law, whereby any estate of inheritance, in fee simple, shall hereafter be limited to the grantor and his heirs, the words grant, bargain, sell, shall be adjudged an express covenant to the grantee, his heirs and assigns; to wit: that the grantor was seized of an indefeasible estate, in fee simple, freed from incumbrances done or suffered from the grantor (except the rents and

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services that may be reserved) as also for quiet enjoyment against the grantor, his heirs and assigns: unless limited by express words contained in such deed, and that the grantee, his heirs, executors, administrators and assigns, may, in any action, assign breaches, as if such covenants were expressly inserted. Provided always, that this law shall not extend to leases at rack rent, or to leases not exceeding one and twenty years, where the actual possession goes with the lease.

Proviso.

Punishment on forging acknowledgments &c.

III. If any person shall forge any entry of the acknowledgments, certificates or indorsements, whereby the freehold or inheritance of any man may be charged, he shall be liable to the penalties against forgers of false deeds. And if any person shall perjure himself, in any of the cases herein above mentioned, he shall incur the like penalties as if the oath, or affirmation, had been in any court of record.

Perjury.

Satisfaction of mortgages to be entered.

IV. Every mortgagee of any real or personal estates, in this Territory, having received full satisfaction and payment of all such sum and sums of money as are really due to him, by such mortgage, shall, at the request of the mortgager, enter satisfaction upon the margin of the record of such mortgage, recorded in the said office; which shall, forever thereafter discharge, defeat and release the same; and shall, likewise, bar all actions brought or to be brought thereupon.

Penalty on neglect

V. And if such mortgagee, by himself or his attorney, shall not, within three months after request and tender made for his reasonable charges, repair to the said office, and there make acknowledgment, as

aforesaid: he, she or they neglecting so to do, shall, for every such offence, forfeit and pay unto the party or parties aggrieved, any sum

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not exceeding the mortgage-money: to be recovered in any court of record, by bill, plaint or information.

VI. There shall be appointed a recorder in every county now or hereafter, to be erected. But, before any of the said recorders enter upon their respective offices, they shall become bound to the governour and his successors, with one or more sufficient sureties, in a bond for fifteen hundred dollars; conditioned for the true and faithful execution of his office, and for delivering up the records and other writings, belonging to the said office, whole, safe and undefaced, to his successor in the said office. Which said respective bonds, shall be filed in the secretary's office, and there safely kept, in order to be made use of for making satisfaction to the parties that shall be damnified or aggrieved, as is or shall be, in such cases directed by law,

Every county to have a recorder.

He to give security, in 1500 dollars.

And file the bond with the secretary,

VII. And no recorder, whatsoever, now or hereafter appointed, as aforesaid, shall enter upon, or officiate in his said office, before he hath given such security, as aforesaid; upon pain of forfeiting the sum of three hundred dollars: one half to the Territory, and the other half to him or them that shall sue for the same, to be recovered as aforesaid.

Penalty on recorder officiating otherwise.

VIII. All deeds and conveyances, which shall be made and executed within this Territory, of or concerning any lands, tenements or hereditaments therein, or whereby the same may be any way effected, in law or equity, shall be acknowledged by one of the grantors or bargainors, or proved by one or more of the subscribing witnesses to such deed, before one of the judges of the General-court, or before one of the justices of

Deeds to be acknowledged, & recorded, and how.

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the court of common pleas of the county where the lands conveyed do lie: and shall be recorded in the Recorder's Office of the county, where such lands or hereditaments are lying and being, within twelve months after the execution of such deeds or conveyances: and every such deed and conveyance that shall, at any time after the publica-

tion hereof, be made and executed, and which shall not be proved and recorded, as aforesaid, shall be adjudged fraudulent and void against any subsequent purchaser, or mortgagee, for valuable consideration: unless such deed or conveyance be recorded, as aforesaid, before the proving and recording of the deed or conveyance, under which such subsequent purchaser or mortgagee shall claim.

May be avoided if not recorded within a year.

How proved, where grantors or witnesses are dead.

IX. Where the grantors and witnesses of any deed or conveyance, are deceased, or cannot be had, it shall and may be lawful to and for the judges of the General court, or any justice of the court of common pleas of the county where the lands lie, to take the examination of any witness or witnesses, on oath or affirmation, to prove the hand-writing of such deceased witness or witnesses: or where such proof cannot be had, then to prove the hand-writing of the grantor or grantors: which shall be certified by the judge or justice, before whom such proof shall be made: and such deed or conveyance, being so proved, shall be recorded as is usual, in other cases directed above by this law.

Duties of the recorders.

X. Every recorder shall keep a fair book, in which he shall immediately make an entry of every deed or writing, brought into his office to be recorded; mentioning therein the date, the parties, and the place where the lands, tenements or hereditaments, granted or conveyed by the said

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deed or writing, are situate; dating the same entry on the day in which such deed, or writing was brought into his office; and shall record all such deeds and writings, in regular succession, according to their priority or time in being brought into the said office; and shall also, immediately, give a receipt to the person bringing such deed, or writing, to be recorded, bearing date on the same day with the entry, and containing the abstract aforesaid: for which entry and receipt, he shall take or receive no fee or reward, whatever. And if any recorder shall record any deed, or writing, before another first brought into his office to be recorded, or in any other manner than is herein directed; or shall neglect or refuse to make such an entry, or to give such a receipt as is herein before directed: or shall directly, or indirectly, take or receive any fee or reward for such entry and receipt, or either of them: he shall forfeit and pay, for every such offence,

a sum not exceeding three hundred, nor less than one hundred dollars: one half to the use of the Territory, and the other half to him or them that shall sue for the same: to be recovered in any court of record, by action of debt, bill or plaint, wherein no essoin, protection or wager of law, or more than one imparlance, shall be granted,

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of August, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes and George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

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TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



A LAW for raising County Rates and Levies, *Founded on, and Adopted from the Pennsylvanian code, and published at Cincinnati, the nineteenth day of June, one thousand, seven hundred and ninety-five; by Arthur St, Clair, governour, and John Cleves Symmes and George Turner judges, in and over the said Territory.*

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

Sect. I. **T**HREE commissioners shall be appointed in every county, in the following manner, to carry this law into effect; and the eldest or first of them named on the list, and so onward, shall be successively changed, by a new commissioner being appointed, yearly in his stead.

There shall be three commissioners in every county,

II. The justices of the court of General quarter-sessions of the peace, at their first general sessions, next after the first day of January, yearly and every year, on the first day of the term, and next

To be appointed yearly by the justices in quarter-sessions

after their having sworn and charged the grand jury, shall, in every county, proceed, to nominate and appoint three discreet and reputable freeholders of the county; who shall serve in the capacity of commissioners for the county, for one year from the time of their appointment: And the justices of the peace for the several counties, in their said general sessions, shall, in like manner, yearly and every year afterwards, appoint

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one new commissioner in every county; who shall supersede the first named commissioner for the preceding year,

III, The free male inhabitants of the several townships shall, on the third Tuesday in November, yearly and every year, assemble at some convenient and best inhabited part of every township, to be pointed out by the constable, and elect by ballot, viz, by writing on a piece of paper, the name of one person, who he prefers to be assessor of the township for the year ensuing, and delivering the same to the three judges of the election, to be previously chosen, viva voce, by the said inhabitants, so assembled: which ballot the said judges, or one of them, shall receive and keep safe in some box, or close vessel, until all the ballots tendered to them, or any of them, that day, are received. And on examination of the ballots, the person having the greatest number of votes, being a freeholder of good fame, shall be considered, respected and attended to, as the assessor of such township, for the year ensuing. And a certificate of the election of such assessor, in every township, shall be immediately made out and signed by the three judges of the election; and by, at least, six more freeholders: and they shall return the same to the justices, at their general sessions of the peace, in every county, held next after such election, Which return shall be entered on record, by the clerk of such sessions, in their minute book.

IV. Before any of the said commissioners and assessors, so appointed and chosen, shall take upon them the respective duties and services, by this law required, they shall be qualified by oath, or affirmation, in the form following, viz,

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Assessors of townships how to be chosen.

You (naming the person) shall well and truly cause the debts of the county to be speedily adjusted, and the rates and sums of money, by law imposed, to be duly and equally assessed and levied, according to the best of your skill and knowledge; and therein you shall spare no person for favor or affection, nor grieve any person for hatred or ill will: So help you God. Which qualification, or engagement, any two or more of the justices of the peace, in the proper county where such assessments are to be made, shall have power, and are hereby required, under the penalty of six dollars a piece, to administer when called upon: And the said qualifications shall be put in writing, and signed by those who take them, and certified by the justices, and filed by the clerks of the sessions, along with the return of the persons elected, as aforesaid, as assessors.

Oath of commissioners and assessors:

By whom administered, and filed.

V, *Provided always,* That when the inhabitants of any of the said townships refuse or neglect, for the first year, to choose assessors according to the directions of this law; then and in every such case, the justices of the peace, in the General court of quarter-sessions, shall appoint an assessor, or assessors, for the delinquent township or townships; and, in every year after the first, the assessor who officiated the year next preceding such neglect, shall continue to officiate in their respective stations, until another election, be made, according to the directions of this law.

When justices in session may appoint assessors.

VI. The said commissioners and assessors, or a majority of them, as soon as conveniently they can after they are qualified as aforesaid, shall annually meet at the place where the quarter sessions, and other courts are usually held; and then and there, or at such other times and places as the

Commissioners and assessors, shall audit the county accounts.

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commissioners, or a majority of them, may then after appoint, shall calculate the public debts and charges of the said respective counties, allowing all just debts and demands which now are, or hereafter shall be, chargeable upon the said respective counties: and shall, from time to time, adjust and settle the demands and sums of money, which justice and public convenience require should be raised, yearly, to defray the charges of building and repairing of court-houses, prisons, work-houses, bridges, and causeways at the end of bridges, or for destroying wolves, foxes and wild cats, with such other uses as may

And assess monies for building and repairing public works, and

the destruction
of wild ani-
mals.

redound to the public service and benefit of the said counties, respectively: And shall, also, ascertain and set down such competent sum and sums of money as shall be, yearly, applied towards any of the said services; together with such sums, as may be needful, to make good deficiencies in county rates assessed, and not then (and which probably could not be) collected; and to enforce the collection thereof, as occasion may require.

Constables to
certify, yearly
to the commis-
sioners the
names &c.
of persons &
estimates
with in their
townships.

VII. The said commissioners or two of them, in every county, shall within six days after their said annual meetings, issue forth their precepts, directed to the constables of every township, requiring them to bring to the said assessors, within six weeks next after the date of such precepts, fair and true certificates, in writing, upon their oaths or affirmations, of the names and sur names of all and every the free persons dwelling, or residing within the limits of those townships or places, with which they shall be charged: & the names of all free men, inmates, hired servants (being twenty one years of age) & whether profitable or

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chargeable to the employers, and all persons residing or sojourning in every of the said townships, together with an account of what tracts or parcels of land and tenements, houses, cabbins or other buildings wherein people dwell, with their peculiar advantages, as more or less valuable, which they hold in such townships; and how many and what parts of those tracts of land, houses and cabbins, are settled on, or rented, improved or cultivated; and how much of the same land is sowed, planted or improved; and all water-mills, whether for grinding or sawing; and all fulling-mills and oil-mills; and all keel and batteau-built boats, of the burthen of twenty barrels and upwards; and every ferry, and other species of property, producing a yearly income; and how many bound servants, and of what sex, with their ages, and what stock of cattle, horses and mares, each rising three years old, they possess without concealment, fear, malice, favour or affection, upon pain of forfeiting any sum not exceeding twelve dollars; to be levied as by this law is appointed and directed. And every of the said constables shall, by an order from one or more of the said commissioners, have and receive from the treasurers of the said counties, five cents for every three dollars assessed, for their care and trouble

Their compen-
sation.

in executing and returning the said precepts, in manner aforesaid. And the assessors for the said respective townships, or a majority of them, meet at the day and place where the commissioners, precepts to the constables are made returnable, and then and there receive the constables' returns; and shall, thereupon, by the oaths or affirmations of the said constables, or other credible persons, or by any other lawful

Assessors, on receiving constables' returns, to assess the county rates & levies, & how.

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ways or means, inform themselves what persons and estates, in their respective townships, are rateable by virtue of this law: and the yearly value and profit accruing from the same: and shall forthwith, equally and impartially, assess themselves and all others rateable, as aforesaid: having regard to the said yearly value or profit, and exempting out of such assessments, all unsettled and unimproved tracts or parcels of land: and having due regard to such as are poor and indigent. And no single man who at the time of assessment, is under twenty one years of age, or hath not been out of his servitude or apprenticeship six months, shall be rated by this law. But as to those single men whose estates shall not be rated at one hundred dollars, they shall be assessed after the rate of fifty cents a head, upon a tax of twelve and a half cents, per two hundred dollars: both for poor rates and county levies.

VIII. *Provided always*, That no assessments of county rates, to be made by virtue of this law, in any one year, shall exceed the value of seventy five cents in every two hundred dollars, in the estimate; and one dollar per head, on single men, not having visible property to the amount of one hundred dollars, real value.

Not to exceed 75 cents per 200 dollars and one dollar per head on certain men.

IX. Whenever any Wolves, Foxes or wild-cats are killed within the inhabited parts of any county, by the citizens thereof, he or they who kill such wolves, foxes or wild-cats, may bring the heads of them to some justice of the peace for the county where they are killed; who is hereby empowered and required, to examine the parties producing such head or heads; or, at the discretion of the said justice, to charge him or them,

Duties of justices as to wild animals killed.

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upon oath or affirmation, to declare where those wolves, foxes or

wild-cats, whose heads they so produce, were killed and by whom: and if it shall clearly appear, to the satisfaction of such justice, that those heads were severed from wolves, foxes or wild cats, so, as aforesaid, producing the same, & within the inhabited parts of the county; the justices, before whom such examination is taken, shall cause the tongues and ears of such heads to be cut off, and upon proof made as aforesaid, and not before, shall grant an order upon the treasurer of the county, where such wolves, foxes or wild-cats are killed, reciting therein, the substance of the proof, and requiring the treasurer to pay the party after the rates herein after appointed, for each head; that is to say:

**Rates of pay-
ment for their
heads.**

For every grown dog or bitch-wolf, two dollars:

For every wolf-puppy, or whelp, one dollar:

For every grown fox, or wild-cat, twenty five cents:

For every young fox, or young wild-cat, twelve and a half cents.

**Treasurers to
make entries
thereof.**

The said respective sums of money, with the names of the persons to whom payable, and the particular uses to which they are appropriated, shall be entered in a book to be kept by the treasurers of the respective counties, for that purpose: who are hereby required at their own charge; to provide books wherein they shall make such entries accordingly.

**County debts
to be allowed
and certified
by the commis-
sioners and
assessors;**

X. All accounts of debt and demands justly chargeable upon the said respective counties, shall be allowed by a majority of the commissioners and assessors of the same counties; who shall

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**Collectors of
assessments,
how to be ap-
pointed.**

certify such allowance, accordingly, by indorsement on the accounts; and shall cause the names of the creditors, and the sums so allowed them, to be entered in a book, which the said commissioners shall prepare and keep for that purpose, at the charge of the said respective counties.

Their duties.

XI. The said commissioners and assessors at their first annual meeting, shall appoint some fit person, in every township, to be collectors of the said assessments, from time to time: and shall cause fair duplicates of the assessment of each township to be drawn: one part thereof shall, by the clerk who writes the same, be delivered to one of the said commissioners of the proper county, and the other

part, to the collector of each township, with directions from the said commissioners to every such collector, indorsed on his duplicate, or annexed thereunto, requiring him to demand of the parties, the respective sums of money wherewith they are charged; and acquaint them of the day of appeal, which shall be appointed, by the commissioners, within one month after the said assessments are made. But, where any of the said collectors cannot meet with the party, of whom demand is to be made, as aforesaid, he or they shall leave notice, in writing, with some of the family, or at the place of the party's last abode; signifying, also, the day of appeal: at which day every of the said collectors shall return their said duplicates with the names of such persons and value of such estates as shall, be concealed, undervalued, or omitted in the constable's return.

**Parties ag-
grieved may
appeal to the
commissioners.**

XII. If any person or persons find him or themselves aggrieved with any of the said assessments, supposing the same to be unequal, he or

**Proceedings
thereon.**

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they may appeal to the said commissioners of the proper county: who are hereby required to meet on the said day of appeal; and then and there the assessors shall attend and lay before the commissioners, all the written certificates of the names of the persons subject to the tax: with the account of their several estates returned by the constables, as this law requires; together with the particular valuations set, by the assessor, upon the persons and estates, so returned. Whereupon, the commissioners shall take due notice thereof, and strictly examine the persons appealing upon their oaths, affirmations or otherwise, concerning the cause of their appeal: and upon such examination, or proof of others, they are hereby empowered to diminish or add to such persons' rate or assessment, as to them shall seem just and reasonable; with power, also to call before them such persons, and to take notice of such estates as they find are omitted in the said assessment, in order to rectify it. If the persons so omitted, refuse or neglect to appear and give an account of the value of their estates, they shall pay double the sum they should or ought to have been rated at by this law.

XIII. The said commissioners, upon hearing of the said appeals,

**Further pro-
ceedings.**

shall rectify and adjust the said assessments, by abating on, or adding to the sums contained in the said respective duplicates; and cause their clerks to give the parties concerned, where omissions are supplied, or additions made to their assessments, five days notice, to appear before the commissioners and make their objections thereunto: and the said clerks shall, within ten days next after the said day of appeal, deliver to the treasurer of the said respective

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counties a true account of the sums total that every collector shall be charged with, pursuant to this law.

**Duties in
consequence.**

XIV. The said commissioners shall cause their clerks to draw fair duplicates, of the assessments of the said townships, so rectified as aforesaid, and deliver them to the collectors of those townships where they belong, within twenty days after the said day of appeal, with a warrant annexed thereunto, under the hand and seal of one or more of the commissioners who signed the assessments, requiring them forthwith to collect and receive, from the persons assessed, the several sums in the said duplicates respectively mentioned, either in ready money, orders of the commissioners on the county treasurers for services rendered, labour done or materials furnished to and for the use of the counties respectively, or orders of the justices of the peace for wolves, foxes or wild-cats' heads, warranted by this law.

**Collectors to
pay, every six
weeks, public
monies, &c. to
the county
treasuries.**

XV. The said collectors shall, once in every six weeks, at least, render a just and true account of, and bring in and pay unto the respective county treasurers, all such sums of money, and orders on the said treasurers, as they shall have then received; and shall pay the whole and every of the sums of money assessed in their respective duplicates, within three months next after the said days of appeal; and the treasurers shall give receipts to the collectors for what they shall so bring in, and pay from time to time. Which receipts shall be the collectors' discharge for so much.

**Treasurers to
certify the
same to com-
missioners,
and also**

XVI. The said treasurer shall, from time to time, signify, in writing to the said commissioners, how much every collector brings in and pays, as

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aforesaid. And, when any of the said collectors are negligent, or

refuse to do their duty in the premises, the treasurers are hereby required forthwith to signify the same, by way of complaint to the commissioners, where such neglect or refusal shall happen.

the neglects of collectors.,

XVII. If any person or persons, so rated or assessed by virtue of this law, shall refuse or neglect to pay the sum or sums so assessed, in ready money, or in orders on the treasurers, warranted by this law, by the space of thirty days after demand made, as aforesaid; it shall be lawful for the said collectors respectively, by virtue of a special warrant for that purpose, signed and sealed by two or more of the said commissioners (who shall forthwith grant the same) and shall thereby empower the said collectors to call to their assistance, if occasion be, any constable or other person; and in case of resistance, to break open, in the day time, any house, trunk, box, chest, closet, cupboard or other thing where any such offenders goods, chattels or effects are supposed to be; and make distress and sale thereof, after advertising the same five days; rendering the overplus, if any be, to the owners, after reasonable charges deducted. But, if no distress can be found by the collectors, and the party refuses or neglects to shew them goods or chattels of his own; forthwith to satisfy the money then due, with reasonable charges; then the collectors shall take the body of every such person, and him deliver to the sheriff or his keeper of the county jail, who shall detain him, in safe custody, without bail or mainprise, until payment be made: the proof of which being made, shall, to the sheriff, be the collector's receipt.

Persons assessed and refusing to pay, how to be proceeded a gainst.

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XVIII. *Provided always,* That where effects cannot be found, sufficient to answer the whole sum in arrear, with charges as aforesaid; then distress shall be made for so much as the effects extend to, and the party to be imprisoned only for the residue thereof, with incident charges: all which charges of distress, assistance and bringing to prison, shall be adjusted and settled by any two or more of the said commissioners, when such occasion shall happen.

May be imprisoned in case, &c.

XIX. If upon complaint of the treasurers to the commissioners, as before directed to be made, it shall happen that any of the collectors refuse or neglect to pay the said sums of money, or other effects, which he or they shall respectively, be charged to collect; or to produce receipts, testifying the payment or delivery thereof, as aforesaid; or to

Delinquent collectors, punishable by fine and loss of office.

deliver the money or orders on the treasurers, by them received and required of them by this law (first retaining such sums as are hereby allowed for collecting and paying the same) then the commissioners of the proper county, or any two of them, shall fine every such delinquent collector in any sum not exceeding double the sum in which they are delinquent, and appoint others in his or their stead, as collectors.

**Their bodies
and estates
made answer-
able,**

XX. It shall be lawful for the said commissioners of the proper county, or any two of them, and they are hereby required, to meet and issue their warrants, under their hands and seals directed to the sheriff or coroner of the proper county, requiring him to take the body, and seize and secure the estate, real and personal, belonging to such delinquent collectors, or which shall come to the hands or possession of his or their heirs, executors or administra-

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tors, whereby the same can be discovered or found in the Territory; and make return of his proceedings therein, at such time and place as the commissioners shall appoint.

**How such
estates shall
be sold,**

XXI. The said commissioners who shall cause the said lands and estates to be seized and secured, as aforesaid, shall, and are hereby empowered to appoint a time for a general meeting of the commissioners of each county; and to cause public notice to be given, where such meeting shall be appointed, six days, at least, before such general meeting: and the commissioners, then present at such meeting, or the major part of them, in case the money detained by such delinquent collector be not then paid or satisfied, shall, and are hereby empowered and required to issue forth their warrants, or precepts, to the sheriff or coroner of the proper county; requiring and commanding him to sell and dispose of all such estates as shall, for the cause aforesaid, be seized and secured, or any part thereof; and to bring the money, arising by such sale, to the commissioners who granted such warrant; in order to satisfy and pay unto the respective county treasurers, for the time being, the sum or sums of money that shall be so unpaid, or detained, in the hands of the said collectors or other persons, their heirs, executors or administrators, respectively; with damages for what shall be so unpaid; returning the overplus, if any be, to the owner, after all necessary charges deducted.

XXII, When any sale of lands, tenements or hereditaments shall be made by such sheriff or coroner, respectively, the title and conveyance thereof shall be by deed, signed, sealed and de-

And the sheriff convey them.

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livered by the sheriff or coroner to such person or persons as shall purchase the same, in fee-simple, or otherwise: which shall be most absolute and avorable, in law, against the said delinquents and their heirs and assigns, and all claiming under them.

XXIII. All gifts, grants and sales which shall be made by any of the said delinquent collectors, or other officers, respectively, of any of their said estates, after the time they should have paid the money or effects arising from the said assessments, unless the estate, so seized, be sufficient to answer what they shall be in arrear, are hereby declared to be fraudulent, and shall not prevent or avoid the seizure and sales, hereby appointed, to be made thereof, as aforesaid.

Collector's conveyance of his estate, while delinquent, deemed void as to the public.

XXIV. All freemen, not being householders, nor having a certain place of abode, and all the said hired male-servants; shall be taxed at the place where they reside at the time of the constable's taking their names, as aforesaid: and every householder shall, at the request of the said constables of the respective townships, give an account of the names, qualifications and estates of such persons as shall sojourn, lodge or dwell in their respective houses: under the penalty of five dollars, to be levied, charged, and paid in manner aforesaid.

Persons having neither houses nor certain abodes, how to be taxed:

Penalty on persons keeping lodgers and neglecting to return their names.

XXV. If any such freemen shall not be found at such place of residence, nor within the same township where their names were taken, as aforesaid, at the time when such respective collectors shall come to receive such householder's assessment; then, unless such freeman or servant hath, by himself or friend, paid; or, unless such householder or employer doth pay the same

Householders in what cases accountable for others:

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for him, upon demand made thereof by the collector; it shall and may be lawful, for every such collector, to make distress and sale of the householders or employers goods and chattels, for the same; rendering the overplus to the owner, as aforesaid: and every such householder, or employer, shall recover the same from every such freeman, with charges, by warrant from any justice of the peace in the proper county, as in the case of debts under twelve dollars.

Proceedings herein.

Commissioners abusing their trust, to be punished with fine and loss of office.

Proceedings herein.

Commissioners who die or misbehave, to be replaced by the justices.

Treasurers abusing their trust, to be fined.

by the commissioners.

Punishment on assessors, abusing their trust.

All fines to go to the county

Compensation to commissioners.

XXVI. If any of the said commissioners shall refuse or neglect to do his or their duty, in the premises, he or they, so offending, shall be fined by the justices of the peace of the proper county, for the time being, at their court of General quarter sessions of the peace, next after the said offence is committed, in any sum not exceeding one hundred dollars, for every offence, which, by virtue of a warrant under the hands and seals of the said justices; or any two of them, directed to the sheriff or coroner of the county where such offender, or his estate, is, at the time of issuing such warrant, shall be levied by seizure and sale of lands, distress and sale of goods or imprisonment of body, as the case shall require: and from and after such refusal or neglect, or if any of the said commissioners shall misbehave themselves, or happen to die during the time for which they are appointed, the justices of the peace, at their General quarter sessions next after each death, refusal, misbehaviour or neglect shall, in every such case, appoint others to act in their stead.

XXVII. If any of the said treasurers shall refuse or neglect to do his duty, as by this law is required, he shall be fined, by two or more of

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the commissioners for the county where he is deficient in his duty, in any sum not exceeding three hundred dollars, for every offence: which shall be levied, as aforesaid, by virtue of a warrant under the hands and seals of two or more of the same commissioners, directed as aforesaid.

XXVIII. If any of the said assessors shall refuse or neglect to do their duty, as this law requires, the commissioners of the proper county, or any two of them, shall fine every such assessor, in any sum not exceeding one hundred dollars, which shall be levied by one of the same commissioners warrant, in manner aforesaid. All which fines and forfeitures mentioned in this law, shall be levied as aforesaid, and shall be paid and added to the public stock, or fund, of the respective counties where they shall happen.

XXIX, The said commissioners shall be allowed seventy-five cents for every days attendance, besides twelve cents and a half for every precept or warrant they are to sign by direction of this law; which, with reasonable charges to be allowed their clerks, for deliver-

ing the duplicates and for other services, besides writing, as the said commissioners in their respective counties, by order under the hands of two of them, shall think fit to allow, shall be paid by the respective county treasurers.

XXX. The said assessors, for their time and labour in the premises, shall be allowed three per centum on the whole sum contained in the rates of their respective counties, after the assessment is rectified and adjusted by the commissioners and assessors, according to the directions of this law, to be paid by the treasurer of the proper county, upon sight of the commissioner's order

To assessors.

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for the same; and to be equally divided among them: which said three per centum shall be to the assessors, for the time being, in full satisfaction for all the service and attendance required of them by this law.

XXXI. The said collectors shall retain in their hands one per centum, for all sums of money by them, respectively, collected; together with what they shall pay to the assessors, as aforesaid.

To collectors

XXXII. Those that officiate as clerks shall for their pains in writing duplicates, and all warrants and precepts relating to the premises have and receive the sum of eighteen dollars; which the respective county treasurers are hereby required to pay to them, on warrant from the commissioners, or any two of them. And if any of the said clerks shall neglect to do his or their duty, as by this law is required, he or they shall be fined, by the commissioners of the proper county, in the sum of ten dollars, each; to be levied and paid, as aforesaid. And in case of the death or neglect of any of the said clerks the commissioners shall, forthwith, appoint others in their stead.

To the clerks,

XXXIII. *Provided always,* That if any person or persons be sued or prosecuted for any thing done, in pursuance of this law, he or they may plead the general issue, and give this law and the special matter in evidence, for their justification. And if the plaintiff or prosecutor become nonsuit, or forbear prosecution, or suffer discontinuance; or, if a verdict pass against him in such actions, suit or information, the defendant shall have double costs; to be recovered as in cases where costs are, by law, given to the defendants,

Parties sued; may plead the general issue, &c.

Defendant to be allowed double costs.

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Prosecutions to be brought within twelve months after the offence.

XXXIV, *Provided always*, That no person or persons shall be sued, or prosecuted, for neglect in the execution of this law, unless he or they be sued or prosecuted within twelve months after such offences are committed:

Governour to appoint the treasurers; who shall lay in bond of 1000 dollars:

XXXV. The treasurers of every county shall be appointed by the governour; but, before they enter upon the execution of their offices, respectively, they shall become bound to the governour, and his successors, with one or more sufficient sureties, in an obligation in the sum of one thousand dollars; conditioned for the true execution of their respective offices, and punctual observation of their duty, as required by this law. And in case of the death or removal out of the county, of any of the said treasurers; then the commissioners and assessors of the proper county, for the time being, or a majority of them, shall appoint others to supply the places of such as shall die, or so remove, from time to time; who shall, forthwith, signify such appointments to the governour for his approbation, or further appointment, and give security in manner aforesaid. The said treasurers shall keep a distinct book, in every county, containing a particular account of all the rates and assessments made, or to be made, as aforesaid; as also of all disbursements and payments, made by order of the commissioners, by virtue of this law.

When they remove or die, commissioners and assessors to appoint others.

Treasurers to settle their accounts annually.

XXXVI. The county treasurers shall, yearly, at the next General quarter-sessions of the peace after midsummer-day, in every county, bring in and settle their respective accounts with the said commissioners and assessors, a majority of whom shall give attendance for that purpose; and shall

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Compensation to treasurers.

have power to adjourn, from time to time, till the said accounts are settled. And the said treasurers shall be allowed for their trouble in receiving and paying all such monies as shall come into their hands respectively, by law, so much as the said commissioners and assessors or the major part of them, from time to time, shall judge reasonable,

In case of a treasurer's removal from office, he to deliver up, &c. to his success-

XXXVII Where any county treasurer shall be removed from his office, of treasurer, he shall deliver up to the succeeding treasurer all the books, public accounts and papers belonging to the counties where he acted, whole, entire and undefaced, under the penalty of

five hundred dollars; to be recovered in manner and for the uses herein before mentioned. And where any county-treasurer hath been removed, by death, the executors or administrators of such decedent shall deliver, in like manner, all the books and papers relating to the said public accounts, to the succeeding treasurer, under the same penalties, and to be recovered as aforesaid.

XXXVIII. No person who is, or hereafter shall be, appointed a commissioner for any county, shall serve, as a commissioner, for any longer time than the space of three years, at one time.

XXXIX. The commissioners and assessors and treasurers of the several counties shall, at the respective courts of General quarter-sessions of the peace, to be holden for the respective counties next after mid-summer day, yearly exhibit to and lay before the justices and grand-juries of the said respective counties to which they belong, as well the books of entries and accounts directed by this law to be kept by the treasurers, as a true and particular account of all the monies by them

or, or forfeit 500 dollars.

On the death of treasurers, executors, &c. made liable.

No commissioners to serve longer than three years.

Annual duties of commissioners, assessors, and treasurers.

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assessed and raised, by virtue of their several offices; as also an account to whom and for what use, or uses the same money, and every part and parcel thereof, was paid out again; with the proper vouchers if required: which books' accounts and receipts, or vouchers, being seen and examined, by the justices and grand juries of the said respective counties, shall be delivered back, safely and without alteration, to the respective treasurers; and the accounts shall be filed and kept among the records and proceedings of the said courts of General quarter-sessions of the peace for such counties,

XL. The grand juries, commissioners and assessors, or a majority of them, with the concurrence of the justices of the General quarter-sessions of the peace, shall be the sole judges of the place where any bridge shall be built and maintained over any creek, or rivulet, within the respective counties to which they belong: and the commissioners and assessors, or a majority of them, with the concurrence of the justices of the said respective counties, at their respective General quarter-sessions of the peace, shall agree with workmen for building,

The grand jury, commissioners and assessors, with the concurrence of the justices, to be the sole judges where bridges shall be built:

The commis-
sioners and
assessors, with
the like con-
currence, are
to agree with
the workmen;

repairing and maintaining any bridge or bridges ordered to be built or repaired, as aforesaid, within their respective counties: and the commissioners, for the time being, shall allow of, and order the monies be-

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And the charge
be allowed by
the commis-
sioners.

coming due for the same, to be paid by the respective county treasurers, accordingly.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of October, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



A LAW for the relief of the Poor. *Adopted from the Pennsylvanian code, and published at Cincinnati, the nineteenth day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

How overseers
of the poor to
be appointed.

Sect. I. **T**HE justices of the peace of the respective counties of this Territory, or any three of them, at every first session of the court of General quarter-sessions of the peace, yearly and every year, after the first day of January, shall nominate and appoint two substantial inhabitants of every township, within their re-

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Duties of over-
seers going
out of office.

spective jurisdictions, to be overseers of the poor of such townships: for which purpose, the overseers going out of office, shall, on the day

aforesaid, return to the said justices, the names of two, or more, substantial inhabitants, for every township: out of which number, successors in the said office shall be appointed by the said justices, for the ensuing year. And if any overseer shall refuse or neglect to make such return, as aforesaid, he shall forfeit and pay any sum, not exceeding twenty five dollars.

II. *Provided always*, That the overseer or overseers, making such return, shall give notice thereof, in writing, at least six days before the first session of the court aforesaid, to the person or persons, whose name or names are so to be returned; or leave the same at his or their dwelling-house, or place of abode.

Further duties of overseers.

III. And if any overseer shall die, fail to make a proper return, remove, or become insolvent, before the expiration of his office, two of the said justices respectively, on due proof being thereof made before them, shall appoint another in his stead. Every overseer, so nominated and appointed, shall, before he enters upon the execution of his office, take an oath or affirmation, respectively, according to law; (which any justice in the county respectively is hereby authorised and empowered to administer) that he will-discharge the office of overseer of the poor, truly, faithfully and impartially, to the best of his knowledge and ability.

Power of justices on overseer's removal or insolvency.

Overseer's oath

IV. It shall and may be lawful to and for the overseers of the poor, of the several townships, having first obtained the approbation of any two justices of the peace in the same county, to

Power and duty of overseers as to assessments for relieving the poor.

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make and lay a rate, or assessment, not exceeding two cents, in the dollar, on the estimated value of all the real and personal estates within the said townships, respectively, at one time, and seventy five cents per head, on every freeman not otherwise rated for his estate, in every tax of two cents in the dollar, and so in proportion for any less rate or assessment: which said assessments may be repeated, by the authority aforesaid, as often, in one year, as shall be found necessary for the support of the poor; to be employed in providing proper houses and places, and a convenient stock of hemp, flax, thread and other ware and stuff, for setting to work such poor persons, as apply for relief, and are capable of working; and also for relieving such poor, old, blind, impotent and lame persons, or other persons not able

to work, within the said townships, respectively; who shall therewith be maintained and provided for.

V. It shall and may be lawful to and for the overseers of the poor of the said townships, to contract with any person or persons for a house or lodging, for keeping, maintaining and employing any or all such poor in their respective townships, as shall be adjudged proper objects of relief; and there to keep, maintain and employ all such poor persons, and take the benefit of their work, labour and service, for and towards their maintainance and support: and if any poor person shall refuse to be lodged, kept, maintained and employed in such house or houses, he or she shall not be entitled to receive relief from the overseers during such refusal.

VI. The overseers of the said townships, in laying the said rates, shall be guided by the

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county assessment, on other occasions; having due regard to every man's estate within the township so to be rated and assessed; and shall enter such rates fairly in a book, of which a fair duplicate, signed by them, shall be delivered to the justices, who shall allow the same, if they find it just and reasonable, without fee or reward; and shall permit any inhabitant to inspect the rates, at all seasonable times, without any fee or reward; and shall give copies, on demand; being paid at the rate of six cents, for every twenty four names; and if any overseers shall not permit any inhabitant to inspect, or shall refuse to give copies, as aforesaid, he shall forfeit three dollars to the party grieved, to be recovered as debt under five dollars, are directed by law, to be recovered.

VII. If any person or persons, so rated or assessed in the said township, shall refuse to pay the sum or sums on them charged, it shall and may be lawful to and for the said overseer, or overseers (having first obtained a warrant under the hand and seal of any justice of the peace of the county respectively, where the said assessment is made, and who is hereby empowered to grant such warrant) to levy the same on the goods and chattels of the person or persons so refusing: And in case such person shall not, within five days next after such distress made, pay the sum or sums on him assessed, together with the charge of such distress, the said overseer, or overseers, may

Overseers to relieve the poor, and how.

Other duties of overseers.

Penalty on neglect.

Rateable persons refusing to pay, how to be compelled.

proceed to the sale of the goods distrained; rendering to the owner the overplus, if any, that shall remain on such sales, reasonable charges being first deducted. But where such person or persons have no goods and chat-

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tels, whereby they may be distrained, it shall be lawful for the said justices, respectively to commit the offenders to prison, there to remain, without bail or mainprize, until they have paid the same.

VIII. *Provided always*, That if any person or persons be aggrieved with such rate or assessment, it shall be lawful for the justices of the peace, at their next General quarter-sessions for the county respectively, upon petition of the party, to take such order therein as to them shall be thought convenient; and the same to conclude and bind all parties, and the overseers shall forbear to proceed in such sale, till the same be determined in the quarter-sessions,

Appeal to the quarter-sessions.

IX, It shall and may be lawful for the overseers of the poor of the townships, aforesaid, by the approbation and consent of two justices of the peace of the county, to put out, as apprentices, all such poor children, whose parents are dead, or shall be by the said justices found unable to maintain them, males till the age of twenty one, and females till the age of eighteen years.

Concerning poor children.

X. No person or persons shall be admitted or entered in the poor-book of any of the said townships, or receive relief before such person or persons shall have procured an order from two justices of the peace for the same. And in case the said overseers shall enter in their books, or relieve, any such poor person or persons, without such order, they shall forfeit all such money or goods so paid or distributed, unless such entry and relief shall be approved of, as aforesaid.

Regulations as to the poor.

XI. The free male inhabitants of every township shall, on the day of their annual election to choose assessors, yearly and every year, choose

Overseers' accounts, how to be kept and settled

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by tickets in writing, three capable and discreet freeholders, to settle and adjust the accounts of the overseers of the poor of the respective townships, for the preceding year: and the person who shall have

Controlled by three freeholders.

served the office of overseer, shall, on the said day, or any other day, which the said freeholders, so chosen, shall appoint, within fifteen days next after, deliver and render to the said freeholders a just account in writing, entered in a book, to be kept for that purpose, and signed by him, of all sums by him received; and also of all materials that have come to his hands, during his office or that shall be in his hands, or in the hands of any of the poor, to be wrought; and of the produce of the labour of the poor under his care, and of all money paid by such overseers, and of all other things concerning his office, which accounts, when settled, shall be signed by the said freeholders, or any two of them, who shall have full power to allow such parts thereof only, as to them shall appear just and reasonable.

The poor to be entered in overseers' books.

Compensation to overseers, how made.

XII. The said overseers shall make fair entries, in a book, of the names of all the poor within their respective townships; with the time when each of them became chargeable; and of all certificates delivered to them, and by whom, with the times when the same were delivered: for which trouble, the said freeholders, or any two of them, shall on settling their accounts, make such allowances as they shall judge reasonable. And if any of the said overseers' appeal to the next court of General quarter-sessions; who shall, on petition of the party, take such order therein, and give such relief as to them shall appear just and reasonable, & the same shall conclude all parties.

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Duty of overseers as to the election of freeholders, &c.

XIII. The overseers of the poor of the townships within the several counties, respectively, shall, at least five days before the day of the annual election to choose assessors, yearly and every year, during the continuance of this law, give public notice, in writing (by affixing the same in four, or more, of the most public places in their respective townships) of the place where the inhabitants and freeholders of the several townships shall meet, to elect the freeholders aforesaid, for each and every of the said townships, according to the directions of this law; which place, so appointed for the said election, shall be at or near the center of the inhabited parts of the respective townships. If any person appointed as overseer of the poor of any township, shall

Penalty on neglect.

¹ Editor's note: The printed text is confused at this point, probably by a transposition of pages of manuscript. The true reading is by skipping from "the said overseers" to "shall refuse or neglect to make and yield up" and reading to "if any such there be."

refuse or neglect to take upon him the said office, he shall forfeit twelve dollars, to the overseers of the poor of the said townships, for the use of the poor thereof: which² shall refuse or neglect to make and yield up such books and accounts, within the time as aforesaid; or if any such, whose office shall expire, shall refuse or neglect to pay over the money, and deliver up the books aforesaid, and every other thing in his hands, concerning his said office, to his successors; or shall refuse or neglect to collect and pay to such successors, all such sums of money, as are collected on the rate, or assessment, at the expiration of his office (which he is hereby empowered to collect, by warrant to be issued under the hand & seal of any one justice of the peace in and for his respective county) within thirty days after his going out of office; it shall and may be lawful to and for any justice of the peace of the said county to commit such overseer to the common

Delinquent overseers how punishable.

Powers of a justice herein.

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jail, there to remain without bail or mainprize, till such overseer shall give such accounts, and pay and deliver up such money, books and other things, as he ought in manner aforesaid. If any person shall think himself aggrieved by the settlement of his account by the said freeholders, he may (having first paid over to his successors the balance found in his hands, if any such there be)³ forfeiture shall be levied by warrant from any two justices of the county, or of the townships, respectively, under their hands and seals, on the goods and chattels of such person or persons so neglecting or refusing, and sold within three days next after distress made. And if there happen any overplus, upon sale thereof, the same shall be paid to the owner or owners, reasonable charges being first deducted. And if such person or persons, so neglecting or refusing, as aforesaid, shall not have goods or chattels, whereby he or they may be distrained, as aforesaid; then the said justices may commit the offender or offenders to prison, there to remain without bail or mainprize, till the said forfeiture shall be fully satisfied and paid.

Appeal from the freeholders.

XIV. If any overseer shall remove, he shall, before his removal, deliver over to some other overseer of the township or place from which he removes, his accounts as aforesaid; with all assessments,

Overseers removing, how enjoined:

² See note 1, page 220.

³ See note 1, page 220.

And how executors &c. in case of their death.

books, paper, money, and other things concerning his office: and upon the death of any overseer, his executors or administrators shall, within forty days after his decease, deliver over all things concerning his office to some other overseer, as aforesaid; and shall pay out of the assets, all money remaining due (which

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he received by virtue of his office) before any of his other debts are paid.

Property may be held for the poor, and to what amount.

XV. All gifts, grants, devises, and bequeaths hereafter to be made of any houses, lands, tenements, rents, goods, chattels, sum or sums of money, not exceeding in the whole the yearly value of twelve hundred dollars, to the poor of any township or to any other person, or persons for their use by deed or by the last will and testament of any person or persons, or otherwise howsoever, shall be good and available in law, and shall pass such houses, lands, tenements, rents, goods and chattels to the overseers of the poor of such township for the use of their poor respectively.

Overseers of the poor, in every township a body corporate.

XVI. The overseers of the poor for the several townships for the time being, respectively, shall forever hereafter, in name and in fact, be, and they are hereby declared to be bodies politic and corporate in law, to all intents and purposes, and shall have perpetual succession, and may by the name of the overseers of the poor of the said townships, sue and be sued, and plead and be impleaded in all courts of judicature; and by that name shall and may purchase, take or receive any lands, tenements or hereditaments, goods, chattels, sum or sums of money, not exceeding in the whole, including all gifts, grants, devises and bequests, heretofore made, the aforesaid yearly value of twelve hundred dollars,, to and for the use, and benefit of the poor of the respective townships, of the gift, alienation or devise of any person or persons whomsoever, to hold to them the said overseers, and their successors in the said trust, for the use of the said poor forever,

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Qualifications for a legal settlement.

XVII. If any person who shall come to inhabit in any township or place within this Territory, shall for himself and on his own account, execute any public office, being legally placed therein, in the said township or place, during one whole year; or if any person shall

be charged with and pay his or her share towards the public taxes or levies for the poor of such township or place, for two years, successively, or if any person shall really and bona fide take a lease of any lands or tenements in the said township or place of the yearly value of twenty five dollars, and shall dwell in or upon the same for one whole year, and pay the said rent, or shall become seized of any freehold estate, in any lands or tenements in such township or place and shall dwell in or upon the same for one whole year; or, if any unmarried person, not having children or child, shall be lawfully bound or hired as a servant in any township or place aforesaid, and shall continue, and abide in such service during one whole year; or if any person shall be duly bound an apprentice by indenture, and shall inhabit in such township or place, with his or her master or mistress, for one whole year; such person in any of these cases, shall be adjudged and deemed to gain a legal settlement in the same township or place, where such person shall so execute an office, be charged with and pay taxes, take such lease, or own any such freehold estate, and dwell thereon, as aforesaid; or being hired or bound, shall continue and inhabit in a place for one whole year, as aforesaid. Every indented servant legally brought into this Territory shall obtain a legal settlement in the township or place in which such servant

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shall have first served with his or her master or mistress, the space of sixty days, and if afterwards such servant shall duly serve, in any other place for the space of six months, such servant shall obtain a legal settlement in the county, township or place where such service was last performed, either with his or her first master or mistress, or on an assignment.

XVIII. Every married woman shall be deemed during coverture; and after her husband's death, to be legally settled in the place where he was last legally settled; but if he shall have no known legal settlement, then she shall be deemed, whether he is living or dead, to be legally settled in the place where she was last legally settled before the marriage.

As to married
women and
widows.

**Concerning
strangers as to
townships or
the Territory.**

XIX. If any person or persons shall come out of any of the United States into a township or place within this Territory, or shall come out of any township or place within this Territory into any other township or place thereof, there to inhabit and reside, and shall at the same time procure, bring and deliver unto the overseers of the poor of the township or place where he, she or they shall come to inhabit, a certificate, under the hands and seals of the overseers of the poor of the township or place, from whence he, she or they removed, to be allowed by two or more credible witnesses, thereby acknowledging the person or persons mentioned in the said certificate, to be an inhabitant or inhabitants, legally settled in that township or place, every such certificate having been allowed of, and subscribed by one or more justices of the peace of the county where such township or place doth lie, shall oblige the said township or place, to pro-

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vide for the persons mentioned in the said certificate, together with his or her family as inhabitants of that place, whenever he, she or they happen to become chargeable to, or be obliged to ask relief of the township or place, to which such certificate was given, and into which he, she or they were received by virtue of the said certificate: and then, and not before, it shall and may be lawful for any such person, and his, her or their children, tho' born in the township or place, and his or her servants or apprentices, not having otherwise acquired a legal settlement, there to be removed, conveyed and settled in the township or place, from whence such certificate was brought. And the witnesses who attest the execution of the certificate by the overseers, or one of the said witnesses shall make oath or affirmation, according to law, before the justices who are to allow the same, that such witness or witnesses did see the overseers of the poor, whose names and seals are thereunto subscribed and set, severally sign and seal the said certificate; and that the names of each witnesses attesting the said certificate are of their own proper hand writing; which said justices shall also certify that such oath or affirmation was made before them; and every such certificate so allowed, and oath or affirmation of the execution thereof so certified, by the said justices, shall be taken and received as evidence without proof thereof. and no person so coming by cer-

tificate into any township or place, nor an apprentice or servant to such person, shall be deemed or adjudged, by any law whatsoever, to have gained a legal settlement therein unless such person shall, after the date of such certificate execute some public an-

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nual office, being legally placed therein, in such township or place,

XIX. No person whomsoever coming into any township or place without such certificate, as aforesaid, shall gain a legal settlement therein, unless such person shall give security, if required, at his or her coming into the same, for indemnifying and discharging such township or place, to be allowed by any one justice of the peace respectively.

No legal settlement without a certificate.

XXI. Upon any complaint being made by the overseers of the poor of the proper township or place to any one or more of the justices of the said county, wherein such township or place is situate, it shall and may be lawful to and for any two justices of the said county, respectively, where any person or persons is or are likely to become chargeable to the said township or place, where, he, she, or they shall come to inhabit, by their warrant or order, directed to the said overseers to remove and convey such person, or persons to the county, township, place or state, where he, she or they was or were last legally settled, unless such person or persons shall give sufficient security to discharge and indemnify the said township or place, to which he, she, or they is, or are likely to become chargeable, as aforesaid.

Persons likely to become chargeable to the township, how to be removed.

XXII. If any person or persons shall think him or themselves aggrieved, by any order of removal made by any of the said justices, such person or persons may appeal to the justices of the peace, at their next General quarter-sessions of the peace, for the county from whence such poor persons shall be removed, and not elsewhere, which said court shall determine the same: and if there be any defects of form in such

Appeal from the party so removed.

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order, the justices in the said sessions shall cause the same to be rectified and amended, without any costs to the party; and after such

Proceedings thereon.

amendment, shall proceed to hear the truth and merits of the cause; but no such order of removal shall be proceeded upon, unless reasonable notice be given by the overseers of the township or place, appealing, unto the overseers of the township or place, from which the removal shall be; the reasonableness of which notice shall be determined by the justices, at the quarter sessions to which the appeal is made: and if it shall appear to them that reasonable time of notice was not given, then they shall adjourn the appeal, to the next quarter-sessions, and there determine the same.

Against vexatious removals and frivolous appeals.

XXIII. For the more effectual prevention of vexatious removals and frivolous appeals, the justices in sessions, upon any appeal concerning the settlement of any poor person, or upon any proof before them, then to be made, of notice of any such appeal to have been given by the proper officer, to the overseers of any township or place (though they did not afterwards prosecute such appeal) shall, at the same sessions, order to the party, in whose behalf such appeal shall be determined, or to whom such notice did appear to have been given, such costs and charges, as by the said justices, in their discretion, shall be thought most reasonable and just, to be paid by the overseers, or any other person, against whom such appeal shall be determined, or by the person that did give such notice. And if the person ordered to pay such costs and charges, shall live out of the jurisdiction of said court, any justice, where such person shall inhabit,

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shall, on request to him made, and a true copy of the order for payment of such costs and charges, certified under the hand of the clerk of the court, by his warrant, cause the same to be levied by distress; and if no such distress can be had, shall commit such person to the common jail, there to remain without bail or mainprize, until he pays the said costs and charges.

Judgment for appellant.

XXIV. But if the said justices on such appeal shall determine in favour of the appellant, that such poor person was unduly removed, they shall, at the same quarter-sessions, order and award to such appellant, so much money as shall appear to the said justices to have been reasonably paid by the county, township or place, on whose behalf such appeal was made, towards the relief of such poor person

between the time of such undue removal, and the determination of such appeal with the costs aforesaid, the said money so awarded, and the costs to be recovered, in the same manner as costs and charges, awarded against an appellant, are to be recovered by virtue of this law, as aforesaid.

XXV. If any house-keeper or inhabitant of the Territory shall take into, receive or entertain in his or her house or houses, any person or persons whatsoever, not being persons who have gained a legal settlement in some township, or place within this Territory, and shall not give notice thereof in writing, to the proper overseers of the poor, within ten days next after so receiving or entertaining such person or persons, such inhabitant or house-keeper being thereof legally convicted, by testimony of one credible witness, on oath or affirmation, before any one justice of the peace of the county where such person dwells,

Penalty on persons entertaining others not being legally settled.

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shall forfeit and pay the sum of three dollars for every such offence; the one moiety to the use of the poor of the said township or place, respectively, and the other moiety to the informer, to be levied on the goods and chattels of the delinquents, in the manner hereinafter directed, and for want of sufficient distress, the offender to be committed to the work-house of the township, or the jail of the said county, there to remain without bail or mainprize, for the space of ten days.

XXVI. And moreover, in case the person or persons so entertained or concealed shall become poor and unable to maintain him or herself or themselves and cannot be removed to the place of his or her or their last legal settlement in any other state if any such, he, she or they have or shall happen to die, and not have wherewithal to defray the charges of his, her or their funeral, then, and in such case, the house-keeper or person convicted of entertaining or concealing such poor person, against the tenor of this law, shall be obliged to provide for and maintain such poor and indigent person or persons: and in case of such poor persons death, shall, pay the overseers of the poor, so much money, as shall be expended, on the burying of such poor and indigent person or persons; and upon refusal so to do, it

Further penalty, in case of pauper's death.

shall be lawful for the overseers of the poor of the said township or place, respectively, and they are hereby required to assess a sum of money on the person or persons so convicted, from time to time, by a weekly assessment, for maintaining such poor and indigent person or persons, or assess a sum of money for defraying the charges of such poor person's funeral, as the

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case may be: and in case the party convicted, shall refuse to pay the sum of money, so assessed or charged, to the overseers of the poor, for the uses aforesaid, the same shall be levied on the goods and chattels of the offender, in the manner hereafter directed. But if such persons, so convicted, have no goods or chattels to satisfy the money, so assessed for him or them to pay, then the said justices shall commit the offender to prison, there to remain without bail or mainprize, until he or they have paid the same, or until he or they shall be discharged by due course of law.

XXVII. If any person be removed, by virtue of this law, from one township or place to another, by warrant, or order, under the hands and seals of two justices of the peace as aforesaid, the overseers of the poor of the township or place, to which the said person shall be so removed, are hereby required to receive said person, and if any of the said overseers shall neglect or refuse so to do, he or they so offending, upon proof thereof by one or more credible witnesses, upon oath or affirmation before one or more of the justices of the peace of the county where the offender doth reside, shall forfeit for every such offence the sum of twelve dollars, to the use of the poor of the township or place, from which such person was removed to be levied by distress and sale of the offender's goods, by warrant, under the hand and seal of the said justice of peace, which he is hereby required and empowered to make, directed to the constable of the township or place, where such offender or offenders dwell, returning the overplus, if any there be, to the owner or owners, and for want of sufficient distress, then the offender to be committed to

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the jail of the county where he dwells, there to remain without bail or mainprize for the space of forty days.

Overseers shall receive all the poor lawfully removed.

Penalty on neglect.

XXVIII. If any poor person shall come to any township or place within this Territory and shall happen to fall sick or die, before he or she have gained a legal settlement in the township, or place, to which he or she shall come so that such person cannot be removed, the overseers of the poor of the township, or place, into which such person is come, or one of them, shall, as soon as conveniently may be, give notice to the overseers of the poor of the township or place, where such person had last gained a legal settlement or to one of them, of the name, circumstances and condition of such person; and if the overseers of the poor, to whom such notice shall be given, shall neglect or refuse to pay the monies expended for the use of such poor person, and to take order for relieving and maintaining such poor person, or in case of his or her death, before notice can be given, as aforesaid, shall, on request being made, neglect or refuse to pay the monies expended in maintaining and burying such poor person, then, and in every such case, it shall be lawful for any two justices of the peace of the county where such poor person was last legally settled, and they are hereby authorized and required, upon complaint made to them, to cause all such sums of money, as were necessarily expended for the maintainance of such poor person, during the whole time of his or her sickness, and in case he or she die, for his or her burial, by warrant under their hands and seals, to be directed to some constable of the county, respectively to be levied by distress and sale of the goods and chat-

**Proceedings
when the poor
of one place
sicken or die
in another.**

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tels of the said overseer or overseers of the poor, so neglecting or refusing to be paid to the overseer or overseers of the township or place, where such poor person happened to be sick, or to die, as aforesaid, and the overplus of the monies arising, by sale of such goods, remaining in the constable's hands, after the sum of money ordered to be paid, together with the costs of distress, are satisfied, shall be restored to the owner or owners of the said goods: if any of the said overseers shall think him or themselves aggrieved by any sentence of such justices, or by their refusal to make any order, as is aforesaid, he or they may appeal to the justices of the peace, at their next court of quarser sessions for the county where such justices reside, and not else-

where; who are hereby authorized and required to hear and finally to determine the same.

Duties en-
joined on
fathers, moth-
ers and chil-
dren.

XXIX. The father and grand-father, and the mother and grand-mother, and the children of every poor, old, blind, lame and impotent person, or other poor person not able to work; being of sufficient ability shall at their own charges, relieve and maintain every such poor person, as the justices of the peace at their next General quarter sessions for the county, where such poor person resides, shall order and direct, on pain of forfeiting the sum of five dollars for every month they shall fail therein.

Men deserting
their wives
and women
their children,
how to be
dealt with.

XXX. Whereas it sometimes happens that men seperate themselves, without reasonable cause, from their wives, and desert their children; and women also desert their children, leaving them a charge upon the said township or place aforesaid, although such person may have estates which should contribute to the maintainance of

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such wives or children; it shall and may be lawful for the overseers of the poor of the said township or place, having first obtained a warrant or order from two justices of such towship or place, where such wife or children shall be so left or neglected, to take and seize so much of the goods and chattels, and receive so much of the annual rents and profits of the lands and tenements of such husband, father or mother, as such two justices shall order and direct, for providing for such wife, and for maintaining and bringing up such child or children; which warrant or order being confirmed, at the next quarter-sessions for the county, it shall and may be lawful for the justices there, to make an order for the overseers, to dispose of such goods and chattels, by sale or otherwise, or so much of them for the purposes aforesaid, as the court shall think fit, and to receive the rents and profits, or so much of them, as shall be ordered, by the said sessions, of his or her lands and tenements, for the purposes aforesaid; and if no estate real or personal, of such husband, father or mother can be found, wherewith provision may be made, as aforesaid, it shall and may be lawful to and for the said justices, in their court of quarter-sessions for the county, to order the payment of such sums as they shall think reasonable, for the maintainance of any wife or children so neglected and

commit such husband, father or mother to the common jail, there to remain, until he or she comply with the said order, give security for the performance thereof or be otherwise discharged by the said justices; and on complaint made to any justice of the peace in any county, of any wife or children being so neglected, such justice shall

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take security from the husband, father or mother neglecting, as aforesaid, for his or her appearance, at the next General quarter-sessions, there to abide the determination of the said court, and for want of security to commit such person to jail.

XXXI. The several fines, forfeitures and penalties, sum and sums of money imposed or directed to be paid by this law and not herein otherwise directed to be recovered, the same and every of them, shall be levied and recovered by distress and sale of the goods and chattels of the delinquent or offender, by warrant under the hand and seal of any one justice of the county, where the delinquent or offender dwells or is to be found; and after satisfaction made of the respective forfeitures, fines penalties and sums of money, directed to be levied by such warrant, as aforesaid, together with such legal charges as shall become due on the recovery thereof, the overplus, if any, to be returned to the owner or owners, of such goods and chattels his or her executors, or administators.

Fines, how coverable.

XXXII. If any person or persons shall find him or themselves aggrieved with any judgment of the justices, given out of their sessions, in pursuance of this act, such person or persons may appeal to the next General quarter-sessions of the peace, for the county where sentence was given (except in cases of removal and cases of poor persons becoming chargeable in one place, who are legally settled in another, as is otherwise provided by this law) whose decision, in all such cases shall be conclusive.

Appeal from justices to the General quarter-sessions, except, &c.

XXXIII. If any action shall be brought against any overseer or other person who in his aid and by his command, shall do anything concerning

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his office, he may plead the general issue, and give this law, and any

Overseers, if sued, how they may plead.

special matter in evidence; and if the plaintiff shall fail in his action, discontinue the same, or become nonsuit, he shall pay double costs.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of October, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

A LAW concerning the Probate of Wills, written or nuncupative. *Adopted from the Pennsylvanian code, and published at Cincinnati, the nineteenth day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner judges, in and over the said Territory.*

Written wills,
duly proved,
are declared
good convey-

Sec, I, **A**LL wills in writing, wherein or whereby any lands, tenements or hereditaments have been, are or shall be divided

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ances of the
estates devised
and be-
queathed.

(being proved by two or more credible witnesses, upon their solemn oath, or affirmation, or by other legal proof in this Territory; or being proved before such as have, or shall have, power in any of the United States, or elsewhere, to take probates of wills, and grant letters of administration, and a copy of such will with the probate thereof annexed or endorsed, being transmitted hither, under the public or common seal of the courts, or offices, where the same have been or shall be taken or granted, and recorded or entered in the judge of probate's office, in this Territory) shall be good and avail-

How proof to
be made of
such wills.

able, in law, for the granting, conveying and assuring of the lands or hereditaments, thereby given or devised, as well as of the goods and chattels thereby bequeathed: and the copies of all wills and probates, under the public seals of the courts, or offices, where the same have been or shall be taken or granted, respectively, other than copies or probates of such wills as shall appear to be annulled, disproved or revoked, shall be judged and deemed, and are hereby declared to be matter of record; and shall be good evidence, to prove the gift or devise thereby made. And all such probates, as well as all letters of administration, granted out of this Territory, being produced here, under the seals of the courts, or offices, granting the same, shall be as sufficient to enable the executors or administrators, by themselves or attornies, to bring their actions in any court within this Territory, as if the same probates, or letters testamentary, or administrations were granted here, and produced under the seal of the judge of probate's office, in any county of this Territory.

Probate of wills declared matter of record, and may be given in evidence.

Probates and letters of administration, granted out of the Territory, to have full force within it.

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II. *Provided always*, That if any of the wills, whereof copies, or probates, shall be so, as aforesaid, produced and given in evidence, shall; within seven years after the testator's death, appear to be disproved or annulled, before any judge or officer, having consuance thereof; or shall appear to be revoked or altered, by the testator, either by a latter will, or codicil in writing, duly proved as aforesaid; then, and in every such case, it shall and may be lawful, for the party aggrieved, or his or their heirs, executors or assigns, to have their action for what shall be taken or detained from them, by occasion of such wills, or have their writ or writs of error for reversing the judicial proceedings thereupon (as the case shall require) anything herein contained, to the contrary notwithstanding.

Should a will be disproved within seven years, remedy given to the party aggrieved.

III. And from henceforth no nuncupative will shall be good, where the estate thereby bequeathed shall exceed the value of eighty dollars, that is not proved by two or more witnesses, who were present at the making thereof; nor unless it be proved, that the testator, at the time of pronouncing the same, did bid the persons present, or some of them, bear witness, that such was his will or to that effect: nor unless such nuncupative will be made in the time of the last sickness of

Nuncupative will, bequeathing more than 80 dollars value, declared void, unless proved, and how.

Further qualifications as to such will.

the deceased, and in the house of his or their habitation, or dwelling; or where he or they hath or have been resident, for the space of ten days, or more, next before the making of such will; except where such person was surprized, or taken sick, being from his own house, and died before he returned to the place of his or her dwelling.

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Limitation of proof as to like will.

IV. When six months have passed, after speaking of the pretended testamentary words, no testimony shall be received to prove any will nuncupative; except the said testimony, or the substance thereof, was committed to writing, within six days after the making of the said will.

No probate of wills nuncupative to issue till 14 days after the death. nor till the widow, or next of kin, be summoned:

V. No letters testamentary, or probate of any nuncupative will, shall pass the seal of the judge of probate's office, in the respective counties, till fourteen days, at least, after the death of the testator be fully expired; nor shall any nuncupative will be, at any time, received to be proved, unless process have first issued out, to call in the widow, or next of kindred to the deceased; to the end, they may contest the same if they please.

This law not to affect mariners, persons at sea, and soldiers in actual service.

VI. Notwithstanding this law, any mariner or person being at sea, or soldier being in actual military service, may dispose of his moveables, wages and personal estate, as he might have done before the making hereof.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of October, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

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TERRITORY OF THE UNITED STATES }
 NORTH WEST OF THE OHIO }



A LAW regulating Enclosures. *Adopted from the Pennsylvanian code, and published at Cincinnati, the twenty-fifth day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

AR. ST. CLAIR,
 JOHN C. SYMMES,
 G. TURNER.

Sect. I. **A**LL corn-fields and grounds, kept for enclosures, shall be well enclosed with fence, at least five feet high, of sufficient rail or logs, and close at the bottom; or at any rate, not more than three inches from the ground: and whosoever, not having their grounds enclosed with such sufficient fence, as aforesaid, shall hurt, kill or do damage to any horse, mare, colt, cattle, sheep, lamb or hog of any other person, by hunting or driving them out of, or from the said grounds, shall be liable so make good all damages, sustained thereby, to the owner of the said creatures. But if any horse, mare, colt, cattle, sheep, lamb or hog, or any kind of cattle shall break into any man's enclosure, the fence being of the aforesaid height and sufficiency, and by the view of two persons, for that purpose appointed by the court of General quarter-sessions of the peace, found and approved to be such; then the owner of such creature, shall be liable to make good all damages to the owner of the enclosure: for the first offence, single

Enclosed grounds to have fences at least 5 feet high and close at bottom.

Owners of grounds, not so enclosed, to be liable, &c. Otherwise as to those having lawful fences.

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damages only, and ever after, double the damages sustained. And all persons having any unruly horses, mares, colts, cattle, sheep, lambs or hogs, that are not to be kept off by such fences, as aforesaid, are ordered, and shall be obliged to take effectual care to restrain the same from trespassing on their neighbour's enclosures.

Owners of unruly animals to restrain them.

Regulations as to partition-fences.

Quarter sessions to appoint viewers of fences, &c.

How charges thereof to be borne.

Concerning insufficient fences, and proceedings to be had thereon.

Proviso, that any person may make other enclosures within mentioned, and have the benefit of this law.

II. And, for the better ascertaining and regulating of partition fences, it is hereby directed, that where any neighbours shall improve lands adjacent to each other, or where any person shall enclose any land adjoining to another's land, already fenced in, so that any part of the first person's fence becomes the partition-fence between them; in both these cases, the charge of such division fence (so far as enclosed on both sides) shall be equally borned and maintained by both parties. To which and other ends, in this law mentioned, each court of General quarter sessions of the peace, shall nominate, and is hereby required to nominate and appoint, so many honest and able men as they shall think fit, for each county respectively; to view all such fence and fences, about which any difference may happen or arise, and the aforesaid persons in each county, respectively, shall be the sole judges of the charge to be borne by the delinquent, or by both or either party, and of the sufficiency of all fences, whether partition-fences or others. And where they judge any fence to be insufficient, they shall give notice thereof to the owners or possessors: and if any one of the said owners or possessors, upon the request of the other, and due notice given by the said viewers, shall refuse to make or repair the said fence or fences, or to pay the moiety of the charge of any fence, before made

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(being a division-fence) within ten days after notice given, then, upon proof thereof, before two justices of the peace of the respective county, it shall be lawful, for the said justices, to order the person aggrieved and suffering thereby, to repair the said fence or fences; who shall be reimbursed his cost and charges from the person so refusing to make good the said partition-fence or fences; and the said costs and charges shall be levied upon the offender's goods and chattels, under warrant from the said justice, by distress and sale thereof; the overplus, if any be, to be returned to the party offending.

III. *Provided*, That nothing herein contained shall be intended to prevent or debar any person, or persons, from enclosing his or their grounds with sufficient wall or pallsadoes, or by dikes, hedges and ditches; all such walls and pallsadoes to be in height, at least, five feet from the ground; and all dikes to be, at least, three feet in height

from the bottom of the ditch, and planted or set with thorn or quick-set; so that such enclosures shall fully answer and secure the several purposes meant to be answered and secured by this law.

IV. *Provided also*, That such walls and pallsadoes, and dikes, hedges and ditches, shall be subject to all provisions, inspection and restrictions, respectively, to which, by this law, any other enclosure or fence is made liable, according to the true intent and meaning hereof.

Such enclosures however, to be subject to similar restrictions.

THE foregoing is hereby declared to be a law of the Territory; to take effect of and from the

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first day of October, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST, CLAIR
JOHN C. SYMMES.
G. TURNER.

TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

A LAW as to the order of paying debts of persons deceased, *Adopted from the Pennsylvanian code, and published at Cincinnati, the twenty sixth day of June, one thousand, seven hundred and ninety-five; by Arthur St, Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

Sec. I. **A**LL debts owing by any person within this Territory, at the time of his or her decease, shall be paid by his or her executors or administrators, so far as they have assets, in manner and order following, that is to say, First funeral expenses and physic. Secondly, debts and duties to the Territory. Thirdly, judgments. Fourthly, debts due by recognizances. Fifthly, rents.

Order for paying decedent's debts, viz.

1. Funeral expenses and physic.
2. Public debts:

3. Judgments: Sixthly, obligations, bills penal, and protested bills of exchange.
 4. Recognizances: Seventhly, single bills. Eighthly, servants' and workmens' wages.
 5. Rents: Ninthly, merchants' and traders' book debts, and promises by word, ar-
 6. Bonds, &c.
 7. Single bills:
 8 Wages:
 9. Book debts,

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Saving to ex-
 ecutors, &c.

rears of accounts, and such like, Which said payments shall be good and available in law, against all persons whomsoever.

II. Nothing herein contained, shall prevent or damnify any executor or administrator for discharging the decedents' just debts, as the same shall come to his, her or their knowledge, without regard to the priority of the same, in payment, after the expiration of twelve months from the time of the said decedents' decease.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the twenty sixth day of June next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
 JOHN C. SYMMES,
 G. TURNER.

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TERRITORY OF THE UNITED STATES }
 NORTH WEST OF THE OHIO }



AR. ST. CLAIR,
 JOHN C. SYMMES,
 G. TURNER.

A LAW concerning trespassing Animals. *Adopted from the Pennsylvanian code, and published at Cincinnati, the twenty-sixth day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

Sec. I. **I**F any horse, mare, colt, cattle, sheep, lamb or hogs (after the publication of this law) shall trespass, by breaking into the lawful enclosure of any person or persons; (the same being made) every such person being injured by such trespass, may seize and distrain such trespassing creature (horse mare, colt, cattle or sheep) and the same, so seized and distrained, may retain, until he, she or they shall recover and receive the damages sustained by such trespass, together with the costs of advertising, and reasonable charges for keeping such distress, in manner herein after directed.

Trespassing animals may be detained till &c.

II. Every person or persons, making such distress, shall, within the space of forty eight hours after the same shall be made, give notice thereof to the owner or owners of such horse, mare, colt, cattle, sheep lamb or hog, if he, she or they can be conveniently found; but if not, then such person or persons, seizing or distraining such trespassing creature, shall, within three days after the distress taken, as aforesaid, cause

Notice thereof to be given and how.

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an advertisement of the marks, brands, stature and colour thereof, and of the place where the same may be found, to be affixed in a conspicuous manner, at the most frequented and public place of his, her or their townships: and if, upon such notice or advertisement, such owner or owners shall appear, but neglect or refuse to make or tender a reasonable satisfaction to the party injured, for the damages sustained by such trespass, and in keeping the said creature; or if the said person or persons, so making the distress, shall not accept the said satisfaction, it shall and may be lawful for either of the parties aforesaid, to complain and apply to any justice of the peace of the county, where such creature shall be seized and distrained, as aforesaid, who shall, upon such complaint and application, issue his warrant, directed to two reputable and honest freeholders of the neighbourhood, commanding and enjoining them forthwith to view the said trespass and to value, appraise and ascertain the injury or damage done to or within the enclosure, aforesaid, having regard to the lawfulness of said fence, with the expense and costs of keeping the creature, and to make report thereof to them, the said justice, with all convenient speed; which said valuation and appraisement, and return, they, the said freeholders, are hereby required and enjoined to make accordingly. And if the

How satisfaction to be made.

said valuation and appraisement, shall not amount to more than the sum of money tendered to the party injured, as a recompense for the damage done, as aforesaid, before such complaint made, then the said justice shall give judgment for the same only, to the party, refusing such tender, and award

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reasonable costs and charges to the other party, for the unjust vexation; but if the said valuation shall amount to more than the sum tendered, or if no such tender be made, then, and in that case, the said justice shall award and give judgment for the valuation aforesaid, to the party injured, with reasonable costs and charges, for keeping the said creature so trespassing against the other party, and shall award execution upon every such judgment, with costs of suit accordingly.

III. Whoever shall hurt, kill or do damage to any horse, kine, sheep, lamb or hog, by hunting or driving them out of or from the said enclosures, or by neglecting to provide them with sufficient food and water, after they may have been distrained, shall be liable to make good all damages sustained thereby, to the owner of such creature or creatures.

IV. If no owner or owners appear and make out his or their property in the said creatures, within two weeks after such advertisements shall be published in the township, as aforesaid, the person or persons making such distress, shall, forthwith, under the penalty of twelve dollars, cause the like advertisement to be published three times successively, in one or more newspapers or gazettes printed & published within this Territory, provided, there is a gazette or news paper then printed and published within the county, wherein the trespass shall happen; but in case of no such public paper then, such advertisement shall be put up in, a conspicuous manner at the court house door of the county: and the party distraining shall make application, at the expiration of two months after the publication of the same advertise-

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ments, to the said justice of the peace, who is hereby authorised and required to issue his warrant to two honest and respectable freeholders, and cause them upon their oath or affirmation, which he is hereby

**Damages on
hurting or
killing ani-
mals &c.**

**Proceedings
in case no
owner appear.**

empowered and required to administer to them, to view, value and appraise the creature or creatures, so distrained, and to ascertain the damage so done, as aforesaid, with reasonable charges for keeping the said creature, and to make return thereof, to him, as aforesaid, upon which valuation and return, the property of and in the said creatures, so valued, shall become and be held and taken to be, and is hereby vested in the person so making such distress; but so, nevertheless, that he shall be answerable and accountable to the owner or owners aforesaid, for the valuation money aforesaid, at any time afterwards within the space of one year, next after the publication of such advertisements, last aforesaid, having first deducted thereout, the costs of such proceedings, advertisements and charges of keeping the said creature with the damages so ascertained; but if the said owner or owners shall not appear and demand the same, within the time limited last aforesaid, then, the said person or persons, so making such distress, shall, upon demand made, pay all such overplus money to the overseers of the poor of the township, where he, she or they shall reside, for the use of the poor thereof, under the penalty of double the sum distrained, in his, her or their hands, contrary to the direction of this law.

V. If any person or persons, so distraining, shall neglect to give such notice, as herein before directed, or shall neglect to set up and publish such advertisements, in the most public

If party distraining neglect to give notice, owner

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place of his, her or their township, he, she or they shall forfeit and lose all right, or title, or pretence of right, to a recovery of any sum or sums of money for such trespass, or any recompence for the same; but shall deliver up the said creature, so distrained, to the owner or owners thereof, without any recompence, fee or reward whatsoever; and that one half of all the fines imposed by virtue of this law, shall be to the use of the owner or owners of such creature, and the other half thereof, to the overseers of the poor of the said township, for the use of the poor thereof, to be recovered by them, or either of them, in a summary way, as debts, not exceeding twelve dollars, are, by law directed to be recovered.

to have restitution without expense.

All fines to go to the owners of certain animals and the poor.

VI. If any person or persons shall, knowingly and wittingly,

Penalty on de-

taining animals
without notice,

keep and retain any horse, mare, colt, cattle, sheep, lamb or hog, within his, her or their enclosures, for the space of forty eight hours, without giving the notice, and publishing the advertiments aforesaid; every such person or persons shall forfeit and pay the sum of twelve dollars, for every such offence, to be recovered and applied in manner aforesaid.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the twenty sixth day of june, next ensuing: IN TESTIMONY whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

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TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO }



AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

A LAW directing how Husband and Wife may convey their Estates. *Adopted from the Pennsylvanian code, and published at Cincinnati, the twenty sixth day of June, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes, and George Turner, judges, in and over the said Territory.*

Feme coverts,
of age, may
join husband
in conveying
estate.

Sec. I **W**HERE any husband and wife shall hereafter incline to dispose of and convey the estate of the wife, or her right of, in or to any lands, tenements or hereditaments whatsoever, it shall and may be lawful to and for the said husband and wife, the wife being not less than twenty one years of age, to make, seal, deliver and execute, any grant, bargain and sale, lease, release, feoffment, deed, conveyance or assurance in the law, whatsoever, for the lands, tenements and hereditaments intended to be, by them, passed and conveyed; and after such execution, to appear before one

of the judges of the General court, or before any justice of the court of common pleas, of and for the county where such lands, tenements or hereditaments shall lie, and to acknowledge the said deed or conveyance: which judge of the General court, or justice of the court of common pleas, shall, and he is hereby authorised and required to take such acknowledgment. In doing whereof he

The deed to be acknowledged before a territorial judge or justice of common pleas.

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shall examine the wife separate and apart from her husband, and shall read, or otherwise make known, the full contents of such deed or conveyance to the said wife: and if, upon such separate examination, she shall declare, that she did voluntarily, and of her own free will and accord, seal, and as her act and deed, deliver the said deed, or conveyance, without any coercion or compulsion of her said husband, every such deed or conveyance shall be, and the same is hereby declared to be good and valid in law, to all intents and purposes, as if the said wife had been sole, and not covert at the time of such sealing and delivery: any law, usage or custom to the contrary, in any wise, notwithstanding.

And how.

II. *Provided*, The judge or justice taking such acknowledgment shall, under his hand and seal, certify the same upon the back of the deed or conveyance.

Acknowledgment, how to be certified.

III. All deeds and conveyance made and executed by husband and wife, not residing within this Territory, and brought hither to be recorded in the county where the lands lie (the acknowledgments thereof being taken and made in the manner herein before directed, before any mayor or chief magistrate or officer of the cities, towns or places where such deeds or conveyances are or shall be made or executed, and certified under the common or public seal of such cities towns or places) shall be as valid and effectual, in law, as if the same had been made and acknowledged, in manner aforesaid, before any judge of the General court of this Territory: or before any justice of the court of common pleas, for the

What acknowledgment requisite, to deeds executed without the Territory.

Y

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county where the lands lie; any thing herein contained, to the contrary, notwithstanding.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the fifteenth day of August, next ensuing: *IN TESTIMONY* whereof, we *Arthur t. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

A LAW for the speedy assignment of Dower. *Adopted from the Massachusetts code, and published at Cincinnati, the fourteenth day of July one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

**Teir to set out
dower in one
month, other-
wise the widow
may sue for it.**

Sect. I. **W**HEN the heir, or other person having the next immediate estate of freehold or inheritance, shall not, within one month next after demand made, assign and set out to the widow of the deceased her dower, or just third part of and in all lands, tenements and hereditaments whereof, by law, she is or may be

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dowable, to her satisfaction according to the true intendment of law, then such widow may sue for and recover, the same, by writ of dower, to be brought against the tenant in possession, or such persons as have or claim right or inheritance in the same estate, in manner and form as the law prescribes.

**On judgment
had, a writ of
seizin to issue.**

II. Upon rendering judgment for any woman to recover her dower in any lands, tenements or hereditaments, reasonable damages shall also be awarded to her, from the time of the demand and refusal to assign to her reasonable dower. And a writ of seizin shall

be directed to the sheriff of the county, or coroner; and the sheriff or coroner, to whom such writ is directed, shall cause her dower in such estate to be set forth unto her, by three disinterested freeholders of the same county, under oath, or affirmation, to be administered by any justice of the peace, to set forth the same equally and impartially, without favour or affection, as conveniently as may be.

III. Where estates, of which a woman is dowable, are entire, and where no division can be made by metes or bounds, dower thereof shall be assigned in a special manner, as of a third part of the rents, issues and profits, to be computed and ascertained in manner as aforesaid. And no woman that shall be endowed of any lands tenements or hereditaments, as aforesaid, shall, wantonly or disorderly, commit or suffer any waste thereon, on penalty of forfeiting that part of the estate upon which such waste shall be made, to him or them that have the immediate estate of freehold or inheritance in remainder or reversion, (and in case of negligent and inadvertant waste, by her done or suffered, the damages that may be assessed

When estate is entire, how the widow shall take her thirds.

Widow not to commit waste.

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for such waste,) to be recovered by an action of waste. And all tenants in dower shall maintain the houses and tenements, with the fences, and appurtenances whereof they may be endowed, in as good repair as the same may have been delivered to them, during the term: and the same shall so leave at the expiration thereof.

Tenants in dower to repair the premises.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the twenty sixth day of june, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

TERRITORY OF THE UNITED STATES }
 NORTH WEST OF THE OHIO }



AR. ST. CLAIR,
 JOHN C. SYMMES,
 G. TURNER.

A LAW giving remedies in Equity, in certain cases. *Adopted from the Massachusetts code, and published at Cincinnati, the fourteenth day of July, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes, and George Turner, judges, in and over the said Territory.*

Sect. I. **I**N all cases brought before the General or circuit courts, or before any court of common pleas, to recover the for-

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feiture annexed to any articles of agreement, covenant or charter party, bond, obligation or other specialty; or for forfeiture of real estate upon condition, by deed of mortgage, or bargain and sale with defeasance (when the forfeiture breach, or non performance, shall be found by a jury, by the default or the confession of the defendant, or upon demurrer) the court before whom the action is, shall make up judgment therein, for the plaintiff to recover so much as is due in equity and good conscience; and shall award execution for the same, by writ of *capias ad satisfaccendum, fieri facias*, or other judicial writ, as the case may require.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of October, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST, CLAIR
 JOHN C. SYMMES.
 G. TURNER.

When judgment to recover according to equity and good conscience.

Execution.

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TERRITORY OF THE UNITED STATES }
 NORTH WEST OF THE OHIO }



AR. ST. CLAIR,
 JOHN C. SYMMES
 G. TURNER.

A LAW against Forcible Entry and Detainer. *Adopted from the Massachusetts's code, and published at Cincinnati, the fourteenth day of July, one thousand, seven hundred and ninety-five; by Arthur St, Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

Sec. I. **T**WO justices of the peace shall have authority to enquire, by 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 enquiry, that an unlawful and forcible entry hath been made; and that the same lands or tenements are held and detained with force and strong hand, or that the same after a lawful entry, are held unlawfully, and with force and strong hand, then that such justices shall cause the party complaining to have restitution thereof.

Two justices may enquire, by jury, and order restitution of lands or tenements unlawfully withheld.

II. When complaint shall be formally made, in writing, to any two justices of the peace, of any unlawful and forcible entry into any lands or tenements, and detainer, as aforesaid; or if any unlawful and forcible detainer of the same, after a peaceable entry, they shall make out their war-

Justices, on a written complaint of detainer of lands, how to proceed.

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rant, under their hands and seals, directed to the sheriff or (as the case may be) the coroner of the same county, commanding him to cause to come before them twelve good and lawful men of the same county, each one of whom having freehold lands or tenements; and they shall be impanelled to enquire into the entry or forcible detainer com-

Warrant to impanel a jury of freeholders.

plained of: which warrant shall be in the form following. Mutatis mutandis, viz.

Form of the
warrant.

H sc:
(L. S.) A. B. and C. D. Esquires, two of the justices assigned to
keep the peace within and for the said county; to the
(L. S.) of H. Greeting.
Whereas complaint is made to us by E. F. of
in the county aforesaid that G. H. of
yeoman, upon the day of at
aforesaid, with force and arms, and with a strong hand, did unlaw-
fully and forcibly enter into and upon a tract of land, of him the said
E. F. in aforesaid containing acres,
bounded as follows, viz. (or into the messuage and tenement of him
the said E. F. as the case may be) and him the said E. F. with force
and a strong hand, as aforesaid, did expel and unlawfully put out of
the possession of the same, For, if it is a forcible detainer, only, then
the entry shall be described, and the detainer inserted, as follows)
and him the said E. F. does unlawfully, unjustly, and with a strong
hand deforce and still keep out of the possession of the same: you are
therefore, commanded, on behalf of the United States, to cause to
come before us, upon the day of at
in the said county, twelve good and lawful
men of your county, each one of

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whom being a freeholder, to be impanelled, and sworn to inquire into
the forcible entry and detainer (or, the detainer only) before de-
scribed. Given under our hands and seals the day of
in the year

A. B. } Justices of the
C. D. } peace.

III. And the said justices shall make out their summons to the
party complained against, in the form following, viz.

Form of sum-
mons to the
party com-
plained of.

H. sc,
(L. S.) A. B. and C. D. two of the justices assigned to keep
the peace within and for the said county of
(L. S.) to the of Greeting:
summon G. H. of to appear before us

at _____ in _____ in the said county
 at _____ o'clock in the _____ noon, then and there to answer
 to and defend against the complaint of E. F. to us exhibited; wherein
 he complains that [here the complaint shall be recited] and you are
 to make to us a return of this summons with your proceedings therein
 on or before the said day

Witness our hands and seals the _____ day of
 in the year of

A. B. }
 C. D. } Justices.

Which summons shall be served upon the party complained against
 or a copy thereof left at his usual place of abode, seven days exclu- **Summons, how**
 sively before the day appointed by the justices for the trial. And if **to be served.**
 after the service of such sommons the party do not appear to defend,
 the justices shall proceed to the enquiry, in the same manner, as if
 he were present. And when the jury

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shall appear, the justices shall lay before the jury the exhibited com-
 plaint and shall administer the following oath to them, viz:

Foreman's Oath.

You as foreman of this jury do solemnly swear (or affirm) that **Oaths of the**
 you will well and truly try whether the complaint of E. F. now laid **jurors.**
 before you is true according to your evidence, so help you God (if
 swearing) or, you will [when affirming]

The other jurors' Oath, viz.

The same oath which your foreman hath taken on his part you
 and every of you shall well and truly observe and keep: so help you
 God; or "you will" And if the jury shall find the same true, then
 they shall return their verdict in form following,

At a court of enquiry held before A. B. and C. D Esquires,
 two of the justices assigned to keep the peace, within and for the **Form of the**
 county of H _____ at _____ in the said **verdict.**
 county of H _____ upon the _____ day of
 in the year _____ the jury upon their oaths do find that
 the lands or tenements in _____ aforesaid 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 E. F. and that said
 G. H. did upon the same day unlawfully with force and arms, and
 with a strong hand, enter forcibly upon the same (or being lawfully
 upon the same, did unlawfully with force and strong hand) expel
 and drive out the said E. F. and that he doth still continue wrong-
 fully to detain the possession from him the said E. F, *Wherefore*
 the jury find upon their oaths or affirmation aforesaid

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that the said E. F. ought to have restitution thereof without delay.”

If by accident or challenge there shall happen not to be a full jury,
 the sheriff shall fill the panel de talibus circumstantibus, as in other
 cases: And if the jury, after a full hearing of the cause, shall find
 the complaint laid before them supported by evidence they shall all
 sign their verdict in form aforesaid; otherwise the defendant shall be
 allowed his legal costs, and have his execution thereof.

If the jury shall return their verdict, signed by the whole panel,
 that the complaint is supported, the justices shall enter up judgment
 for the complainant to have restitution of the premises; and shall
 award their writ of restitution accordingly; and no appeal shall be
 allowed from the judgment of the justices.

IV. *Provided nevertheless*, that the proceedings may be removed
 by certiorari into the General court, or circuit court holden in such
 county and be there quashed for irregularity if any such there may be:
 nor shall such judgment be a bar to any after action brought by either
 party, which writ of restitution shall be in form following.

H.

sc.

(L.S.) A. B. and C. D. two of the justices assigned to keep the
 peace in and for the said county, to the _____ of

H.

Greeting:

(L.S.) Whereas at a court of enquiry of forcible entry and de-
 tainer held before us at _____ in the said county of

upon the

day of

in the year

the jurors impaneled and sworn according

to law did return their verdict in writing signed by each

Where panel is
 incomplete,
 then to be
 filled de
 talibus cir-
 cumstantibus
 All the jurors
 to sign ver-
 dict.
 Otherwise, &c.

Appeal by cer-
 tiorari. Form
 of the writ of
 restitution.

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of them that E. F. was upon the day of
 in the rightful possession of a certain messuage or tract of land (as in
 the verdict returned) and that &c (as in the verdict) whereupon it
 was considered by us that the said E. F. should have restitution of the
 same We therefore require you that taking with you the force of the
 county, if necessary, you cause the said G. H. to be forthwith removed
 from the premises and the said E. F. to have the peaceable restitution
 of the same: and also that you levy of the goods, chattels, or lands
 of the said G. H. the sum of being costs taxed against
 him on the trial aforesaid together with more for
 this writ, and your own fees: and for want of such goods, chattels or
 lands of the said G. H. by you found you are commanded, to take the
 body of the said G. H. and him commit to the common jail of the said
 county there to remain until he shall pay the sum aforesaid, together
 with all fees arising on the service of this writ: or until he be de-
 livered by due course of law. And make return of this writ with
 your proceedings thereon within twenty days next coming. Witness
 our hands and seals at aforesaid, the
 day of in the year

A. B. }
 C. D. } Justices.

Provided, nevertheless. That this law shall not extend unto any
 person who hath had the occupation or been in the quiet possession of
 any lands or tenements by the space of three whole years together, next
 before; and whose estate therein is not ended or determined.

**This law not
 to affect three
 years quiet
 possession.**

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THE foregoing is hereby declared to be a law of the Territory; to
 take effect on and from the first day of September, next ensuing: *IN*
TESTIMONY whereof, we *Arthur St. Clair, John Cleves Symmes*
 and *George Turner*, have caused the seal of the Territory to be there-
 unto affixed, and signed the same with our names.

AR. ST. CLAIR
 JOHN C. SYMMES.
 G. TURNER.

TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

A LAW annulling the distinction between Petit Treason and Murder. *Adopted from the Massachusetts code, and published at Cincinnati, the fourteenth day of July one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

Petit treason
to be pun-
ished as
murder.

IN all cases wherein, heretofore, any person would have been deemed and taken to have committed the crime of petit treason, such person shall be deemed and taken to have committed the crime of murder, only, and be indicted and prosecuted to final judgment, accordingly:

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and the same punishment, only, shall be inflicted, as in the case of murder.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the fourteenth day of july, next ensuing: IN TESTIMONY whereof, we *Arthur St. Clair, John Cleves Symmes and George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. St. CLAIR,
JOHN C. SYMMES,
G. TURNER.

TERRITORY OF THE UNITED STATES }
 NORTH WEST OF THE OHIO. }



A LAW declaring what laws shall be in force.
Adopted from the Virginia code, and published at Cincinnati, the fourteenth day of July, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.

AR. ST. CLAIR,
 JOHN C. SYMMES
 G. TURNER.

THE common law of England, all statutes or acts of the British parliament made in aid of the common law, prior to the fourth year of the reign of King James the first (and which are of a general nature, not local to that kingdom) and also the several laws in force in this Territory, shall be the rule of decision, and shall be

The common law, British acts, prior to 4th Jan. 1. &c.

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considered, as of full force, until repealed by legislative authority, or disapproved of by congress.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of October, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes and George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
 JOHN C. SYMMES,
 G. TURNER.

TERRITORY OF THE UNITED STATES }
 NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
 JOHN C. SYMMES
 G. TURNER.

A LAW to prevent trespassing by cutting of Timber. *Adopted from the Pennsylvania code, and published at Cincinnati, the fourteenth day of July, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governor, and John Cleves Symmes, and George Turner, judges, in and over the said Territory.*

Penalties on cutting down trees.

IF any person shall be convicted, before a justice of the peace of the proper county, of cutting or felling any black-walnut, white-wood, wild-cherry, or blue-ash trees, upon another person's

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land, without due leave: he shall forfeit to the owner thereof eight dollars for every such tree, so felled or cut; and for every other tree so felled or cut, three dollars.

Provided always, That no plea of title be set up by the defendant. But if the defendant plead title to the land where such trees are cut, the justice of the peace shall proceed no farther therein, in case the defendant will enter into bond to the plaintiff, in such sum as the justice shall think reasonable, to prosecute his claim of title, with effect, in one of the courts of record; and that within one year then next ensuing,

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the fifteenth day of August, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
 JOHN C. SYMMES,
 G. TURNER.

Proceedings on a plea of title.

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TERRITORY OF THE UNITED STATES }
 NORTH-WEST OF THE OHIO. }



An ACT repealing certain laws and acts, and part of laws and acts, *Made and published conformably to the act of the United States, entitled, "An act respecting the government of the Territories North-West and South of the Ohio,"—at Cincinnati, the fourteenth day of July, one thousand, seven hundred and ninety five; By Arthur St. Clair, governour, John Cleves Symmes, and George Turner, judges, in and over the said Territory.*

AR. ST. CLAIR,
 JOHN C. SYMMES,
 G. TURNER.

BE it enacted, That the laws and acts, and parts of laws and acts, hereinafter particularly enumerated and expressed, be, and the same are hereby repealed; to wit:

So much of the "law for regulating and establishing the militia in the Territory of the United States North-West of the river Ohio;" and of the "law in addition to" the same as requires the militia to assemble with arms, on Sundays, at the the places appointed for public worship:

So much of the law establishing a court of probate; as respects the appointments and duties of the clerk:

The law for fixing the terms of the General-court of the Territory of the United States, North-West of the river Ohio;"

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So much of the "law respecting crimes and punishments," as is altered by the law, since adopted, entitled "A law for the trial and punishment of larceny, under a dollar and a half;"

The "law appointing coroners."

The "law limiting the times of commencing civil actions, and instituting criminal prosecutions;" the same being already repealed by Congress:

Laws repealed
 (viz.)

1. Militia law,
 in part.

2. Probate law
 in part.

3. As to fixing
 terms of general
 court.

4. As to crimes
 and punish-
 ments, in
 part.

5. As to cor-
 oners.

6. Limitation
 law.

7. Against giving liquors to Indians.

The "act to prohibit the giving or selling intoxicating liquors to Indians, residing in, or coming into the Territory of the United States North-West of the river Ohio; and for preventing foreigners from trading with Indians therein;" and the same being partly supplied by an act of the United States:

8. Do. to soldiers.

The "act prohibiting the sale of spirituous and other intoxicating liquors, to soldiers in the service of the United States, being within ten miles of any military post within the Territory of the United States North West of the river Ohio; and to prevent the selling or pawning of arms, ammunition, clothing and accoutrements:"

9. Gaming act, &c.

The "act for suppressing and prohibiting every species of gaming for money, or other property; and also, for restraining the disorderly practice of discharging fire-arms, at certain hours and places:"

10. Altering Gen. court terms.

The "act to alter the terms of the General-court:"

11. Augmenting common plea terms, &c.

The "act to augment the terms of the county courts of common pleas, from two to four terms in the year; and to encrease the number of judges in the said court, and also of the justices of the quorum, in the several counties;"

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12. As to clerk of townships.

So much of the "act to authorize and require the courts of General quarter-sessions of the peace, to divide the counties into townships, and to alter the boundaries of the same, when necessary; and also, to appoint constables, overseers of the poor, and clerks of the townships, and for other purposes therein mentioned;" as the same may relate to the appointment of clerk of townships, and their duty with respect to estrays:

13. As to clerks of legislature.

The "act creating the office of clerk of the legislature;"

14. As to petit treason.

The "act abolishing the distinction between the crimes of murder and petit treason;"

15. As to enclosures.

The "act regulating the enclosures of grounds;"

16. As to militia attending worship with arms.

So much of the "act to alter and amend the militia laws," as requires persons assembling at any place, for public worship, to arm themselves;

17. The license law.

The "act for granting licenses to merchants, traders and tavern keepers;"

The "act creating the offices of treasurer general of the Territory, and treasurer for the counties:"

18. As to treasurers.

The "act directing the manner in which money shall be raised, and levied, to defray the charges which may arise within the several counties in the Territory:"

19. As to county rates.

So much of the "act for opening and regulating highways," as relates to bridges:

20. As to highways, in part.

The "act for the disposition of strays:"

21. As to estrays.

The "act to repeal certain parts of an act, entitled "an act creating the office of clerk of the legislature:"

12 As to clerk of legislature in part.

The "act to regulate the admission of attorneys:"

23. As to admission of attorneys.

The "act empowering the judges of probate to appoint guardians to minors, and others:"

24. As to judge of probate and minors.

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The "act prescribing the forms of writs, in civil causes, and directing the mode of proceeding therein:" and,—

25. As to process

The "act establishing and regulating the fees of the several officers, and other persons therein mentioned."

26. The fee ble.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the fourteenth day of August, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

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TERRITORY OF THE UNITED STATES }
 NORTH WEST OF THE OHIO. }



AR. ST. CLAIR,
 JOHN C. SYMMES,
 G. TURNER.

A LAW respecting Divorce, *Adopted from the Massachusetts code, and published at Cincinnati, the fifteenth day of July, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and ove the said Territory.*

Causes for
 divorce.

Sect. I. **D**IVORCES from the bans of matrimony, shall be decreed, where either of the parties had a former wife or husband alive, at the time of solemnizing the second marriage; or impotency or adultery in either of the parties.

II. Divorce from bed and board shall be granted for the cause of extreme cruelty in either of the parties.

Wife's alimony,
 when and how
 to be allowed.

III. Whenever a divorce shall be decreed on cause or aggression from the husband, the woman, if no issue of the marriage be living at the time of the divorce, shall be restored to all her lands, tenements and hereditaments, and be allowed out of the man's personal estate such alimony as the court may think reasonable, having regard to the personal property that came to him by the marriage, and his ability: but if there be issue living at the time of the divorce, then the court, in regard to ordering restoration, or granting alimony, may do as circumstances may seem to require; and on application from

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either party, may, from time to time, make, at their discretion, such alterations therein, as may be necessary.

Restitution of
 wife's estate
 and distri-
 bution of the
 children.

IV. If the divorce arise from the cause or aggression of the wife, whether there be living issue. or not, of the marriage, the court may order to her the restoration of the whole or part, or no part, of her lands, tenements and hereditaments and may assign such alimony as

shall be thought proper: and may also make such distribution between the parties of their children (if any) as the court shall think proper.

V. The General court and circuit courts shall have the sole cognizance of all divorces applied for or made; and the judges thereof may use such kind of process to carry their judgment into effect, as to them shall seem expedient. Wherever they may think it proper, they may compel the husband to disclose, on oath, what personal estate he hath received in right of his wife; how the same hath been disposed of, and what proportion of it remained in his hands, at the time of the divorce.

What courts have cognizance herein.

VI. No cause of divorce, or alimony, shall be brought before the same courts, unless the party suing or complaining shall file his or her libel in the proper clerk's office, specially setting forth therein the cause of his or her complaint and shall, cause the other party, if in this Territory, to be served with an attested copy thereof, and with a summons commanding him or her to appear at the court where the cause is to be heard fourteen days, at least, before the sitting of the said court otherwise in such manner as the court shall direct. And where the party libelled shall not be within the county of the par-

Proceedings in cases of divorce.

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ties usual residence then such summons shall be published at least once a week for twenty weeks in some public News Paper within such county; or, where no such News Paper is printed, the summons shall then be published in one of the Territorial News Papers, and a copy thereof stuck up at the court-house door of the proper county. But where the party complained of shall happen to be without the Territory, then notice shall be given, by publishing such summons in one of the said Territorial papers, at least once a week, for the term of forty weeks. The said courts shall have all the powers necessary to the conducting and finally issuing such causes according to the true intent of this law.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of October, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes*

and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST, CLAIR
JOHN C. SYMMES.
G. TURNER.

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TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

A LAW for the Partition of Lands. *Adopted from the New York code, and published at Cincinnati, the seventeenth day of July one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

12 weeks
public notice
to be given
of any in-
tended parti-
tion of
undivided
lands.

The manner
thereof.

Sect. I. ANY one or more of the proprietors of any tract or tracts, parcel or parcels of land which now are, or hereafter may be undivided, incline to have partition thereof, may subscribe a writing, and publish the same in one or more of the public News-papers printed in the Territory, in the State of Kentucky, and at the seat of government of the United States, for twelve successive weeks, directed in general to all persons interested in such tract or parcel of land, specifying the bounds thereof, and giving notice that three commissioners not interested in such tract or parcel of land, naming them and their places of abode, are appointed to make such partition, and that they will meet at a certain day and place to be also therein mentioned, and to be within ten days after the said twelve weeks are expired, to proceed to the partition of the said lands, and requiring all persons interested therein, to attend then and

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there for that purpose, either by themselves or their attornies: and if

no objection to any of the said commissioners be offered in writing to any one of the judges of the General-court, or justices of the inferior court of common pleas of the county in which the greatest part of the lands lie, and a notice of such objection in writing served upon the subscriber or subscribers to the notice so directed to be published, or any one of them, and within nine weeks after the first publication thereof, then the commissioners so to be named shall perform the duties required of them by this act. But if such objection and notice be made and given, the judge to whom it was offered shall appoint the parties a day and place within ten days after nine weeks from the first publication of the notice are expired, and then and there hear and determine such objections, and appoint other fit and uninterested persons in the room of those he may think proper to remove as unfit, and such persons so appointed shall thenceforth be the commissioners for executing the powers given to commissioners by virtue of this act, and shall before they proceed to execute their offices, be severally sworn, or (if the people called Quakers) affirmed, before one of the judges of the said General court, or before any of the justices of any inferior court of common pleas to perform the trust and services required of a commissioner by this act, fairly and impartially, according to the direction thereof, and the best of his skill and judgment; and a certificate of their being so sworn or affirmed from the person administering the oath, shall be filed with the rest of the proceedings as hereafter directed.

Concerning
commissioners
for the par-
tition.

When any com-
missioner is
objected to,
another may be
appointed—
and how.

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II. Of all surveys and allotments to be made by virtue of this act, two true field books and maps specifying the bounds of every allotment and lot shall be made, and the several allotments and lots laid down and numbered on the said map, and then signed by the said commissioners, one of which said field books and maps shall be filed in the office of the clerk of the county where the greatest part of the lands lay, and the other in the secretary's office of the Territory; which when done, the said commissioners shall cause an advertisement to be published for at least six weeks in one or more of the Newspapers printed in the Territory, in the state of Kentucky and at the seat of government of the United States, notifying the filing of the field books and maps in the office, and appointing a particular time and

place on a day within twenty days after the expiration of the said six weeks, and requiring all persons interested then and there to attend, to see the several lots balloted for; and that the same may be conducted in a just and impartial manner, one or more of the judges of the General-court, or one of the justices of the inferior court of common pleas of the county in which the greater part of the lands lie, not interested in the division, upon the request of the said commissioners in writing under their hands, served six days before the time of meeting, shall be present to oversee the balloting so to be made. At which day and place the said commissioners, having then made as many tickets as there are lots in each allotment, with one of the numbers of each lot on every ticket, and as many tickets as there are patentees and proprietors, with the name of one of

Bb

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the patentees or proprietors on each ticket; the tickets of names shall be put into a box, and the numbered tickets into another box, and such person or persons as the commissioners shall then appoint, shall immediately proceed to draw a ticket of the names, and then a ticket of the numbers, and so proceed until all the tickets are drawn. And after drawing for the lots in one of the allotments, they shall proceed in the same manner to draw for the lots in the other allotment or allotments, if more than one, until the whole drawing is completed. And the lot in each allotment on the maps, bearing the number of the ticket drawn next after drawing the ticket with the name of the patentee or proprietor, shall be the separate and divided share of such patentee or proprietor, and of all persons holding under him or her: Of which balloting, and all the proceedings in such partition the said commissioners shall make a full and fair entry and minute in a book, one copy whereof certified under their hands, or the hands of a majority of them, and under the hand of the judge present, shall be filed in the said secretary's office; and another certified in like manner, in the clerk's office of that county where the greatest part of the lands lay, which same books or an exemplification under the seal of the Territory, shall be good evidence of such partition; and which partition

shall be valid and effectual in the law, to divide and separate the said lands.

III. The said commissioners or any two of them, shall within one year next after drawing or balloting the lots aforesaid, proceed to sell that part of the tract which was set apart to defray the expence of the partition, at public ven-

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due, to the highest bidder; whereof six weeks public notice shall be previously given in one of the said News-papers; and their deed to the purchaser shall pass as good a title to such bidder, for the separate enjoyment of the same, as if all the patentees or proprietors of the said land had made and executed the same in due form of law.

IV. *Provided always*, That no commissioner or commissioners, or any other person in trust for him or them, shall become purchasers of the said land so to be sold, or of any part thereof. And of the whole charge attending such partition, the commissioners shall keep and state a particular account, and lay the same before one or more of the judges of the General court or one or more justices of the inferior court of common pleas of the county where the greatest part of the lands lie; who are hereby empowered and required to appoint some proper person or persons to audit the same, after fourteen days notice given in writing by the said commissioners to any three of the proprietors, of the time and place of auditing the said accounts, that they may be heard in objecting to the same, And out of the monies arising by such sale, the commissioners may retain so much as the said auditor or auditors, or the major part of them shall certify to be due to them for their services and disbursements in completing the said partition; and the surplus if any there is, shall be divided into equal parts according to the number of patentees or proprietors, as aforesaid, and be paid to them or those holding under them; and the receipt of the said patentees or proprietors as aforesaid, or of any persons holding under a

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patentee shall be a sufficient discharge to the said commissioners for the share of such patentees or proprietors.

V. And whereas joint tenants, tenants in common, and coparceners

of particular lots or parcels of land so divided, or of other lands held in joint tenancy, coparcenary, or in common may be inclined to have partition thereof; that partition may be made thereof, and be as valid, and the expence of the same defrayed in the same manner as the partition of other lands are before directed; the proprietors in such further or other partition being considered as the patentees are in the partition above prescribed.

VI. In case of the partition of any patents or tracts of land on which improvements have heretofore been made by any owner or proprietor, or by any person or persons, by consent of any owner or owners, proprietor or proprietors of any such patents or tracts of land, the person or persons to whose shares such parcels of improved lands shall fall upon a partition of such patents or tracts of land, shall before he or they be permitted to the possession of the same, pay the respective possessor or possessors thereof, the value of the improvements made thereon: and in order to settle and ascertain the value of such improvements, the said commissioners are hereby fully authorised, empowered and directed, at the request of the party or parties to whom such parcel or parcels of improved lands shall, upon such partition as aforesaid, appertain, issue their precept to the sheriff of the county in which the lands lie, commanding him to summon twelve freeholders having the proper and legal qualifications of jurors, to attend the said

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commissioners on the premises, at a day to be appointed in the said precept, not exceeding thirty days after the date thereof, to assess the value of such improvements, at which day and place the said commissioners shall swear the said freeholders, well and truly to inquire into and assess the value of the said improvements, and then shall proceed with their assistance in a summary manner, to inquire into and assess the same, and make duplicates of such their inquiries and assessments under their hands and seals, and the hands and seals of the said freeholders; one of which said duplicates shall be delivered to each of the parties. And in case the possessor or possessors of such improved lands shall not within thirty days next after a tender to him or them made of the assessed value by the person or persons to whom the said

improved lands shall upon such partition as aforesaid belong peaceable and quietly deliver up to him or them, the possession of the same, the said commissioners or any or either of them shall upon proof of such tender, made before him or them or any or either of them, by the oath of one or more credible witnesses, issue a precept in writing under the hands and seals of them the said commissioners or the hands and seals or hand and seal of any or either of them, to the sheriff of the county in which such improved lands respectively lie, commanding him to put the person or persons to whom such improved lands shall upon such partition belong, into full and peaceable possession of the same.

Provided always, That the costs, charges and expences attending, as well on such assessment as aforesaid as on the putting of the party or

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parties into the possession of such improved lands, shall be estimated according to the regulations herein after prescribed, and shall be paid by the respective possessor or possessors of such improved lands, and on his, her or their refusal to pay the same, shall be levied on his, her or their goods and chattels by warrant under the hands and seals of the said commissioners, or the hand and seal of any one or more of them, directed to the said sheriff of the county wherein such improved lands respectively lie, who is hereby required to perform that service.

VII. And inasmuch as the said commissioners, in such further or other partition, may, through the great number of proprietors and rights, proceed upon a mistake, either by supposing them too few or too many: therefore if any lot or lots shall be set off and drawn for any person having no title to the lands to be divided, such lot or lots shall be considered as lands still undivided; and if no lot or lots shall be set off and drawn for any person having title, nothing herein shall be construed to defeat such title. Provided nevertheless that the partition shall be considered as fully completed, to all intents and purposes, between all and every the other proprietors of the said lands.

VIII. If any of the commissioners so to be appointed to make any partition by virtue of this act, shall die before the same is completed,

their powers shall vest in, and be exercised by the survivors or survivor of them.

IX. One of the said commissioners shall be sworn as surveyor, previous to the said survey to be performed (or if the people called Quakers, shall make affirmation) to perform the same truly

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and impartially, and accordingly execute the duties of surveyor: which said oath or affirmation, either of the other two commissioners are hereby empowered to administer, and which oath or affirmation shall be entered in the minutes of their proceedings, and certified by the other two commissioners, and that one other of the said commissioners shall act as clerk, and as such shall take minutes of all their proceedings.

X. In case the said commissioner, being a surveyor as aforesaid, shall die before the survey be compleated, or through sickness or some other cause be rendered incapable to compleat the same, that in such case the surviving commissioner or commissioners shall and may thereupon nominate, appoint and qualify another surveyor to carry on and compleat the same. Or in case either of the said commissioners be a surveyor, he shall and may be qualified and act as surveyor, and compleat the survey in like manner: which said surveyor shall have twenty eight shillings per day for his services. The said commissioner acting as surveyor, shall have twenty eight shillings per day; the commissioner acting as clerk, twenty eight shillings per day; and the other of the said commissioners, twenty four shillings per day, while actually employed in the said service; and each of the chain bearers, and the flag-bearer and marker (whenever the commissioners shall think such flag bearer or marker necessary) shall have ten shillings per day; and the persons who audit their accounts, twenty shillings per day for their services: which allowances shall be in full for their services, and all expences attending the said survey; but the auditors may allow a rea-

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sonable sum for defraying the expence of the attendance of the judges, the advertising and balloting herein before directed.

XI. Whereas many small estates held in common require a more easy and less expensive mode for the division thereof, than that which is herein before provided; where any such lands, tenements, or hereditaments shall be held in common, it shall and may be lawful for the court of common pleas in the county where such lands shall be, upon the application of one or more of the owners or proprietors of such lands, tenements and hereditaments, for partition thereof, it being proved to the satisfaction of the court that the value of the said lands, tenements and hereditaments do not exceed twelve thousand dollars, to appoint three reputable freeholders of the county commissioners for that purpose, affidavit being first made before the court, by the person or persons making such application, that the other owners or proprietors residing within the State, or the guardians of such owners or proprietors as are minors, have had thirty days previous notice of his or their intention of making such application; and the commissioners so to be appointed, after they shall have been duly sworn before one of the justices of the court of common pleas in such county, honestly and impartially to execute the trust reposed in them respectively as commissioners for making partition of the lands, tenements and hereditaments as directed by the court, shall proceed to make partition of the said lands, tenements and hereditaments, among the owners and proprietors thereof, according to their respective rights therein; which parti-

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tion being made by the said commissioners, or any two of them, and a return being made thereof in writing, under their hands and seals, to the court, particularly describing the lots allotted to each respective owner or proprietor, and mentioning which of the owners or proprietors are minors, if any such there shall be; which return, being acknowledged by the said commissioners, or any two of them, before one of the justices of such court, and accepted by the court, and entered of record in the clerk's office, shall be a partition of such lands, tenements and hereditaments as are therein mentioned.

XII. *Provided always,* That where any houses and lots are so circumstanced that a division thereof cannot be made without great prejudice to the owners or proprietors of the same, and the commis-

sioners appointed to make partition of the same shall so report to the court, if it shall then appear to the court that such houses and lots do not exceed in value the sum of eight thousand dollars, the court shall thereupon give orders to the said commissioners to sell such house and lot, or houses and lots of land, at public vendue, and shall make and execute good and sufficient conveyances to the purchaser or purchasers thereof, which shall operate as an effectual bar, both in law and equity, against such owners, proprietors, and all persons claiming under them; and the monies arising therefrom to pay to the owners, or proprietors of such houses and lots of land, their guardians or legal representatives, as shall be directed in the said order, retaining in their hands, for their services and expences, such sum

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as shall be allowed by the court; and the said commissioners, on a division of lands, tenements and hereditaments, by order of the court as aforesaid, shall be allowed such sum as the court shall award for their services and expences, to be paid by the owners or proprietors of the lands, tenements and hereditaments so divided, in proportion to their respective rights therein; and in case of the neglect or refusal of any of the owners or proprietors to pay his, her, or their proportion of the sum so awarded, the court shall order so much of the lands tenements and hereditaments allotted to such owner or proprietor so refusing or neglecting, to be sold at public vendue, as will be sufficient to pay his or her proportion of the sum awarded by the court, together with the costs of such sale. And provided also, that no division or sale shall be made by order of the court as above directed, contrary to the intention of any testator, as expressed in his last will and testament.

XIII. And the guardians of all minors, shall be and hereby are respectively authorised and empowered, on behalf of the respective minors whose guardians they are, to do and perform any act, matter, or thing respecting the division of any lands, tenements and hereditaments as is directed in the above preceding clause, which shall be binding on such minor, and be deemed as valid to every purpose as if

the same had been done by such minor after he should have arrived at full age.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the

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first day of October, one thousand, seven hundred and ninety five: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR ST, CLAIR
JOHN C. SYMMES.
G. TURNER.

TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



A LAW allowing Foreign Attachments. *Adopted from the New Jersey code, and published at Cincinnati, the fifteenth day of July one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

Sect. I. **T**HE lands and tenements, goods, chattels and effects, rights and credits of every person or persons non-resident in this Territory, shall and may be attached, for the payment of any just debt or other demand, by a writ or writs to be issued out of the General court, or any circuit court, or court of com mon pleas; and, as early as may be, shall and may be proceeded against in the same manner as is directed against the lands, tenements hereditaments and estates of absconding debtors; except where otherwise herein directed.

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II. *Provided*, That every person or persons applying for such

writ or writs of attachment, shall, before the issuing thereof, make oath or affirmation (and which shall be filed in the proper clerk's office) that he, she or they verily believe, that the person or persons against whose estate, or estates, the application is made, is, or are not, at that time, resident within the Territory; and that such person or persons is, or are, justly, indebted unto the said plaintiff, or plaintiffs, in a certain sum or sums of money, as nearly as may be, to the amount of the debt or other demand of such plaintiff, or plaintiffs, as the case may admit; and as he, she or they can lawfully swear or affirm to.

III. Where two or more persons are jointly indebted, either as joint obligors, partners, or otherwise; then the writ or writs of attachment shall and may be issued against the separate and joint estate of such joint debtors, or any of them, either by their proper names, or by or in the name or style of the partnership; or by whatever other name or names such joint debtors shall be generally reputed, known or distinguished within this Territory; or against the heirs, executors or administrators of them, or either or any of them. And the lands, tenements, goods, chattels and effects, or any of them, shall be liable to be seized and taken for the satisfaction of any just debt, or other demand; and may be sold to satisfy the same.

IV. No judgment shall be entered in any attachment, hereby directed to be issued, until the expiration of twelve months; during which term the party suing out the attachment shall, and he is hereby required to cause notice thereof to be

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advertised in one of the public News papers of this Territory, at least three times; and shall, in like manner, cause the same to be advertised in one of the News-papers, at the seat of the United States government, wherever it may then be; and also in one of the news papers, published in Kentucky: which advertisement shall set forth, that a foreign attachment or attachments have been issued, at whose suit, and against whose estate or estates the same so issued; and that unless the debtor or debtors, whose estate or estates are so seized, shall appear, by himself or attorney, to give special bail to answer such suit; that, then, judgment will be entered against such

debtor or debtors by default, and the estate or estates attached, be sold for the satisfaction of all creditors who shall appear to be justly entitled to a demand thereon, and shall apply for that purpose.

V. No creditor or creditors, entitled to any share of estates, sold under this law, shall receive the same, until he, she or they shall enter into bond to the defendant or defendants, with good and sufficient security, to be approved of by the court, and also to be filed in the office aforesaid, in double the sum so to be received; with condition thereunder written, that the party, so receiving, shall appear to any suit or suits that shall or may be brought by such defendant, or defendants, within the space of twelve months, then next ensuing; and shall pay unto such defendant or defendants all sums of money which, on trial to be had thereon, shall appear to have been received, and not justly due and owing to

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such creditor or creditors; together with costs of suit.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of October, next ensuing: *IN TESTEMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

TERRITORY OF THE UNITED STATES }
 NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
 JOHN C. SYMMES
 G. TURNER.

A LAW concerning the duty and power of Coroners. *Adopted from the Massachusetts code, and published at Cincinnati, the sixteenth day of July, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governor, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

Coroner to serve process where sheriff is a party, or interested.

Inquests.

His recognizance as to violent or casual deaths. security to be laid in.

Duties and proceedings of the coroner.

Sect. I. **E**VERY coroner within the county for which he is appointed, shall serve all writs and precepts, when the sheriff, or any of his deputies, shall be a party to the same; and shall return jurors, in all causes, where the sheriff shall be interested, or related to either party. The coroners shall take inquests of vio-

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lent deaths, and casual deaths happening within their respective counties; and shall before they enter upon the duties of their respective offices, be severally sworn (or affirmed) to the faithful discharge thereof; and give security in the same manner as sheriffs are obliged to do.

II. Every coroner shall, as soon as he shall be certified of the dead body of any person, supposed to have come to his or her death, by violence or casualty, found or lying within his county, make out his warrant, directed to the constable of the township where the dead body is found or lying, requiring him forthwith to summon a jury of good and lawful men of the same township, not less than eighteen, in all, (so that twelve may be present) to appear before such coroner, at the time and place in his warrant expressed, and to enquire, upon a view of the body of (name here the person deceased, if known) there lying dead, how, in what manner, and by whom he, or she came by his or her death. And every constable, to whom such warrant shall be directed and delivered, shall, forthwith, execute the same; and shall repair to the place where the dead body is, at the time mentioned, and

make return of the warrant, with his proceedings thereon, unto the coroner who granted the same. Every constable failing, unnecessarily, of executing such warrant, or of returning the same, as aforesaid, shall forfeit and pay the sum of eight dollars: and every person summoned as a juror, as aforesaid, that shall fail of appearance, without having a reasonable excuse shall forfeit five dollars. Which fines shall be recovered, by action of debt, before any jurisdiction that can take cogni-

Fine on constable failing in his duty,

Fine on jurors neglecting theirs.

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zance of the same, and be applied to the use of the county.

III. The coroner shall administer an oath (or affirmation) to twelve of the jurors that shall appear; to the foreman, first, in the following form:—

YOU do solemnly swear (or solemnly, sincerely and truly declare and affirm, as the case is) that you will diligently enquire, and true presentment make, how, in what manner, and by whom A. B. who here lies dead, came to his death: and you shall deliver to me one of the coroners for this county a true inquest thereof, according to such evidence as shall be laid before you and according to your knowledge: So help you God.

Foreman's oath.

IV. The other jurors shall swear, or affirm (as the case may be) in the following form:—

SUCH oath (or affirmation) as your foreman hath taken you and each and every of you shall well and truly observe and keep: So help you God.

Juror's oath.

V. The jurors being sworn the coroner shall give them a charge upon their oaths to declare of the death of the person; whether he or she died of felony, or mischance or accident; and if of felony, who were principals and who were accessaries; with what instrument he or she was struck or wounded; and so of all prevailing circumstances which may come by presumption: and, if by mischance or accident, whether by the act of man; and whether by hurt, fall, stroke, drowning, or otherwise: also to enquire, if the the persons, who (if any) were present, the finders of the body, his or her relations and neighbours; whether he or she was killed in the same

Coroner to charge the jury.

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place where the body was found; and, if elsewhere, by whom, and how the body was brought thence; and of all other circumstances, relating to the said death. And if he or she died of his or her own felony, then to enquire of the manner, means or instrument, and of all circumstances concerning it.

VI. The jury being charged, shall stand together; and proclamation shall be made for any persons, who can give evidence, to draw near, and they shall be heard.

Coroner may
command
attendance
of witnesses.

VII. Every coroner is further empowered to send out his warrant for witnesses, commanding them to come before him to be examined, and to declare their knowledge concerning the matter in question. He shall administer an oath (or affirmation) to them in form following:

YOU do solemnly swear (or solemnly, sincerely and truly declare and affirm) that the evidence you shall give to this inquest, concerning the death of A. B. here lying dead, shall be the truth, the whole truth, and nothing but the truth: So help you God.

Witness to
give and sign
evidence in
writing, &c.

VIII. The evidence of such witnesses shall be in writing, subscribed by them: and if it relate to the trial of any person concerned in the death, then shall the coroner bind such witnesses, by recognizance, in a reasonable sum, for their personal appearance at the next General, or circuit court, to be holden within the same county, there to give evidence accordingly; and commit to the common jail of the county, any witness, or witnesses, refusing to enter into such recognizance; and shall return to the same court the inquisition, written evidence and recognizance by him taken. And the jury, having viewed

Or,
be committed.

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Verdict of the
inquest.

the body, heard the evidence, and made all the enquiry within their power, shall draw up and deliver unto the coroner, their verdict upon the death under consideration, in writing, under their hands and seals.

IX. Upon an inquisition found before any coroner, of the death of any person, by the felony, or misfortune of another, he shall speedily inform one or more of the justices of the same county thereof: to

the intent, that the person killing, or being any way instrumental to the death, may be apprehended, examined and secured, in order for trial. Offenders, how to be secured.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the fifteenth day of August, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR
JOHN C. SYMMES.
G. TURNER.

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TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



A LAW for continuing suits in the General and Circuit Courts. *Adopted from the Virginia code, and published at Cincinnati, the eighteenth day of July, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves symmes and George Turner, judges, in and over the said Territory.*

AR. ST. CLAIR,
JOHN C. SYMMES
G. TURNER.

WHENEVER a judge of the Territory may not be able to attend, to hold the General court, or circuit court, at the stated term to which such court stands adjourned, all suits depending in the said courts, or either of them, shall stand continued over to the next succeeding court.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of October, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

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TERRITORY OF THE UNITED STATES }
 NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
 JOHN C. SYMMES,
 G. TURNER.

A LAW to Suppress Gaming. *Adopted from the Virginia code, and published at Cincinnati, the sixteenth day of July one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

Sect. I. **E**VERY promise, agreement, note, bill, bond, or other contract shall be void, if made to pay, deliver or secure money; or other thing, won or obtained by playing at cards, dice, tables, tennis, bowls or other games; or by betting or laying on the hands and sides of any person who shall play at such games, or be won or obtained by betting or laying on any horse-race or cock-fighting, or at any other sport or pastime; or on any wager whatever, or to repay or secure money, or other thing lent or advanced for that purpose, or lent or advanced at the time of such gaming, sporting, or wager, to a person then actually playing, betting, laying or adventuring.

II. Any conveyance or lease of lands, tenements, or hereditaments, sold, demised, or mortgaged; and any sale, mortgage or other transfer of personal estate, to any person, or for his use, to satisfy or secure money, or other thing,

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by him won of, or lent or advanced to the seller, lessor, or mortgagor; or whereof money or other thing so won, lent, or advanced be part or all of the consideration, shall enure to the use of the heir of such mortgagor, lessor, bargainor or vendor; and shall vest the whole estate and interest of such person in the lands tenements or hereditaments so leased, mortgaged, bargained or sold, and in the personal estate so

sold, mortgaged, or otherwise transferred, to all intents and purposes in the heir of such lessor, bargainor, mortgagor or vendor, as if such lessor, bargainor mortgagor or vendor had died intestate.

III. No tavern-keeper, or innholder, shall permit or suffer cards, dice, billiards, or any instrument of gaming to be made use of in his dwelling house or in any outhouse or under any booth, arbour or other place upon the messuage or tenement he occupies where money, or other property shall be betted or played for; upon pain of being deprived of his license, and forfeiting a sum not exceeding two hundred dollars, nor less than fifty dollars; to be recovered by action of debt, in any court of record; one half to the party first informing, the other half to the use of the Territory: but where the action shall be brought, ex officio by the officer prosecuting the pleas, then the whole of such fine shall go to the use of the Territory.

IV, *Provided*, That if such tavern-keeper, or inn holder, shall give information of the offence and the name or names of the party offending, to the court next sitting in or for the county wherein he resides, he shall not be subject to the disability and penalty last mentioned.

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V. Two justices of the peace may cause to come before them any person not possessing a visible estate, nor exercising a lawful trade or profession, and suspected by them to support himself, for the most part, by gaming: and if, upon examination, the suspicion shall appear to be well founded, they shall require surety of him for his good behaviour during the term of twelve months; and if, before the expiration thereof, he shall play for, or bet any money or other thing, or cause or suffer, any game whatever to be played for money or other thing, he shall be adjudged to have broken the condition of his recognizance.

VI. No person, in order to raise money or other property, for himself or another, shall publicly, or privately, put up a lottery of blanks and prizes to be drawn or adventured for, or any prize or thing to be raffled or played for. Whoever shall offend herein shall forfeit to the use of the Territory the whole sum of money or property proposed to be so raised or gained.

VII. The presiding judge or justice in the several courts of law,

shall at every court give this act in charge to the grand jury as soon as sworn.

THE foregoing is hereby declared to be a law of the Territory; to take effect on and from the first day of October, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER..

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TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

A LAW as to proceedings in Ejectment, distress for Rent, and Tenants at will holding over. *Adopted from the Pennsylvanian code, and published at Cincinnati, the seventeenth day of July, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governour, and John Cleves Symmes, and George Turner, judges, in and over the said Territory.*

Distress for
rent, how
made.

Owners of
goods dis-
trained
when to re-
plevy.

Otherwise,
the distress
to be
praised.

Sect. I. **W**HERE any goods or chattels shall be distrained for any rent, reserved and due upon any demise, lease or contract, whatsoever, and the tenant or owner of the goods, so distrained, shall not, within five days, next after such distress taken (and notice thereof, with the cause of such taking, left at the dwelling-house, or other most notorious place on the premises, charged with the rent distrained for) replevy the same, with sufficient security to be given to the sheriff, according to law; that then, and in such case, after such distress and notice, as aforesaid, and expiration of the said five days, the person distraining shall and may, with the sheriff, under sheriff, or any constable in the city or county where such distress shall be taken (who are hereby required to be aiding and assisting

therein,) cause the goods and chattels, so distrained, to be appraised

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by two reputable freeholders; who shall have and receive, for their trouble, the sum of fifty cents, per diem, each, and in that proportion for a longer or shorter time; and shall first take the following oath or affirmation. *I. A. B. will well and truly, according to the best of my understanding, appraise the goods and chattels of C. D. distrained on, for rent, by E. F* Which oath or affirmation, such sheriff, under sheriff or constable, is hereby empowered and required to administer; and, after such appraisement, shall or may, after six days public notice, lawfully sell the goods and chattels, so distrained, for the best price that can be gotten for the same; for and towards satisfaction of the rent for which the said goods and chattels shall be distrained, and of the charges of such distress, appraisement and sale; leaving the overplus if any, in the hands of the said sheriff under-sheriff or constable, for the owners use.

**Appraiser's
onth.**

**When distress
may be sold.**

II. Upon any pound breach or rescous of goods or chattels distrained for rent, the person or persons grieved thereby shall, in a special action upon the case for the wrong thereby sustained recover his her or their treble damages, and costs of suit against the offender or offenders in such rescous or pound breach, any or either of them; or against the owner or owners of the goods distrained, in case the same be afterwards found to have come to his or their use or possession.

**Penalty on
rescous of
goods dis-
trained.**

III. *Provided*, That in case any distress and sale shall be made, by virtue of this law, for rent pretended to be in arrear and due when, in truth, no rent shall appear to be in arrear or due, to the person or persons distraining, or to

**Distress, under
a fictitious de-
mand, subjects
distrainer to
forfeit double
the value,
with costs.**

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him or them in whose name or names, or right, such distress shall be taken as aforesaid; then the owner of such goods and chattels, distrained and sold, as aforesaid, his executors or administrators, shall and may, by action of trespass, or upon the case, to be brought against the person or persons so distraining, any or either of them, his or their executors or administrators, recover double the value of the goods or chattels, so distrained and sold, together with full costs of suit.

House-rent due to be first paid out of goods distrained.

Sheriff to pay it over to land-lord.

But not exceeding one year's rent.

Tenant clandestinely removing his goods, land-lord may dis-

train them wherever found within 30 days:

Provided such goods were not before, bona fide, sold to another.

IV. The goods and chattels lying or being in or upon any messuage, lands or tenements, which are or shall be leased for life or lives, term of years, or otherwise, taken by virtue of any execution, shall be liable to the payment of all such sum or sums of money, as are or shall be due for rent for the premises, at the time of taking such goods and chattels by virtue of such execution. And the said sheriff shall, after sale of the said goods and chattels, pay to the land-lord, or other person impowered to receive the same, such rent so due, if so much shall be in his hands; and, if not, so much as shall be in his hands; and apply the overplus thereof, if any, towards satisfying the debt and costs, in such execution mentioned: Provided always, that the said rent, so to be, paid to the land-lord, shall not exceed one years rent.

V. In case any lessee or tenant for life or lives, term of years, at will, or otherwise, of any messuages, lands, or tenements, upon the demise whereof any rents are or shall be reserved, or made payable, shall, fraudulently, or clandestinely, convey or carry off, from such demised premises, his goods or chattels, with intent to

Ee

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prevent the land-lord, or lessor, from distraining the same for arrears of such rent, so reserved, as aforesaid, it shall and may be lawful to and for such lessor, or land-lord, or any other person or persons, by him, for that purpose, lawfully impowered, within the space of thirty days, next ensuing such conveying away, or carrying off such goods, or chattels, as aforesaid, to take and seize such goods and chattels, wherever the same may be found, as a distress for the said arrears of such rent, and the same to sell or otherwise dispose of, in such manner, as if the said goods and chattels, had actually been distrained by such lessor, or land lord, in or upon such demised premises, for such arrears of rent; any law, custom or usage to the contrary, notwithstanding.

VI. *Provided nevertheless,* That nothing herein contained shall extend, or be deemed or construed to extend, to impower such lessor, or land-lord, to take or seize any such goods or chattels, as a distress for arrears of rent, which shall be bona fide, and for a valuable consideration, sold before such seizure made to any person or persons not

privy to such fraud, as aforesaid: anything herein to the contrary notwithstanding.

VII. It shall and may be lawful to and for every lessor or landlord, lessors or land lords or his her or their bailiffs receivers or other person or persons, impowered by him, her, or them, to take and seize as a distress for arrears of rent, any cattle or stock of their respective tenant or tenants, feeding or pasturing upon all or any part of the premises demised or holden, and also to take and seize all sorts of corn and grass hops, roots, fruits, pulse or other product whatsoever, which

Power to landlord or lessor, to distrain cattle, stock, corn, &c,

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shall be growing on any part of the estate or estates, so demised or holden, as a distress for arrears of rent; and to appraise, sell, or otherwise dispose of the same towards satisfaction of the rent for which such distress shall have been taken, and of the charges of such distress, appraisement and sale, in the same manner as other goods and chattels may be seized, distrained and disposed of; and the purchaser of any such corn, grass, hops, roots fruits, pulse or other product, shall have free egress and regress to and from the same, where growing, to repair the fences from time to time, and when ripe to cut, gather, make, cure, and lay up and thrash, and after to carry the same away, in the same manner as the tenant might, legally, have done, had such distress never been made

With liberty of egress and regress to repair fences and perfect the crops.

VIII. Whereas great inconveniencies may frequently happen to land-lords by their tenants secreting declarations in ejectments, which may be delivered to them; or by refusing to appear to such ejectment; or to suffer their land lords to take upon them the defence thereof. Every tenant, therefore, to whom any declaration in ejectment shall be delivered for any land, tenements or hereditaments, within the Territory shall, forthwith give notice thereof to his or her land lord, or land lords or his her or their bailiffs receivers agent or attorney; under penalty of forfeiting the value of two year's rent of the premises so demised, or holden in the possession of such tenant to the person of whom he or she holds; to be recovered by action of debt to be brought in any court where the same may be cognizable, wherein no essoin, protection or wa-

Tenant concealing declarations in ejectment, 2 years rent.

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ger of law shall be allowed, nor any more than one imparlance,

XI. It shall and may be lawful for the court where such ejectment shall be brought to suffer the land-lord or land-lords to make him, her, or themselves defendent or defendents, by joining with the tenant or tenants to whom such declaration in ejectment shall be delivered, in case he or they shall appear: but in case such tenant or tenants shall refuse or neglect to appear, judgment shall be signed against the casuel ejector, for want of such appearance, but if the land-lord or land-lords of any part of the lands, tenements or hereditiments for which such ejectment was brought, shall desire to appear by himself or themselves, and consent to enter into the like rule that, by the course of the court, the tenant in possession, in case he or she had appeared, ought to have done; then the court, where such ejectment shall be brought, shall and may permit such land-lords so to do, and order a stay of execution, upon such judgment against the casual ejector, until they shall make further order therein.

X. Whereas great difficulties often arise in making avowries, or connuzance, upon distress, for rent: it shall and may be lawful, for all defendants in replevin to avow or make connuzances generally, that the plaintiff in replevin, or other tenant of the lands, and tenements, whereon such distress was made, enjoyed the same under a grant or demise, at such a certain rent or service, during the time wherein the rent or service distrained for incurred; which rent or service was then, and still remains, due; without further setting forth the grant, tenure, demise or title of such land-lord or land-lords, lessor or lessors;

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any law or usage to the contrary, notwithstanding: and if the plaintiff or plaintiffs in such action shall become nonsuit, discontinue his, her or their action, or have judgment given against him, her or them, the defendant or defendants, in such replevin, shall recover double costs of suit.

XI. And to prevent vexatious replevins, or distresses, taken for rent, all sheriffs and other officers, having authority to serve replevins, may and shall, in every replevin of a distress for rent, take in their own names, from the plaintiff and one responsible person, as surety,

Court may suffer land-lord, suing, to become defendant in ejectment.

On nonappearance of tenant, judgment to go against the casual ejector.

Land-lord may by self or attorney and enter into rule, &c.

Debts in replevin may avow or make connuzance, generally.

If plaintiff be non-suit, discontinue or lose the cause he forfeits double costs.

Sheriff &c. serving replevins, to take plaintiff's

a bond in double the value of the goods distrained (such value to be ascertained by the oath, or affirmation, of one or more credible person or persons, not interested in the goods or distress, and which oath or affirmation, the person serving such replevin is hereby authorized and required to administer) and conditioned for prosecuting the suit with effect and without delay, and for duly returning the goods and chattels distrained, in case a return shall be awarded before any deliverance be made of the distress. And such sheriff, or other officer as aforesaid, taking any such bonds shall at the request and costs of the avowant or person making cognizance, assign such bond to the avowant or person aforesaid, by endorsing the same and attesting it under his hand and seal in the presence of two credible witnesses. And if the bond so taken and assigned, be forfeited the avowant, or person making cognizance, may bring an action, and recover thereupon, in his own name; and the court where such action shall be brought may by a rule of the same court, give such relief to the parties,

bond, with security, to prosecute with effect.

Sheriff may assign the bond.

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upon such bond, as may be agreeable to justice and reason: and such rule shall have the nature and effect of a defeasance to such bond.

at discretion, court may rule relief to parties to the bond.

XII. Where any person or persons have leased or demised any lands, or tenements, to any person or persons, for a term of one or more years, or at will paying certain rents, and he or they, or his or their heirs or assigns shall be desirous, upon the determination of the lease to have again, and repossess his or their estate, so demised, and, for that purpose, shall demand and require his or their lessee or tenant, to remove from and leave the same; if the lessee or tenant shall refuse to comply therewith, in three months after such request, to him made, it shall and may be lawful to and for such lessor or lessors, his or their heirs and assigns, to complain thereof, to any two justices of the peace, in the county where the demised premises are situate: and upon due proof made before the said justices, that the said lessor, or lessors had been quietly and peaceably possessed of the lands or tenements, so demanded to be delivered up: that he or they demised the same, under certain rents to the then tenant in possession, or some person or persons under whom such tenant claims, or came into possession; and that the term, for which the same was demised, is fully ended; then, and in

Proceedings against tenants refusing to quit at the end of their term.

How justices to have cognizance in such cases.

such case, it shall and may be lawful for the said two justices to whom complaint shall be made as aforesaid, and they are hereby enjoined and required, forthwith to issue their warrant, directed to the sheriff of the county, thereby commanding the sheriff to summon twelve freeholders to appear before the said justices within four days next after issuing such warrant; and also to summon

**Their power
and duty—and
proceedings to
be had before
them.**

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the lessee or tenant, or other person claiming or coming into possession, under the said lessee, or tenant at the same time, to appear before them, the said justices and freeholders, to shew cause if any he has, why restitution of the possession of the demised premises should not be forthwith, made to such lessor or lessors, his or their heirs or assigns: and if upon hearing the parties (or in case the tenant or other person claiming or coming into possession under the said lessee or tenant, neglect to appear; after being summoned as aforesaid) it shall appear to the said justices and freeholders, that the lessor or lessors had been possessed of the lands or tenements in question; that he or they had demised the same for a term of years or at will, to the person in possession or some other under whom he or she claims or came into possession, at a certain yearly or other rent; and that the term is fully ended; that demand had been made of the lessee or other person in possession, as aforesaid to leave the premises three months before such application to the said justices: then and in every such case it shall and may be lawful for the said two justices, to make a record of such finding by them the said justices and freeholders: and the said freeholders shall assess such damages, as they think right against the tenant, or other person in possession, as aforesaid for the unjust detention of the demised premises, for which damages, and reasonable costs, judgment shall be entered, by the said justices and shall be final and conclusive to the parties, and upon which the said justices shall, and they are hereby enjoined and required, to issue their warrant under their hands and seals, directed to the she-

**Judgment
against tenant
holding over.**

[218]

riff of the county, commanding him, forthwith to deliver to the lessor or lessors, his or their heirs or assigns, full possession of the demised

premises aforesaid; and to levy the costs taxed by the justices, and damages, so by the freeholders, aforesaid, assessed, of the goods and chattels of the lessee or tenant, or other person in possession, as aforesaid; any law, custom or usage to the contrary, notwithstanding,

Re-possession of the premises given by the sheriff.

XIII. *Provided nevertheless*, That if the tenant shall alledge that the title to the lands and tenements, in question, is disputed, and claimed by some other person or persons whom he shall name, in virtue of a right or title, accrued or happening since the commencement of the lease, so as aforesaid made to him by descent, deed, or from or under the last will of the lessor, and if, thereupon, the person, so claiming, shall, forthwith, or upon a summons, immediately to be issued, by the said justices, returnable before them in six days, next following, appear, and, on oath or affirmation, to be by the said justices administered, declare, that, he verily believes, he is intitled to the premises in dispute; and shall, with one or more sufficient surities, become bound, by recognizance in the sum of two hundred dollars to the lessor or lessors, his or their heirs or assigns, to prosecute his claim at the next court of common pleas to be held for the county where the said lands and tenements shall be; then and in such case, and not otherwise, the said justices shall forbear to give the said judgment.

When title set up by lessee or tenant, proceedings thereon.

Claimant to give bond to prosecute his claim at the next court of C. P.

XIV. *Provided also*, That if the said claim shall not be prosecuted, according to the true intent and meaning of the said recognizance, it shall be forfeited to the use of the lessor or land-lord,

But if the claim be not so prosecuted judgement to be rendered.

[219]

and the justices aforesaid, shall proceed to give judgment: and cause the lands and tenements, aforesaid, to be delivered to him, in the manner herein before enjoined and directed.

XV. It shall and may be lawful for any person or persons, having any rent in arrear, or due upon lease for life, or lives, or for one or more years, or at will, ended or determined, to distrain for such arrears after the determination of the said respective leases, in the same manner as they might have done, if such lease or leases had not been ended or determined: provided that such distress be made during the continuance of such lessor's title or interest.

THE foregoing is hereby declared to be a law of the Territory; to

take effect on and from the first day of October, next ensuing: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes* and *George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST. CLAIR,
JOHN C. SYMMES,
G. TURNER.

Ff

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TERRITORY OF THE UNITED STATES }
NORTH-WEST OF THE OHIO. }



AR. ST. CLAIR,
JOHN C. SYMMES
G. TURNER.

A LAW Limiting Imprisonment for debt, and subjecting certain debtors and delinquents to servitude. *Adopted from the Pennsylvania code, and published at Cincinnati, the fifteenth day August, one thousand, seven hundred and ninety-five; by Arthur St. Clair, governor, and John Cleves Symmes and George Turner, judges, in and over the said Territory.*

Imprisonment
for debt to be
limited; unless
&c.

NO person shall be kept in prison, for debt or fines, longer than the second day of the sessions next after his or her commitment; unless the plaintiff shall make it appear, that the person imprisoned hath some estate that he will not disclose: then, and in every such case, the court shall examine all persons suspected to be privy to the concealment of such estate; and if no sufficient estate be found, the debtor shall make satisfaction, by personal and reasonable servitude, according to the judgment of the court where such action is tried (but only if the plaintiff require it) not exceeding seven years, where such debtor is unmarried, and under the age of forty years; unless it be the request of the debtor, who may be above that age: but if the debtor be married, and under the age of thirty six, the servitude shall be for five years, only; and with which the married man, upwards of thirty six shall be privileged, if it be his request. Should the plaintiff refuse to accept such satisfaction, according

Concealment of
estates.

Personal servi-
tude of debtor,
to pay the
debt.

Under what
ages.

[221]

to the judgment of the court, as aforesaid, then the prisoner shall be discharged, in open court, and the plaintiff be forever barred from any further or other action for the same debt.

THE foregoing is hereby declared to be a law of the Territory; to take immediate effect, and continue in force until and to the end of the next session of the governour and judges, in their legislative capacity: *IN TESTIMONY* whereof, we *Arthur St. Clair, John Cleves Symmes and George Turner*, have caused the seal of the Territory to be thereunto affixed, and signed the same with our names.

AR. ST, CLAIR,
JOHN C. SYMMES,
G. TURNER.

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APPENDIX.

FRIDAY, August 7, 1795.

On Motion of Judge Turner,

RESOLVED,

THAT the minutes of the Legislature together with the exhibited accounts of the Public Treasurers, may be published, from time to time, by any Printer willing to print and publish the same, for his own emolument, but at his own private expense.

THURSDAY, August 13.

RESOLVED,

That public convenience requires, that the Governour should cause Public Ferries to be established. And whereas no laws concerning Ferries can be found for adoption, but such as are of a local, not general nature: And it being essential that Ferries should immediately be established throughout the Territory, and a mode directed for fixing the rates of Ferriage,

RESOLVED therefore,

That the Governour be requested to declare by proclamation, or otherwise, from time to time, what Ferries shall be erected, by whom to be kept, and where.

RESOLVED also,

That the several Courts of Quarter Sessions be empowered, and they are hereby authorized and empowered to fix, from time to time, the rates to be demanded at the Ferries now or hereafter to be established in their respective counties, having regard to the distance which the Ferry-boats have to travel, and the danger or difficulties incident to the same.

TUESDAY, August 18.

RESOLVED,

That where persons sufficiently learned in the law can be found to fill the benches of the courts of Common Pleas, it would be the safer way to commission them during good behaviour.

RESOLVED,

That commissions issued by the Governour, and creating no express condition or limitation as to the duration of

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the office, are in the nature of a grant, and must be taken most favourable for the grantor,

RESOLVED therefore,

That all such commissions may, by express revocation, be avoided or revoked,

THURSDAY, August 20.

On Motion of the Governour.

Whereas it has been represented to the Legislature, that from a change in the population of the county of St. Clair, the district of Prairie du Rocher, is become inconvenient, and that the courts therein cannot be kept up.

RESOLVED,

That the Governour may, if he shall find the case to be as has been represented, dissolve, by proclamation, the said district of Prairie du Rocher, and suppress the several courts directed to be held therein, and divide the said district in the most convenient manner for the inhabitants: adding one part to, and incorporating the same with the district of Kahokia, and the other part with the district of Kaskaskia.

ERRATA

In Page 166, in the foot of the Law, for the Speedy Assignment of Dower, for "Sixth day of June," read, first day of October.

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LAWS
OF THE
TERRITORY OF THE UNITED STATES
NORTH WEST OF THE RIVER OHIO

*Adopted and published at a Session of the legislature begun in the
Town of Cincinnati, County of Hamilton and Territory aforesaid
upon the 23d day of April in the year of our Lord 1798 and con-
tinued by adjournments to the seventh day of May in the same
year*

By Authority

CINCINNATI

Printed and Sold by
EDMUND FREEMAN.

M, DCC, XCVIII.

TERRITORY OF THE UNITED STATES }
 NORTHWEST OF THE RIVER OHIO }



A LAW to confer on certain associations of the citizens of this Territory the powers and immunities of corporations or bodies politic in Law adopted from the Pennsylvania Code and published at Cincinnati the first day of May one thousand seven hundred and ninety eight by Winthrop Sargent acting as Governor, and John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior Judges

Sec I

WHEN any number of Persons citizens of this Territory are associated or mean to associate for any religious charitable literary or other civil purposes for the promotion of social happiness and good order and shall be desirous to acquire and enjoy the powers and immunities of a corporation or body politic in law it shall and may be lawful for such persons to prepare an instrument in writing therein specifying the objects articles conditions and name stile or title under which they have associated or mean to associate and the same to exhibit and present unto two or more of the Judges of this Territory and the said Judges are hereby required thereupon to peruse and

The purpose of association to be specified in writing

And submitted to the Judges

A examine

[4]

examine the said instrument and to transmit it with a certificate thereon endorsed testifying the opinion of the said Judges touching the lawfulness of the objects articles and conditions in such instrument set forth and contained unto the Governor of the Territory and if the said Judges shall certify their opinion as aforesaid to be that the objects articles and conditions in such instrument set forth and contained are lawful then the said Governor if he shall deem it proper and expedient shall transmit the same to the recorder in the proper county with an order thereon endorsed requiring him to enrol the same at the expence of the applicants and upon the enrolment thereof the

Who are to report upon the legality to the Governor

persons so associated or meaning to associate shall according to the objects articles and conditions in the said instrument set forth and contained become and be a corporation or body politic in law and in fact to have continuance by the name stile and title in such instrument provided and declared

Sec II As often as the members of corporations established by virtue of this act and their successors respectively shall be desirous of improving amending or altering the articles and conditions of the instrument upon which the said corporations respectively are as aforesaid formed and established it shall and may be lawful for such corporations respectively in like manner to specify the improvements amendments or alterations which are or shall be desired and the same to exhibit and present to the Judges aforesaid who shall in like manner certify their opinion to the Governor of the Territory touching the lawfulness of such improvements amend-

ments

[5]

ments and alterations and the same being certified as aforesaid to be lawful shall in like manner be directed by the Governor if he shall deem it proper and expedient to be enroled by the recorder of the proper county at the expence of the applicants and upon the enrolment thereof shall be taken and deemed to be a part of the instrument upon which such corporations respectively were formed and established to all intents and purposes as if the same had originally been made a part thereof

Sec III The corporations established by virtue of this act and the successors thereof respectively shall have full power and authority to make have and use one common seal with such device and inscription as they shall respectively deem proper and the same to break alter or renew at their pleasure and by the name stile and title by them respectively provided and declared as aforesaid shall be able and capable in law to sue and be sued plead and be impleaded in any court or courts before any Judge or Judges justice or justices in all manner of suits complaints pleas causes matters and demands whatsoever and all and every matter or thing therein to do in as full and effectual a

The Governors
order
thereupon
is to incorpor-
ate the
association

Provisions
for altering
the articles
of association

manner as any other person or persons bodies corporate and politic within this Territory may or can do and shall be authorized and empowered to make rules bye laws and ordinances and to do every thing needful for the good government and support of the affairs of the said corporations respectively provided always that the said bye laws rules and ordinances or any of them be not repugnant to the constitution and laws of

**Powers and
privileges of
associations**

the

[6]

the United States and the laws of this Territory or to the instrument upon which the said corporations respectively are as aforesaid formed and established

Sec IV The corporations established by virtue of this act and successors thereof respectively by the name stile and title by them respectively provided and declared as aforesaid shall be able and capable in law according to the terms and conditions of the instrument upon which the said corporations respectively are as aforesaid formed and established to take receive and hold all and all manner of lands tenements rents annuities franchises and hereditaments and any sum and sums of money and any manner and portion of goods and chattels given and bequeathed unto them respectively to be employed and disposed of according to the objects articles and conditions of the instrument upon which the said corporations respectively are as aforesaid formed and established or according to the articles and bye laws of the said corporations respectively or of the will and intention of the donors

Provided always nevertheless that the clear yearly value or income of the messuages houses lands and tenements rents annuities or other hereditaments and real estate of the said corporations respectively and the interest of money by them lent shall not exceed the sum of fifteen hundred dollars

**May receive
donations to a
certain amount**

The foregoing is hereby declared to be a law of the Territory in
TESTIMONY whereof we *Winthrop Sargent John Cleves Symmes
Joseph Gilman and Return Jonathan Meigs junior*

have

[7]

have caused the seal of the Territory to be thereunto affixed and signed the same with our names.

(Signed)

"Winthrop Sargent"

"John Cleves Symmes"

"Joseph Gilman"

"Return Jonathan Meigs junior"

TERRITORY OF THE UNITED STATES }
NORTH WEST OF THE RIVER OHIO }



A LAW for the punishment of maiming or disfiguring adopted from the Kentucky Code and published at Cincinnati the first day of May one thousand seven hundred and ninety eight by Winthrop Sargent acting as Governor and John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior Judges

WHOSOEVER on purpose and of malice aforethought by lying in wait shall unlawfully cut out or disable the tongue put out an eye slit or bite the nose ear or lip or cut off or disable any limb or member with intention in so doing to maim or disfigure such person or shall voluntarily maliciously and of purpose pull or put out an eye while fighting or otherwise every such offender his or her aiders abettors and counsellors shall be sentenced to under-

Punished by

go

[8]

confinement

go a confinement in the jail of the county in which the offence is committed for any time not less than one month nor more than six months and shall also pay a fine not less than fifty dollars and not exceeding one thousand dollars one fourth of which shall be to the use of the Territory and three fourths thereof to the use of the party grieved and for want of the means of payment the offender shall be sold to service by the court before which he is convicted for any time not exceeding five years the purchaser finding him food and raiment during the term

And fine

The foregoing is hereby declared to be a law of the Territory in

TESTIMONY whereof we *Winthrop Sargent John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior* have caused the seal of the Territory to be thereunto affixed and signed the same with our names

(Signed)

"Winthrop Sargent"

"John Cleves Symmes"

"Joseph Gilman"

"Return Jonathan Meigs junior"

[9]

TERRITORY OF THE UNITED STATES }
NORTH WEST OF THE RIVER OHIO }



A LAW vesting certain powers in justices of peace in criminal cases adopted from the Massachusetts Code and published at Cincinnati the first day of May one thousand seven hundred and ninety eight by Winthrop Sargent acting as Governor and John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior Judges

THAT it shall be within the power and be the duty of every justice of the peace within his county to punish by such fine as is by the statute laws of the Territory provided all assaults and batteries that are not of a high and aggravated nature and to cause to be stayed and arrested all affrayers rioters and disturbers and breakers of the peace and to bind them by recognizance to appear at the next General court Circuit court or court of General Quarter Sessions of the peace to be held within or for the same county at the discretion of the justice and also to require such persons to find sureties for their keeping the peace and being of good behaviour until the sitting of the court they are to appear before and to commit such persons as shall refuse or delay to recognize and find such surety or sureties and the justices of the peace shall examine into all homicides murders treasons and

Powers and duties of justices of the peace

[10]

felonies done and committed in their respective counties and commit to prison all persons guilty or suspected to be guilty of man slaughter murder treason or other capital offence and to hold to bail all persons guilty or suspected to be guilty of lesser offences which are not cognizable by a justice of the peace and require sureties for the good behaviour of idle vagrant and dissolute characters swindlers and gamblers as well as of dangerous and disorderly persons and shall take cognizance of and examine into all other crimes matters and offences which by particular laws are put within their jurisdiction

The foregoing is hereby declared to be a law of the Territory in *TESTIMONY* whereof we *Winthrop Sargent John Cleves Symmes Joseph Gilman* and *Return Jonathan Meigs junior* have caused the seal of the Territory to be thereunto affixed and signed the same with our names

(Signed)

*"Winthrop Sargent"**"John Cleves Symmes"**"Joseph Gilman"**"Return Jonathan Meigs junior"*

[11]

TERRITORY OF THE UNITED STATES }
NORTH WEST OF THE RIVER OHIO }



A LAW for the equal division and distribution of insolvent estates adopted from the Connecticut Code and published at Cincinnati the first day of May one thousand seven hundred and ninety eight by Winthrop Sargent acting as Governor and John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior Judges

Manner of paying the debts of insolvent estates

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 sold and the avails thereof be divided and dis-

tributed to and among all the creditors in proportion to the sums to them respectively owing so far as the estate will extend saving that the debts due for the last sickness and necessary funeral charges of the deceased are to be first paid and debts and taxes arrear due to the county or Territory shall not be allowed to be brought in with the demands of other creditors

The foregoing is hereby declared to be a law of the Territory in TESTIMONY whereof we *Winthrop Sargent John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior* have caused the seal of the Territory to be

thereunto

[12]

thereunto affixed and signed the same with our names

(Signed)

"Winthrop Sargent"

"John Cleves Symmes"

"Joseph Gilman"

"Return Jonathan Meigs junior"

TERRITORY OF THE UNITED STATES }
NORTH WEST OF THE RIVER OHIO }



A LAW to provide for the improvement of the breed of horses adopted from the Kentucky Code and published at Cincinnati the first day of May one thousand seven hundred and ninety eight by Winthrop Sargent acting as Governor and John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior Judges

IF any stoned horse shall be found running at large out of the inclosed ground of the owner or keeper more than one year old it shall and may be lawful for any person to take up such stoned horse and give notice thereof to the owner or keeper and if such owner or keeper shall not take away and secure the same allowing him one day for every fifteen miles he may reside from such taker up the taker up shall car-

**Stoned horse
at large may
be taken up**

[13]

And gelded
if not taken
away

At the ex-
pense of
the owner

If a stray
to be

ry the same before the next justice of the peace within the county and if it appear to the said justice that the said stoned horse is more than one year old he shall issue his warrant to some person skilled in the business to geld such stoned horse and such person may demand and receive one dollar for his trouble to be paid by the taker up and such taker up shall take care of the horse so gelded for which he may demand and receive of the owner or keeper two dollars including the price paid for gelding and moreover receive eight cents per day from such owner or keeper for every day he shall keep such horse after he is gelded and when the owner or keeper of any stoned horse so found running at large is not known the taker up shall carry the same before a justice who shall cause the same to be appraised and dealt with as is by law required in taking up stray horses of the same age and moreover for two weeks cause a particular description of such appraisal to be set up at the court house door or place of holding courts and most public places in his neighbourhood for which he shall be entitled to the same reward as is allowed in case of taking up any other stray horse mare or colt and if no owner appear to prove his property within that time he may take the same before the next justice of the peace for his county who shall cause the same to be gelded as is heretofore directed and the person gelding such stoned horse shall be allowed the sum of one dollar to be paid as is heretofore required and the taker up two dollars for his trouble for curing and all reasonable charges and if the owner does not appear and prove his pro-

perty

[14]

the property of
the taker up
Time limited
for the owner
to recive the
valuation

perty in one year the property shall be vested in the taker up

Nevertheless the former owner may at any time within three years by proving his or her property recover the valuation money

This act shall commence and be in force from and after the first day of September next

The foregoing is hereby declared to be a law of the Territory in
TESTIMONY whereof we *Winthrop Sargent John Cleves Symmes*
Joseph Gilman and *Return Jonathan Meigs junior* have caused the

seal of the Territory to be thereunto affixed and signed the same with our names

(Signed)

"Winthrop Sargent"

"John Cleves Symmes"

"Joseph Gilman"

"Return Jonathan Meigs junior"

[15]

TERRITORY OF THE UNITED STATES }
NORTH WEST OF THE RIVER OHIO }



A LAW directing the mode of proceeding in civil cases adopted from the Massachusetts Code and published at Cincinnati the first day of May one thousand seven hundred and ninety eight by Winthrop Sargent acting as Governor and John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior Judges

WHEN any defendant shall be personally served with summons or taken on a capias and enters bail according to law return thereof being made into the court where the same is returnable and he shall not appear by himself or his attorney his default shall be recorded and the charge in the declaration shall be taken and deemed to be true and the court shall thereupon proceed to assess such damages as they shall find upon examination that the plaintiff shall have really sustained and thereupon the court shall enter up judgment Provided nevertheless that if the defendant shall come into court at any time before signing of judgment and shall pay down to the adverse party the costs he has been at thus far or so much thereof as the court shall judge reasonable then the court may admit the defendant to have the same day in court as if his default had never been recorded

In judgment by default court to assess damages

Indulgence to the defendant upon paying up costs

[16]

The foregoing is hereby declared to be a law of the Territory in *TESTIMONY* whereof we *Winthrop Sargent John Cleves Symmes*

Joseph Gilman and Return Jonathan Meigs junior have caused the seal of the Territory to be thereunto affixed and signed the same with our names

(Signed)

"Winthrop Sargent"

"John Cleves Symmes"

"Joseph Gilman"

"Return Jonathan Meigs junior"

TERRITORY OF THE UNITED STATES }
NORTH WEST OF THE RIVER OHIO }



A LAW in addition to a law entitled "a law ascertaining the fees of the several officers and persons therein named" published at Cincinnati the first day of may one thousand seven hundred and ninety eight by Winthrop Sargent acting as Governor and John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior Judges

Fees of the justices in Quarter Sessions

FOR every recognizance appeal or certiorari allowed twenty five cents
Trial of every cause one dollar

Every

[17]

Fees of the justices in quarter session

Every order respecting poor highway or other service for the county fifteen cents

For recommendation for a licence one dollar

For taxing bill of costs twenty cents

For granting writ of protection twenty cents

On surrender of principal in court by sureties fifteen cents Hearing petition and making order thereon twenty five cents

Allowing habeas corpus and writ of certiorari when presented from the Judges of the general court fifty cents

*Justices of the Peace and Common Pleas
out of Sessions*

For summons or capias for debt ten cents

For every subpoena ten cents and every name inserted after three cents

Entering every judgment for debt when trial twenty cents

Every judgment by confession of defendant ten cents

Every execution twenty cents

Certified copy of all proceedings on appeal or certiorari thirty three cents

Writing signing and sealing every attachment thirteen cents

Entering rule of reference in docket ten cents Copy thereof ten cents

Every recognizance of bail in civil causes thirteen cents

Issuing bail piece thirteen cents

Swearing witness six cents

Administering oath on deposition ten cents

Acknowledgment of a deed and power of at-

C

torney

**Justices of
the peace
and Common
Pleas out of
sessions**

[18]

torney by every justice of the peace twenty five cents

Order for removing a pauper fifty cents

Order for relieving pauper twenty five cents

Issuing scire facias against special bail twenty cents

Issuing scire facias to revive judgment after a year and a day twenty cents

Order to appraise damages in trespass twenty cents

Publishing banns of matrimony sixty seven cents

Justices of the Common Pleas in Court

For every issue joined fifty cents

For every trial one dollar

Allowing writ of error habeas corpus or certiorari when presented from the judges of the general court fifty cents

Granting reference twenty five cents

Approving report of referees thirty cents

On surrender of principal in court twenty cents

**Justices of the
Common Pleas
in court**

Continuing cause fifty cents

Granting writ of protection twenty cents

Hearing petition and making order thereon twenty five cents

Clerk of the Sessions

For discharging a recognizance ten cents

Each order on recommendation for a licence including recording twenty five cents

Reading petition and entering order of court thereon twenty cents

For examining every account in court six cents

**Clerk of the
Sessions**

For

[19]

For recording every order for highway ten cents

Recording every report of highway for every seventy two words six cents

On entering appeal allowing habeas corpus and writ of certiorari when presented from the judges of the general court twelve cents

On every trial twenty five cents

Continuing cause twenty cents

Entering nolo prosequi twelve cents

Prothonotary's

On entering report of referees fifteen cents

On confession of judgment default joinder or demurrer twenty five cents

Examining bill of cost in the detail twelve cents

Continuing each cause twenty cents

On surrender of principal in court by sureties fifteen cents

Entering rule of court on appointing referees fifteen cents

On every issue joined twenty five cents

On entering every principal motion ten cents

On every trial twenty five cents

For drawing special list of jury attending and striking and making copies of jury list for plaintiff and defendant sixty seven cents

Issuing commission to take deposition out of the Territory fifty cents

Prothonotary's

Clerk of the Orphan's Court

Entering every judgment order or rule of court twenty cents
 For reading and filing every petition and report thirteen cents
 Entering report twenty five cents

Certificate

[20]

Certificate with seal annexed to a copy for party's use thirty three cents

Every citation thirty three cents

Clerk of the
orphan's court

Entry of settlement of account of executor and administrators fifty cents

For every copy of said accounts not exceeding one hundred items with certificate and seal of office one dollar

Reading and filing petition to sell land swearing administrator to the truth of the statement made and entering the necessary order thereon sixty seven cents

Giving notice by order of court for sale of land for every advertisement not exceeding three twenty five cents

*Attorney's Fees in Common Pleas and
 Quarter Sessions*

Retaining fee one dollar

Pleading fee where issue or demurrer one dollar and fifty cents

Term fee fifty cents

Attorney's fees
in common
pleas and
quarter
sessions

The attorney general's deputy in the court of common pleas or quarter sessions one half of the fees by law allowed to the attorney general in the general court for similar services

Clerk of the General Court

Drawing recognizance of bail twenty five cents

Every continuance forty cents

Drawing all writs or process when requisite for every seventy two words eighteen cents

Entering issue joined fifty cents

Venire facias fifty cents

drawing cost bill when the cause dies before issue joined thirty seven and an half cents

Clerk of the
general court

Drawing

[21]

Drawing cost bill after trial fifty cents

Every trial fifty cents

Every rule of reference for trial to shew cause to take depositions to give security for costs for persons out of the Territory seventeen cents

Copy of the same if demanded twenty five cents

Calling plaintiff or defendant and entering default in his appearance twenty six cents

Commission to take deposition out of the Territory seventy five cents

For all services rendered the county by the justices of the peace in or out of sessions by the justices of the common pleas in or out of court by the prothonotary clerk of the general court clerk of the sessions deputy of the attorney general sheriff coroner or constable in cases where fees are not provided by law such compensation shall be allowed them respectively by the commissioners and assessors of the proper counties at their yearly meeting as to the commissioners and assessors shall appear reasonable. All and every the respective officers whose fees are herein and in the law entitled "a law ascertaining the fees of the several officers and persons therein named ascertained limited and appointed shall and are hereby required to make fair tables of their fees respectively according to this and the aforesaid act and to publish and set up the same in their respective offices within six months after the passing of this act in some conspicuous part for the inspection of all persons who have business in said offices on pain of forfeiting for each day the same shall be missing through the said officers neglect the sum

[22]

sum of ten dollars which penalty may be recovered in any court of record by action of debt one half to the informer and the other half to the Territory. If any officer whatsoever shall take greater fees than is herein before expressed and limited for any service to be done by him after the first day of October next in his office or if any officer shall charge or demand and take any of the fees herein or in the aforesaid law before ascertained when the business for which such fees is

**Services not
herein speci-
fied provided
for**

**Table of fees
to be set up**

**Penalty in
failure**

chargable shall not have been actually done and performed such officer for every such offence shall on conviction thereof before any court of record for the proper county forfeit and pay to the party injured fifty dollars. It shall and may be lawful for any person to refuse payment of fees to any officer who will not make out a bill of particulars signed by him if required and also a receipt or discharge signed by him of the fees paid

Penalty for taking other than legal fees

Bills of costs in detail required

The foregoing is hereby declared to be a law of the Territory in TESTIMONY whereof we *Winthrop Sargent John Cleves Symmes Joseph Gilman* and *Return Jonathan Meigs junior* have caused the seal of the Territory to be thereunto affixed and signed the same with our names

(Signed)

"Winthrop Sargent"

"John Cleves Symmes"

"Joseph Gilman"

"Return Jonathan Meigs junior"

[23]

TERRITORY OF THE UNITED STATES }
NORTH WEST OF THE RIVER OHIO }



A LAW for the purpose of including all unsettled and unimproved tracts or parcels of land and subjecting them to taxation adopted from an act of the state of Kentucky and published at Cincinnati the first day of May one thousand seven hundred and ninety eight by Winthrop Sargent acting as Governor and John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior Judges

Sec I **T**HERE shall be paid within this Territory the following taxes for every hundred acres of unimproved un-cleared prairie or wood land the following sums according to the following classes The land shall be divided into three classes according to their quality that is to say first second and third rate taking

into view the surface of the earth as well as the quality of the soil
 The first rate shall be taxed at thirty cents the second rate at twenty cents and the third rate at ten cents per hundred acres and in the same proportion for a greater or less quantity which taxes shall be assessed collected and paid annually into the county treasury in the same manner and by the same commissioners assessors collectors and constables who are appointed qualified and authorized for fiscal purposes by a law of the

Territory

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Territory for raising county rates and levies and the money when raised shall be appropriated for the same purposes by the same agents and under the same regulations as monies raised by the law for raising county rates and levies

Sec II And the following rule shall be observed in rating any tract of land where a greater part of a tract shall be superior in point of quality to second rate land it shall be denominated first rate where a greater part of a tract shall be inferior to first rate and superior to third rate in point of quality it shall be denominated second rate and where the greater part of a tract of land shall be inferior to second rate it shall be denominated third rate land and any tract or tracts of land that the owner has no knowledge of and can not give satisfactory information thereof shall be placed in the second class

Sec III When any person thinks any tract or tracts of land belonging to him or her are placed in an improper class or the land twice or improperly listed it shall be lawful for such person upon application to the court of general quarter sessions of the peace of the county in which the lands lie and making due proof of the same to have the matter rectified and the proper class of such tract or tracts ascertained or error corrected and where any land shall be classed in an inferior class to what it ought to be on due proof thereof to the court of quarter sessions of the county in which the land lies or in which it is listed the said court shall have the same rectified and placed in the proper class which alteration shall be certified by the clerk of the sessions to the commissioners and assessors and they

shall

Classes and rates of land

Rule of taxing

Remedy in case of error

[25]

shall be governed accordingly.

Sec IV The Territory shall have a perpetual lien on every tract of land and every part thereof for the amount of all taxes and ten per centum interest thereon from the time when they became due and no alienation of lands belonging to any person shall affect the claim or lien of this Territory until the taxes and interest thereof due from such person are paid

**Territorial
lien**

Sec V In case of delinquency in the payment of these taxes in the ordinary way and time pointed out by said law for raising county rates and levies it shall be lawful for the collector on his receiving a warrant for the purpose from the court of quarter sessions to sell at public auction so much of each tract of land charged with taxes as will raise a sum of money sufficient to pay the same if the said lands shall lie in his township and the collector shall in that case advertise the land by imaginary metes and bounds where it lies the time and place of sale for at least twenty days previous to the sale at the door of the house where the general quarter sessions are held and during one term of the court and also in three public places in his proper township the vendue shall be fair in open day and the land struck off to the highest bidder who shall be able to pay down the money After such sale it shall be the duty of such collector to deliver to the purchaser a certificate of the quantity of land sold describing therein the part that was charged with the tax and the corner or side by courses and distances from which the quantity sold is to be taken and the sheriff of the county upon receipt of such

**Lands to
be sold
for taxes**

D

certificate

[26]

certificate shall convey the same land to the purchaser by deed in due form of law executed which conveyance shall vest in the purchaser all the right title and interest of the proprietor for whose tax the land shall be sold and in consideration of law shall also vest the possession of the land in the purchaser

Sec VI and where any tract of land or part thereof is not sold upon being exposed as aforesaid and the tax on the same not paid it

Time for
sale con-
tinued

shall be the duty of the collector to advertise and expose the same to sale in like manner as to time and place as aforesaid at every court of quarter sessions until the land sell or the tax be otherwise paid and the taxes due on all lands exposed to sale as aforesaid and on all other lands on which the taxes are not paid within the time prescribed by law shall bear an interest of ten per centum per annum until the whole of the taxes due thereon are paid and no sheriff or collector or their deputies shall directly or indirectly purchase any land that shall be exposed to sale for the payment of taxes Provided however that this law shall not extend to unpatented lands which are or ever have been the property of the United States nor to any lands appropriated to certain public uses excepting the donation land granted by congress to individuals situate in the counties of Knox St. Clair and Randolph

Lands ex-
empted

The foregoing is hereby declared to be a law of the Territory to take effect on and from the first day of December next ensuing in *TESTIMONY* whereof we *Winthrop Sargent John Cleves Symmes Joseph Gilman* and *Return Jothan Meigs junior* have caused the seal of the

Territory

[27]

Territory to be thereunto affixed and signed the same with our names
(Signed)

"Winthrop Sargent"

"John Cleves Symmes"

"Joseph Gilman"

"Return Jonathan Meigs junior"

TERRITORY OF THE UNITED STATES }
 NORTH WEST OF THE RIVER OHIO }

A LAW rendering the acknowledgement of Deeds more easy adopted from the Connecticut code and published at Cincinnati the first day of May one thousand seven hundred and ninety eight by Winthrop Sargent acting as Governor and John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior Judges



ALL grants and deeds made of houses and lands may be acknowledged before one of the Judges of the Territory justice of the common pleas or justice of the peace any former law to the contrary notwithstanding **Deeds may be acknowledged before a justice of the peace**

The foregoing is hereby declared to be a law of the Territory in *TESTIMONY* whereof we *Winthrop Sargent John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior* have caused the seal of the Territory to be

thereunto

[28]

thereunto affixed and signed the same with our names

(Signed)

"Winthrop Sargent"

"John Cleves Symmes"

"Joseph Gilman"

"Return Jonathan Meigs junior"

TERRITORY OF THE UNITED STATES }
 NORTH WEST OF THE RIVER OHIO }



A LAW for establishing a land office adopted from the Kentucky code and published at Cincinnati the first day of May one thousand seven hundred and ninety eight by Winthrop Sargent acting as Governor and John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior Judges

Sec I **A** LAND-OFFICE shall be and the same is hereby constituted in each and every of the respective counties for the purposes hereafter mentioned **A** register of each of the said offices shall be appointed by the Governor who shall give bond with sufficient surety to the Governor of the Territory in the penalty of of one thousand dollars for the faithful discharge of his duty in his office of register and shall receive the fees hereafter mentioned and the said register shall furnish books and other necessary appendages to his office

Register

Bond

Sec

[29]

Sec II And be it further known that short or brief extracts of all records or copies thereof as the case may be of patents granted or deeds for lands or other papers or documents relating thereto which may be evidence of claim certificates of surveys of land which have been or may be hereafter made for which a consideration has been paid by the purchaser or acknowledged to have been received by the seller shall be briefly stated in writing under the hand of the owner or claimant of the land patent deed survey certificate or other document or writing touching land or under the signature of the register of the several land offices in the United States or a certified extract of any of the aforesaid writings or evidence of claim lien or fee to lands within the respective counties shall be returned to filed and entered in a proper book kept for the purpose in the said office in order that it may be known with certainty to whom lands in this Territory belong that accurate and just assessments thereof may be made by the several assessors and commissioners of the respective counties agreeably

Record claims

to the law of the Territory "for the purpose of including all unsettled and unimproved tracts or parcels of land" and the register shall receive seventeen cents for every seventy two words of such extract or other writing which shall be presented to him to enter in his book and file in his office which fee shall be paid by the person presenting the same **Fees thereon**

Sec III And it is hereby enjoined on and made the duty of every proprietor of lands within any or either of the counties of the Territory

at

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at or before the first day of December next by himself or his agent to cause all the lands which he claims or holds in the Territory to be fairly stated as to quality and quantity described and set forth by some one or other of the before mentioned documents copies certificates or extracts and the same to be lodged with the register of the land office of the county in which such lands may be under the penalty of having his lands doubly taxed for three years successively after such covin or fraud shall be detected **Land holders to report to the register**

Penalty in failure thereof

The foregoing is hereby declared to be a law of the Territory in *TESTIMONY* whereof we *Winthrop Sargent John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior* have caused the seal of the Territory to be thereunto affixed and signed the same with our names

(Signed)

"Winthrop Sargent"

"John Cleves Symmes"

"Joseph Gilman"

"Return Jonathan Meigs junior"

[31]

TERRITORY OF THE UNITED STATES }
 NORTH WEST OF THE RIVER OHIO }



AN ACT repealing certain laws and parts of laws made and published conformably to the act of the United States entitled "an act respecting the government of the Territories north west and south of the Ohio" at Cincinnati the first day of May one thousand seven hundred and ninety eight by Winthrop Sargent acting as Governor and John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior Judges

Certain acts re-
pealed

BE it enacted that the laws and parts of laws herein after particularly enumerated and expressed be and the same hereby are repealed to wit so much of the law entitled "a law ascertaining and regulating the fees of the several officers and persons therein named" as is contained in the twenty eighth section thereof

So much of the law entitled "a law for raising county rates and levies" as concerns the power and duties of justices as to wild animals killed

The foregoing is hereby declared to be a law of the Territory in *TESTIMONY* whereof we *Winthrop Sargent John Cleves Symmes Joseph Gilman and Return Jonathan Meigs junior* have caused the seal of the Territory to be there-

unto

[32]

unto affixed and signed the same with our names

(Signed)

"Winthrop Sargent"

"John Cleves Symmes"

"Joseph Gilman"

"Return Jonathan Meigs junior"

Collated with, and declared to be a true Copy of the Laws as set forth in the Title Page

Attest

WINTHROP SARGENT

Secretary

L A W S
OF THE
T E R R I T O R Y
OF THE
U N I T E D S T A T E S ,
N O R T H - W E S T O F T H E R I V E R O H I O ;

PASSED AT THE FIRST SESSION OF THE GENERAL ASSEMBLY, BEGUN AND HELD AT
CINCINNATI, ON MONDAY, THE SIXTEENTH DAY OF SEPTEMBER, A. D. ONE
THOUSAND, SEVEN HUNDRED AND NINETY-NINE :

ALSO,

CERTAIN LAWS ENACTED BY THE GOVERNOR AND JUDGES OF THE TERRITORY, FROM
THE COMMENCEMENT OF THE GOVERNMENT TO DECEMBER, ONE THOUSAND,
SEVEN HUNDRED AND NINETY TWO ;

WITH AN APPENDIX

CONTAINING RESOLUTIONS, THE ORDINANCE OF CONGRESS FOR THE GOVERNMENT OF
THE TERRITORY, THE CONSTITUTION OF THE UNITED STATES, AND THE LAW
RESPECTING FUGITIVES.

VOL I.

Published by Authority.

C I N C I N N A T I ,

FROM THE PRESS OF CARPENTER & FINDLAY,
PRINTERS TO THE TERRITORY,
MDCCC.

ACTS

PUBLISHED BY THE

GOVERNOR AND JUDGES

OF THE

TERRITORY

OF THE

UNITED STATES,

NORTH-WEST OF THE RIVER OHIO,

FROM THE COMMENCEMENT OF THE GOVERNMENT, TO DECEMBER,
ONE THOUSAND, SEVEN HUNDRED AND NINETY-TWO.

ACTS, &c.

CHAPTER I.

A LAW respecting Oaths of Office, published by his excellency Arthur St. Clair, esquire, governor of the Territory of the United States, north-west of the river Ohio, and by the honorable Samuel Holden Parsons, and James Mitchell Varnum, esquires, judges, at the city of Marietta, in the Territory aforesaid, upon the second day of September, in the thirteenth year of the independence of the said United States, and of our Lord one thousand, seven hundred and eighty-eight.

EVERY person appointed to any civil office in the territory, and commissioned by the governor, shall, previously to his entering upon the exercise of his office, take the following oath, viz. I, A B, being appointed to the office of _____ do solemnly swear, that I will well and truly execute the duties of my said office, according to the best of my skill and understanding, without fraud or partiality. So help me God.

Every person appointed to civil offices to take oath,

or

Any person appointed, as aforesaid, conscientiously scrupulous of taking an oath, shall make the following affirmation, previously to entering upon the duties of his office, viz. I, A B, being appointed to the office of _____ do solemnly, sincerely and truly declare and affirm, that I will well and truly execute the duties of my said office, according to the best of my skill and understanding, without fraud or partiality; and this I declare and affirm under the pains and penalties of perjury.

affirmation,

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And that all oaths of office, or declarations and affirmations prescribed as aforesaid, shall be taken before the governor, or such person or persons as shall by him be appointed and commissioned for that purpose, and certified upon the commission of the person taking the same. And in case of the absence of the governor, the said oath, or declaration and affirmation may be taken before, and certified by either of the judges of the territory.

before the governor.

AR. ST. CLAIR,
SAML. H. PARSONS,
JAMES M. VARNUM.

CHAPTER II.

A LAW respecting Crimes and Punishments, published by his excellency Arthur St. Clair, esquire, governor, and the honorable Samuel Holden Parsons, and James Mitchell Varnum, esquires, judges of the territory of the United States, north-west of the river Ohio, at the city of Marietta, the sixth day of September, in the thirteenth year of the independence of the United States, and of our Lord, one thousand, seven hundred and eighty-eight.

Treason.

What offences shall

IF any person belonging to, residing in, or protected by the laws of this territory, shall levy war against the United States, or against this territory, or shall knowingly and wilfully aid or assist any enemies at war against the United States, or this territory, by joining the armies or fleets of such enemies, or by enlisting, persuading or procuring others to join said fleets or armies, or by furnishing such enemies with arms, or ammunition, or provisions, or any other articles for their aid or comfort, or by carrying on a treasonable and treacherous correspondence with them, or

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be deemed treasonable.

shall form, or be any way concerned in forming any combination, plot or conspiracy for betraying the United States, or this territory, into the hands or power of any foreign enemy, or shall give or attempt to give or send any intelligence to any such enemy for said purpose, the person or persons so offending shall be deemed guilty of treason, and, upon conviction thereof, shall suffer the pains of death, and shall, moreover, forfeit all his, her or their estate, real and personal, to this territory.

Murder.

Murder.

If any person or persons shall, with malice aforethought, kill or slay another person, he, she, or they, so offending, shall be deemed guilty of murder, and, upon conviction thereof, shall suffer the pains of death.

Manslaughter.

Manslaughter.

If any person or persons shall wilfully kill or slay another person, without malice aforethought, he, she, or they, so offending, shall be

deemed guilty of manslaughter, and, upon conviction thereof, shall be punished as at the common law hath heretofore been used and accustomed. *Provided nevertheless*, That if any person in the just and necessary defence of his own life, or the life of any other person, shall kill or slay another person attempting to rob or murder in the field or highway, or to break into a dwelling house, if he cannot with safety to himself, otherwise take the felon or assailant, or bring him to justice, he shall be holden guiltless.

Burglary.

If any person or persons shall, in the night season, break open and enter any dwelling house, shop, store or vessel, in which any person or persons dwell or reside, with a view and intention of stealing and purloining therefrom, he, she or they, so offending, shall be deemed guilty of burglary, and,

**Burglary,
what crimes
deemed,**

how punished;

[8]

upon conviction thereof, shall be whipped, not exceeding thirty-nine stripes, and find sureties for good behaviour for a term not exceeding three years; and upon default of sureties, shall be committed to gaol for a term not exceeding three years, or until sentence be performed.

If the person or persons, so breaking and entering any dwelling-house, shop, store or vessel, as aforesaid, shall actually steal and purloin therefrom, he, she or they, so offending, upon conviction thereof, shall, moreover, be fined in treble the value of the articles stolen; one third of such fine to be to the territory, and the other two thirds to the party injured.

and fined.

If the person or persons so breaking and entering any dwelling-house, shop, store or vessel as aforesaid, shall commit, or attempt to commit any personal abuse, force or violence, or shall be so armed with any dangerous weapon or weapons as clearly to indicate a violent intention, he, she or they, so offending, upon conviction thereof, shall, moreover, forfeit all his, her or their estate, real and personal, to this territory, out of which, the party injured shall be recompensed as aforesaid, and the offender shall also be committed to any gaol in the territory for a term not exceeding forty years.

**Forfeiture
on persons
breaking
houses, &c.**

And if the death of any innocent person should ensue from the breaking and entering any dwelling house, shop, store or vessel, as

**What cases
deemed wilful
murder.**

aforesaid, in any of the instances aforesaid, the person or persons so breaking and entering shall be deemed guilty of wilful murder. And all persons aiding and assisting in breaking and entering any dwelling house, shop, store or vessel as aforesaid, or in any of the crimes consequent thereupon, as before pointed out, shall be deemed principals.

What crimes
deemed
rob-

Robbery.

If any person or persons shall unlawfully and forceably take from the person of another in the

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berry, and
how punished.

field or highway, any money, goods or chattels, he, she or they so offending, shall be deemed guilty of robbery, and upon conviction thereof, shall suffer as in the first instance of burglary.

Robbery,
how punished.

Whoever shall commit such robbery with personal abuse or violence, or be armed, at the time with any dangerous weapon or weapons, so as clearly to indiciate an intention of violence, he, she or they, so offending, upon conviction thereof, shall moreover suffer as in the second instance of burglary. And in case any person or persons robbing or attempting to rob, as aforesaid, shall kill or slay any person or persons defending him, her or themselves, or others, or his, her or their property against such robber or robbers, or person or persons, attempting to rob, or in pursuing and endeavoring to apprehend and secure such person or persons so robbing or attempting to rob, he, she or they, so offending, shall be deemed guilty of wilful murder. And all aiders and abettors in any robbery as aforesaid, and in any of the crimes consequent thereupon, as before pointed out, shall be deemed principals.

AR. ST. CLAIR,
SAML. H. PARSONS,
JAMES M. VARNUM.

Riots and unlawful Assemblies.

Fines on
unlawful
assemblies
&c.

If three or more persons shall assemble together with intention to do any unlawful act, with force and violence, against the person or property of another, or to do any other unlawful act, against the peace and to the terror of the people; or, being lawfully assembled, shall agree with each other to do any unlawful act as aforesaid, and shall make any movement or preparation therefor, the persons so

offending, and, upon conviction thereof, shall pay, as a fine, each, to this territory, the sum of sixteen dollars, and find surety for their good

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behaviour respectively for the space of six months, and stand committed till sentence be performed.

Whenever three or more persons shall be assembled as aforesaid, and proceeding to commit any of the offences aforesaid, it shall be the duty of all judges, justices of the peace and sheriffs, and all ministerial officers, immediately upon actual view, or as soon as may be upon information, to make proclamation in the hearing of such offenders, if silence can be obtained, commanding them in the name of the United States, to disperse, and depart to their several homes, or lawful employments; and if, upon such proclamation, or, when silence cannot be obtained, such persons so assembled shall not disperse, and depart as aforesaid, it shall then be the duty of such judges, justices of the peace and sheriffs, and other ministerial officers, respectively, to call upon all persons near, and of abilities, and throughout the county, if necessary, to be aiding and assisting in dispersing and taking into custody all persons assembled as aforesaid. And all military officers, and others called upon as aforesaid, are hereby ordered and directed to render instant and full obedience in this behalf, upon the penalty of ten dollars each, for every neglect or refusal herein, and commitment in case of non-payment. If any of the persons, so unlawfully assembled, shall be killed, maimed or otherwise injured, in consequence of resisting the judges, or others in dispersing and apprehending, or, in attempting to disperse and apprehend them, the said judges, justices of the peace, and sheriffs, and other ministerial officers, and others acting by their authority, or the authority of any of them, shall be holden guiltless.

Judges duty herein.

Judges duty on unlawful assemblies, &c.

If any person or persons shall forcibly obstruct any of the authority aforesaid, or, if any three or more persons, shall continue together after proclamation as aforesaid made, or attempted to be made, and prevented by such rioters; or, in case of

Fine on obstructing authority, &c.

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no proclamation, any three or more persons, being assembled as aforesaid, shall commit any unlawful act as aforesaid, every offender, upon conviction thereof, shall be fined in a sum, not exceeding three hundred dollars, and be whipped, not exceeding thirty-nine stripes, and find surety for good behaviour for a time not more than one year, at the discretion of the court before whom the conviction may be had. And upon a second conviction, each and every offender shall be whipped and fined as aforesaid, and find surety for good behaviour and the peace for a time not exceeding ten years, and may be committed to any gaol in the territory till sentence be fully performed.

Perjury.

If any person, lawfully called upon, to give evidence before any court of record, or other authority in this territory, qualified to administer oaths and solemn declarations and affirmations, shall wilfully depose, affirm, or declare, any matter to be fact, knowing the same to be false, or shall in like manner deny any fact, knowing the same to be true, or shall refuse to depose, to affirm, or declare such fact, knowing the same to be true, the person, so offending, shall be deemed guilty of perjury, and upon conviction thereof, shall be fined in a sum not exceeding sixty dollars, or be whipped not exceeding thirty-nine stripes and shall moreover be set in the pillory for a space of time not exceeding two hours, and be ever after incapable of giving testimony, being a juror, and of sustaining any office, civil or military in this territory.

And if any person or persons shall corruptly procure any other person to commit the crime of perjury, as before defined, he, she, or they, so offending, shall, upon conviction thereof, suffer the same punishments and disabilities as in the case of actual perjury.

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Larceny.

If any person or persons shall steal or purloin from another person or persons, any money, goods, wares, or merchandize, or any other personal property or thing whatever, he, she, or they so offending, shall be deemed guilty of larceny, and upon conviction thereof, shall, for the first offence, restore to the owner the thing stolen, and pay

Persons committing unlawful acts, how punished.

Perjury, what cases deemed, and how punished.

Larceny, what cases deemed;

to him the value thereof; or two fold the value thereof, if the thing stolen be not restored, and shall be fined in a sum not exceeding two fold the value of the thing or goods stolen, or shall be whipped not exceeding thirty-one stripes, at the discretion of the court. Upon a second conviction, restitution and payment shall be made to the owner as aforesaid; a fine shall be set and paid to the territory, not exceeding four fold the value as aforesaid, and the offender shall be whipped not exceeding thirty-nine stripes; and in like manner upon every succeeding conviction. And in case such convict shall not have property, real or personal, wherewith to discharge and satisfy the sentence of the court, it shall be lawful for the sheriff, by direction of the court, to bind such person to labor for a term not exceeding seven years, to any suitable person who will discharge such sentence.

how punished.

And if any person or persons shall receive any goods, or other thing, as aforesaid, knowing the same to be stolen, he, she, or they, so offending, shall be deemed principally guilty, and upon conviction thereof shall be punished accordingly.

And if any person or persons shall agree or compound, or take satisfaction for any stealing, or goods stolen, such person or persons, upon conviction thereof, shall forfeit twice the value of the sums or thing agreed for or taken; but no person shall be debared from taking his goods again, provided he prosecute the thief. *Provided also, that*

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nothing herein shall be construed so as to oblige a parent to prosecute a child, being an infant, or in a state of minority.

Forgery.

Whoever shall forge, deface, corrupt, or embezzle any charters, gifts, grants, bonds, bills, conveyances, wills, testaments, or written contracts of any nature or kind, or shall deface or falsify any enrollment, registry or record, or matter or instrument recorded, or shall counterfeit the seal or hand writing of another, with intent to defraud, every person, so offending, shall, upon conviction thereof, be fined in double the sum he shall thereby have defrauded, or attempted to defraud another, one half thereof to the party injured or intended to be injured, and shall moreover forever after be rendered

Forgery, what cases deemed;

how punished;

incapable of giving testimony, being a juror, or sustaining any office of trust, and be set in the pillory, not exceeding the space of three hours. And all persons wilfully aiding and assisting in the commission of these crimes, or who shall cause or procure the same, or any of them to be perpetrated shall be deemed principals.

Usurpation.

No person shall take upon himself, or exercise, or officiate in any office or place of authority in this territory, without being lawfully authorized thereunto; and if any person shall presume so to do, he shall, upon conviction thereof, be fined in a sum not exceeding one hundred dollars.

Assault and Battery.

If any person shall unlawfully assault, or threaten another in a menacing manner, or shall strike, or wound another, he shall upon conviction thereof, be fined in a sum not exceeding one hundred dollars; and the court before whom such conviction shall be had, may at their discretion cause the of-

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fender to enter into recognizance with surety for the peace, and good behavior, for a time not exceeding one year.

Fraudulent Deeds, &c.

All bonds, bills, deeds of sale, gifts, grants or other conveyances or obligations whatever, made with intent to deceive and defraud others, or to defeat creditors of their just debts or demands, shall be null and void; and the person or persons so offending, shall, upon conviction thereof, be fined in a sum not exceeding three hundred dollars, and pay double damages to the party or parties injured.

Disobedience of Children and Servants.

If any children or servants shall, contrary to the obedience due to their parents or masters, resist or refuse to obey their lawful commands, upon complaint thereof to a justice of the peace, it shall be lawful for such justice to send him or them, so offending, to the goal or house of correction, there to remain until he or they shall humble themselves to the said parents, or masters, satisfaction. And if any

Usurpation,
what cases
deemed;
how fined.

Assault and
battery,
what cases
deemed.

how fined.

Fraudulent
deeds, &c.
persons
making them,
how fined.

Power of
justices in
cases of dis-
obedient
children,
&c.

child or servant shall, contrary to his bounden duty, presume to assault or strike his parent or master, upon complaint and conviction thereof, before two or more justices of the peace, the offender shall be whipped not exceeding ten stripes.

AR. ST. CLAIR,
SAML. H. PARSONS,
JAMES M. VARNUM.

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CHAPTER III.

An ACT supplementary to a law, entitled, "A law respecting Crimes and Punishments, published at Marietta the sixth day of September, in the year of our Lord one thousand, seven hundred and eighty-eight." Passed at Cincinnati, in the county of Hamilton, the twenty-second day of June, in the year of our Lord one thousand, seven hundred and ninety-one, by his excellency Arthur St. Clair, esquire, major-general in the service of the United States, and governor and commander in chief of their territory, north-west of the river Ohio, and the honorable John Cleves Symmes and George Turner, esquires, judges in and over the same.

BE it enacted, That if any person or persons shall knowingly and designedly, by any false pretence or pretences, obtain from any other person or persons any monies, goods or merchandize, or other effects whatsoever, with intent to cheat or defraud such person or persons of the same, he, she or they, so offending, shall, on conviction thereof, by verdict or confession, on indictment suffer such punishment as in cases of larceny is provided to be inflicted by the aforesaid law, passed at Marietta; any thing in this or any other law to the contrary notwithstanding. This act to commence and be in force on, from and after the first day of January next ensuing its date.

Persons
frandulently
obtaining
goods, &c.

how punished.

AR. ST. CLAIR,
JOHN CLEVES SYMMES,
G. TURNER.

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CHAPTER IV.

A LAW *regulating Marriages, adopted and published by his excellency Arthur St. Clair, esquire, governor, the honorable Samuel Holden Parsons, and James Michell Varnum, judges of the territory of the United States, north-west of the river Ohio.*

At what age
persons
may
marry;
by whom;

MALE persons of the age of seventeen years, and female persons of the age of fourteen years, and not prohibited by the laws of God, may be joined in marriage.

It shall be lawful for any of the judges of the general court, or of the county court of common pleas in their respective counties, ministers of any religious society or congregation within the districts in which they are settled, and the society of christians called quakers in their public meetings, to join together, as husband and wife, all persons of the above description, who may apply to them agreeably to the rules and usage of the respective societies to which the parties belong.

in what
manner
intentions
of the parties
shall be
published;

Previously to persons being joined in marriage, as aforesaid, the intention of the parties shall be made known by publishing the same for the space of fifteen days at the least, either by the same being publicly and openly declared three several Sundays, holy days, or other days of public worship, in the meeting in the towns where the parties respectively belong, or by publication in writing under the hand and seal of one of the judges before mentioned, or of a justice of the peace within the county, to be affixed in some public place in the town wherein the parties respectively dwell, or a license shall be obtained of the governor under his hand and seal, authorising the marriage of the parties without publication, as is in this law before required.

certain
persons
to ob-

Male persons under the age of twenty-one years, and female persons under the age of eighteen shall

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tain previous
consent of
parents, &c.

not be joined in marriage without first obtaining the consent of their fathers respectively, or (in case of the death or incapacity of their

fathers) of their mothers, or guardians, provided such parents or guardians live within the territory.

Where persons not resident within the territory apply to be joined in marriage, the consent of fathers, mothers, or guardians shall be obtained in like manner as if they were citizens of the territory.

A certificate of every marriage, solemnized as aforesaid, signed by the judge or minister celebrating the same, or in case of quakers, by the clerk of the meeting, shall be by such judge, minister, or clerk, respectively, transmitted to the register of the county wherein the marriage has been solemnized, within three months thereafter, to be entered on record by such register, an exemplification of which shall be evidence of such marriage.

Certificates of marriage by whom given, &c.

exemplification to be deemed evidence.

If any judge, minister, or others by this law authorized to join persons in marriage, shall perform the celebration thereof contrary to the true intent and meaning of the same, the person or persons so offending, shall upon conviction thereof forfeit the sum of one hundred dollars to and for the use of the territory.

Penalty on marrying persons contrary to this law;

And if and judge, minister, or clerk as aforesaid, shall neglect to transmit a certificate of such marriage to the register as aforesaid, he shall upon conviction thereof forfeit twenty dollars to and for the use of the territory.

on neglecting to transmit marriage certificates.

AR. ST. CLAIR,
SAML. H. PARSONS,
JAMES M. VARNUM.

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CHAPTER V.

An ACT supplementary to a law, entitled, "A law regulating Marriages;" passed at Cincinnati, in the county of Hamilton, and territory of the United States, north-west of the river Ohio, the first day of August, in the year of our Lord one thousand, seven hundred and ninety-two, by Winthrop Sargent, secretary, now vested with all the powers of the governor, and John Cleves Symmes and Rufus Putnam, judges.

Justices
empowered
to solemnize
marriages.

BE it enacted by the authority aforesaid, That from and after passing this act, each and every justice of the peace shall, and he is hereby authorized and empowered to solemnize marriages within his own county, on the bans being duly published and certified agreeably to the aforesaid law, or by special license from the governor.

(Signed.)

WINTHROP SARGENT,
JOHN CLEVES SYMMES,
RUFUS PUTNAM.

CHAPTER VI.

An ACT for the punishment of persons tearing or defacing publications set up by authority; passed at Cincinnati, in the county of Hamilton, the twenty-second day of June, in the year of our Lord one thousand, seven hundred and ninety-one, by his excellency Arthur St. Clair, esquire, major-general in the service of the United States, and governor and commander in chief of their territory north-west of the river Ohio, and the honorable John Cleves Symmes, and George Turner, esquires, judges in and over the same.

Persons con-
victed of
defacing,

SEC. I. **B**E it enacted, That if, from and after the publication of this act in the several counties respectively within this territory,

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&c. any
public
act posted
up;

any person or persons shall wilfully and maliciously deface, obliterate, tear down, or destroy, in part or in whole, any copy or transcript of, or extract from, any act or law passed by the legislature of this territory, or by the legislative authority of the United States, or proclamation of the president of the United States, or of the governor and commander in chief of this territory, the same being officially fixed up in some conspicuous place by public authority for general information; every person so offending, shall, on conviction before a magistrate, forfeit and pay to the use of the territory, for every such offence, a sum not exceeding three dollars, besides costs, or be set in the stocks at the discretion of such magistrate, for a space not exceeding three hours; or, in case the offender shall be unable, or refuse to pay such

how punished.

fine (he being fined) then he shall be set in the stocks, for a space not exceeding three hours, and be afterwards discharged on paying costs only.

SEC. 2. *And be it further enacted*, That if, as aforesaid, any person shall wilfully and maliciously deface, obliterate, tear down, or destroy, in part or in whole, any publication of the bans of matrimony, or advertisement respecting estrays, or any other notification set up in pursuance of any act or law, now, or which hereafter may be in force within this territory, such offender shall, for every such offence, of which he may be convicted, as aforesaid, be set in the stocks for three hours, and pay costs, or stand committed to prison till the same are paid: any thing in this, or any other act or law to the contrary notwithstanding.

Persons tearing down publications of bans of matrimony,

how punished.

AR. ST. CLAIR,
JOHN CLEVES SYMMES,
G. TURNER.

ACTS,
PASSED AT THE
FIRST SESSION
OF THE
GENERAL ASSEMBLY
OF THE
TERRITORY
OF THE
UNITED STATES,
NORTH-WEST OF THE RIVER OHIO;

BEGUN AND HELD AT CINCINNATI, ON MONDAY, THE
SIXTEENTH DAY OF SEPTEMBER, ONE THOUSAND SE-
VEN HUNDRED AND NINETY-NINE.

ACTS, &c.

CHAPTER VII.

An ACT, to confirm and give force to certain laws, enacted by the governor and judges of the territory.

WHEREAS it hath been represented to the general assembly, by **Preamble.**
his excellency the governor of the territory, that, on several occasions, laws have been enacted by the governor and judges, of their own authority, and that those laws are of very doubtful obligation, and that they have been so spoken of from the bench; therefore, to confirm and enforce those laws,

SEC. I. *BE it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same,* That the laws and acts, and parts of laws and acts herein after enumerated (excepting such parts thereof as have been repealed or altered by subsequent existing laws) be, and the same are hereby declared to be in force within the territory, as fully and completely as though each and every of them (omitting such parts thereof as have been repealed or altered by subsequent existing laws) were herein recited at length and re-enacted, to wit:

Laws enacted by the governor & judges, reenacted and confirmed.

A law, entitled, "A law for regulating and establishing the militia in the territory of the United States, north-west of the river Ohio," published at the city of Marietta, upon the twenty-fifth day of July, in the thirteenth year of the independence **Militia law.**

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of the United States, and of our Lord one thousand, seven hundred and eighty-eight, excepting so much thereof as requires the militia to assemble with arms, on Sundays, at the places appointed for public worship.

Also, a law entitled "A law for establishing courts of general quarter sessions of the peace, (and therein of the powers of single justices) and for establishing county courts of common pleas, (and therein of the power of single judges to hear and determine upon small debts and contracts)" and also, "A law for establishing the office of sheriff, and for the appointment of sheriffs," published at the city of Marietta, **The law establishing courts of quarter sessions and common pleas.**
The laws es-

Establishing the office of sheriff.

in the county of Washington, upon the twenty-third day of August, in the thirteenth year of the independence of the United States, and in the year of our Lord one thousand, seven hundred and eighty-eight.

Law establishing a court of probate.

Also, a law entitled, "A law establishing a court of probate," published in the territory of the United States, north-west of the river Ohio, at the city of Marietta, the thirteenth day of August, A. D. one thousand, seven hundred and eighty-eight, excepting so much thereof as respects the appointment and duties of the clerk.

Law respecting oaths of office.

Also, a law entitled, "A law respecting oaths of office," published at the city of Marietta, on the second day of September, in the thirteenth year of the independence of the United States and of our Lord one thousand, seven hundred and eighty-eight.

Law respecting crimes & punishments.

Also, a law entitled, "A law respecting crimes and punishments," published at the city of Marietta, the sixth day of September, in the thirteenth year of the independence of the United States, and of our Lord one thousand, seven hundred and eighty-eight.

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Law regulating marriages. Law in addition to the law establishing and regulating the militia.

Also, a law entitled, "A law regulating marriages."

Also, a law entitled, "A law in addition to a law, entitled, a law for regulating and establishing the militia in the territory of the United States, north-west of the river Ohio," published in the city of Marietta, November the twenty-third, in the year of our Lord, one thousand, seven hundred and eighty-eight.

Law for the division of counties into townships.

Also, an act entitled, "An act to authorize and require the courts of general quarter sessions of the peace, to divide the counties into townships, and to alter the boundaries of the same when necessary; and also to appoint constables, overseers of the poor and clerks of the townships, and for other purposes therein mentioned," passed at Cincinnati, in the county of Hamilton, the sixth day of November, in the year of our Lord one thousand, seven hundred and ninety, excepting so much thereof as may relate to the appointment of clerks of townships, and their duty with respect to estrays.

Law supplementary to the law respecting crimes and punishments.

Also, an act entitled, "An act supplementary to a law, entitled, a law respecting crimes and punishments," published at Marietta, the sixth day of September, in the year of our Lord, one thousand, seven hundred and eighty-eight, passed at Cincinnati, in the county of

Hamilton, the twenty-second day of June, in the year of our Lord one thousand, seven hundred and ninety-one.

Also, an act entitled, "An act for rendering authentic, as evidence in the courts of this territory, the public acts, records and judicial proceedings of courts in the United States," passed at Cincinnati, in the county of Hamilton, the twenty-second day of June, in the year of our Lord one thousand, seven hundred and ninety-one.

Law rendering authentic as evidence, the judicial proceedings of the courts in the United States.

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Also, an act entitled, "An act for the punishment of persons tearing or defacing publications, set up by authority," passed at Cincinnati, in the county of Hamilton, the twenty-second day of June, in the year of our Lord one thousand, seven hundred and ninety-one.

Law for the punishment of persons tearing or defacing publications set up by authority.

Also, an act entitled, "An act to alter and amend the militia law," passed at Cincinnati, in the county of Hamilton, the second day of July, in the year of our Lord one thousand, seven hundred and ninety-one, excepting so much thereof as requires persons assembling at any place for public worship to arm themselves.

Law to alter and amend the Militia law.

Also, an act entitled, "An act for opening and regulating highways," passed at Cincinnati, in the county of Hamilton, the first day of August, in the year of our Lord one thousand, seven hundred and ninety-two, excepting so much thereof as relates to bridges.

Law for opening and regulating highways.

Also, an act entitled, "An act directing the building and establishing of a court-house, county jail, pillory, whipping post and stocks in every county," passed at Cincinnati, in the county of Hamilton, the first day of August, in the year of our Lord one thousand, seven hundred and ninety-two.

Law directing the building of court-houses, county jails, &c.

Also, an act entitled, "An act for the better regulation of prisons," passed at Cincinnati, in the county of Hamilton, the first day of August, in the year of our Lord one thousand, seven hundred and ninety-two.

Law for the better regulation of prisons.

Also, an act entitled, "An act supplementary to a law, entitled, a law regulating marriages," passed at Cincinnati, in the county of Hamilton and territory of the United States, north-west of the river

Law supplementary to the law regulating marriages.

Ohio, on the first day of August, in the year of our Lord, one thousand, seven hundred and ninety-two.

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To be in force
thro-out the
territory.

Sec. 2. *And be it further enacted*, That the above recited laws and acts, excepting such parts thereof as have been altered or repealed by existing laws, shall continue in full force throughout the territory, until they shall be altered or repealed by the legislature thereof.

All proceed-
ings done or
suffered under
the authority
of the above
recited laws
declared valid.

Sec. 3. *And be it further enacted*, That every judicial act, and all and every other act and proceeding whatever, heretofore had and done under, and by virtue of such aforesaid laws, or any of them, is and are hereby declared to be valid to every intent, as though the same laws, and every of them, had been adopted conformably to the ordinance of congress for the government of this territory.

EDWARD TIFFIN, *Speaker*

Of the House of Representatives.

H. VANDER BURGH, *President*

Pro tempore of the Council.

APPROVED—October the 28th, 1799.

AR. ST. CLAIR.

CHAPTER VIII.

An ACT regulating the admission and practice of attornies and counsellors at law.

SEC. 1. **B***E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same*, That from and after the first day of January next, no person shall be permitted to practice as an attorney at law, or to commence, conduct or defend any action, suit or plaint, in which he is not a party concerned, in any court of re-

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The governor
to license
attornies,
&c.

cord within this territory, either by using or subscribing his own name, or the name of any other person, without having previously obtained a license for that purpose, from the governor of the territory for the

time being, which license shall constitute the person receiving the same an attorney at law, and shall authorize him to appear in all the courts of record within the territory, and there to practice as an attorney at law, according to the laws and customs thereof, for and during his good behaviour in the said practice, and to demand take and receive all such fees as are or hereafter may be established for any service which he shall or may do as an attorney at law in the said territory; and shall require all judges, justices and others concerned, to respect him accordingly.

License to extend to all courts within the territory.

SEC. 2. *And be it further enacted*, That no person shall be entitled to receive a license, as aforesaid, until he hath obtained a certificate, signed by two or more of the judges of the general court, setting forth that he hath been regularly examined, according to the provision herein after contained, and that he is duly qualified to discharge the duties of an attorney at law; and no person shall be admitted to such examination, without having obtained a rule of the general court for that purpose, nor shall such rule be granted, unless the applicant produce to the court, in support of a motion for the same, a certificate from a practising attorney, residing within the territory, setting forth that such applicant is of a good moral character, and that he hath regularly and attentively studied law, under his direction, within the territory, for the space of four years, and also, that he believes him to be a person of sufficient abilities and legal knowledge to discharge the duties of an attorney at law. *Provided*, That if the attorney under whose direction the applicant hath studied law, during the whole or any part of the aforesaid term,

To be granted on the certificate of the judges of the general court.

When a rule of court for an examination shall be granted.

Certificates of a practising attorney necessary.

Provision in the case of death or other disability of

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shall die, or remove from the territory, or be appointed to any office within the same, which may exclude such attorney from practising as an attorney within the territory, without making the certificate, above required, the judges of the general court may, and they are hereby directed to receive such other vouchers, instead of the said certificate, as to them may appear satisfactory.

the attorney to grant a certificate.

SEC. 3. *And be it further enacted*, That it shall be the duty of the judges of the general court, to grant a rule for the examination of any person applying for the same, upon his producing the certificate above

How an examination shall be had & conducted.

described, which examination shall be had by any two or more of the said judges, or in their presence by any person or persons by them appointed for that purpose, notice having been previously given, in open court, of the time and place, when and where such examination shall be had, at least three days before such examination is to take place; and after such examination hath been made, the said judges, or any two of them, shall, if required, without unnecessary delay, grant their certificate to the person so examined, stating truly, whether they believe him to be duly qualified to discharge the duties of an attorney at law or not.

Licensed attorneys

SEC. 4. *And be it further enacted*, That every person who hath obtained, from the governor of the territory for the time being, in manner aforesaid, a license to practice as an attorney at law, shall, by virtue thereof, be admitted to practice as an attorney, and to commence, prosecute, conduct or defend any action, suit, plea or plaint in any and every court of record that heretofore hath been, or that hereafter may be established within the territory, and shall be entitled to ask for and receive, or prosecute for and recover, all such fees as now are or hereafter may be allowed, by law, for services actually performed in his office, as attorney at law.

entitled to legal fees.

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The clerk of the general court to keep a roll of all licensed attorneys.

SEC. 5. *And be it further enacted*, That it shall be the duty of the clerk of the general court to make, and keep a roll or record, on parchment, stating at the head or commencement thereof, that the persons whose names are thereon written, have been regularly examined, licensed and admitted to practice as attorneys at law within the territory, and that they have duly taken the oath of allegiance to the United States, and also the oath of office, as prescribed by law. And it shall be the duty of the clerk of the general court, in the presence, and under the direction of the judges thereof, to subscribe the name of every person, heretofore admitted to practice as an attorney at law, on the said roll, who shall not, in proper person, have subscribed the same, on or before the last day of the second term of the said general court, after the passing of this law. And no person whose name is not subscribed to, or written on the said roll, with the day and year when the same was subscribed thereto, or written thereon, shall be suffered or

Attorneys heretofore admitted to be entered,

or be debarred from practicing.

permitted to practice as an attorney at law within the territory, after the close of the second term of the said general court, under the penalties hereinafter mentioned, any thing in this law contained to the contrary notwithstanding. And the judges of the general court, in open court, shall have power, at their discretion, to strike the name of any attorney from the roll for mal-conduct in his office. *Provided always,* That every attorney before his name is struck off the roll, shall receive a written notice from the clerk of the general court, stating distinctly the grounds of complaint or the charges exhibited against him; and he shall, after such notice, be heard in his defence, and shall be allowed reasonable time to collect and prepare testimony for his justification. And every attorney whose name shall be, at any time, struck off the roll, by order of the court, in manner aforesaid, shall be considered as tho' his name had never been writ-

Judges in open court may strike an attorney's name from said roll.

Not afterwards to practice 'till restored.

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ten thereon, until such time as the said judges, in open court, shall authorize him again to sign or subscribe the same.

SEC. 6. *And be it further enacted,* That the judges of the general court, and the judges of the several courts of common pleas within the territory, shall have power to punish, in a summary way, according to the rules of law and the usages of courts, any and every attorney or counsellor at law, who shall be guilty of any contempt in the execution of his office. And every attorney or counsellor at law, receiving money for the use of his client, and refusing to pay the same when demanded, may be proceeded against, in a summary way, on motion. And all attornies and counsellors at law, judges, prothonotaries, clerks and sheriffs, and all other officers of the several courts within the territory, shall be liable to be arrested and held to bail, and shall be subject to the same legal process, and may, in all respects, be prosecuted and proceeded against, in the same courts and in the same manner as other persons are; any law, usage, custom or privilege to the contrary notwithstanding.

To be punished for contempt of court.

How proceeded against for withholding money from their clients.

Subject to arrest.

SEC. 7. *And be it further enacted,* That no person shall be permitted to practice as an attorney at law, by instituting, conducting or defending any action, suit, plea or plaint, in any court within the territory, who is not a citizen thereof, or who holds a commission as a

What persons prohibited to practice as attornies, &c.

judge of the general court; nor shall any person who holds a commission as a judge of any court of common pleas, or as a justice of the peace, clerk of the general court or any circuit court, prothonotary, coroner or sheriff, or who acts as a deputy sheriff, jailor or constable within the territory, be permitted to practice as an attorney or counsellor at law in the county in which he is commissioned or appointed. And no person shall be permitted or suffered to enter his name on the roll or record, to be kept as aforesaid

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Attornies to take the oath of allegiance and of office;

the same to certified on the commission.

Proviso, respecting such attornies as live in the adjacent states, heretofore admitted to practice in the territory.

No attorney to make motions, take rules, &c. in the general court till admitted to a counsellor's degree.

by the clerk of the general court, or to do any official act appertaining to the office of an attorney at law, until he hath taken an oath to support the constitution of the United States, and also the oath of office herein after prescribed, before the governor of the territory, or such other person as he may authorize to administer the same; and the person administering such oath, shall certify the same on the commission to be issued as aforesaid; which certificate, shall be a sufficient voucher to the clerk of the general court, to enter or insert, or to permit to be entered or inserted, on the roll of attornies in open court, the name of the person of whom such certificate is made. *Provided*, that all attornies at law, residing in any of the adjacent states, who have heretofore been admitted to practice within the territory, shall be permitted to continue their practice, as attornies at law therein, for the term of one year, from the first day of January next, and so long thereafter, as may be necessary to close the business which they may have undertaken, before the expiration of the said term of one year; any thing in this law contained to the contrary notwithstanding.

SEC. 8. *And be it further enacted*, That no attorney at law, or other person residing within the territory, shall be suffered to make motions, take rules, or plead in the general court, until he hath undergone an examination on the theory of law, and shall have been admitted to a counsellor's degree, which examination shall be moved for, granted and conducted, in the same manner as is herein before prescribed for attornies at law; nor shall such examination be granted, until the expiration of two years from the day on which the applicant subscribed the roll of attornies, in manner as above provided; and if, after such examination, the judges, or a majority of them, are of

opinion that the applicant is sufficiently qualified to perform the duties of a counsellor at law,

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and that he is in all other respects worthy of being raised to that degree, they shall, forthwith, commission him accordingly.

SEC. 9. *And be it further enacted*, That it shall be the duty of the clerk of the general court, to institute and keep a roll or record on parchment, stating at the head or commencement thereof, that the persons whose names are thereunto subscribed, have been regularly examined and admitted to the degree of counsellors at law, and that they have taken the oath of office, as herein after prescribed. And it shall be the duty of the clerk of the general court, in the presence, and under the direction of the judges thereof, to subscribe to the said roll the name of every person heretofore admitted to the degree of counsellor at law, according to the rules of the general court, who shall not, in proper person, have subscribed the same, on or before the last day of the second term of the general court, after the passing of this act. And no person whose name is not subscribed to, or written on the said roll or record, with the day and year when the same was written on, or subscribed thereto, shall be permitted, after the close of the said second term of the general court, to appear and act as a counsellor at law, in the general court. And the judges of the general court shall have power, in open court, to strike the name of any counsellor at law from the roll or record aforesaid, in the same manner, and under the same restrictions, as is herein above prescribed, in the case of attornies at law. And every counsellor whose name shall be struck off the roll, in manner aforesaid, shall be considered as though his name had never been written thereon, until such time as the said judges, in open court, permit him again to subscribe the same.

SEC. 10. *And be it further enacted*, That the

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following oath of office shall be administered to every attorney and counsellor at law, before they subscribe the respective rolls, to wit. "I swear (or affirm) that I will, in all things, faithfully execute the

Clerk to keep a roll of parchment, where on to enter the names of all counsellors at law, &c.

Time allowed for entering on said roll the names of counsellors at law, &c.

Judges, in open court, may order a counsellor's name struck off the roll.

Oath of an attorney or counsellor at law.

duties of an attorney at law (or counsellor, as the case may be) according to the best of my understanding and abilities."

SEC. 11. *And be it further enacted*, That any person producing a license, or other satisfactory voucher, proving that he hath been regularly admitted an attorney at law, in any court of record within the United States, and that he is of a good moral character, may be admitted to an examination for the degree of an attorney at law, at any time, after an actual residence of twelve months within the territory, at the discretion of the judges of the general court. And any attorney or counsellor at law, residing in any of the United States, who is of a good moral character, may, at any time, on application, be admitted to an examination for the degree of counsellor at law, within the territory; which examination shall be moved for, had and conducted, in all respects, as is herein above provided in section third; and if, after such examination, the judges of the general court, or a majority of them, shall be of opinion, that the candidate is duly qualified to perform the duties of a counsellor at law, they shall, forthwith, commission him accordingly.

SEC. 12. *And be it further enacted*, That if any person or persons, not licensed as aforesaid, shall, after the passing of this act, receive money, or any species of property, as a fee or compensation for services rendered, or to be rendered by him or them, as attorney or attorneys, counsellor or counsellors at law, within the territory, all money, so received, shall be considered as money received to the use of the person paying the same, and may

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be recovered back, with costs of suit, by an action or actions, for money had and received; and all property delivered or conveyed, for the purpose aforesaid, or the value thereof, may be recovered back, with costs of suit, by the persons conveying or delivering the same, by action of detinue, or trover and conversion; and the person or persons receiving such money or property, shall forfeit three fold the amount or value thereof, to be recovered, with costs of suit, before any magistrate, if within a magistrate's jurisdiction; but, if not, in any court of record within the territory, by action of debt, or qui tam, the one half to the use of the person who shall sue for, or recover the same,

Persons licensed to practice law in any one of the United States removing into this territory, &c.

How admitted to practice as an attorney at law.

How as a counsellor.

Penalty on persons undertaking to practice law without a license.

and the other half to the use of the county in which such suit shall be brought. And if any person or persons shall sign, or cause to be signed, the name of an attorney, or of either of the judges of the general court, or of the governor of the territory, to any certificate or license, provided for by this law, with an intent to deceive, such person or persons shall be deemed guilty of forgery, and shall be prosecuted and punished accordingly.

Fraudulently signing the name of an attorney, judge or governor, to a license or certificate, deemed forgery.

SEC. 13. *And be it further enacted*, That plaintiffs shall have the privilege of prosecuting, and defendants shall have the privilege of defending, in their proper persons, and nothing herein contained, shall be construed to debar them therefrom; nor shall any thing herein contained, be construed to affect any person or persons, heretofore admitted to the degree of an attorney or counsellor at law, according to the rules of the general court, so as to subject them to further examination, in the degree to which they have been admitted; or to make it necessary for them to renew their licenses; or to prevent any attorney at law from being admitted to an examination for a counsellor's degree, at any time after the expiration

Parties may prosecute or defend in proper person.

Not to affect counsellors or attorneys heretofore admitted.

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of two years, from the day of his admission as an attorney.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
 H. VANDER BURGH, *President*
Pro tempore of the Council.

APPROVED—October the 29th, 1799.

AR. ST. CLAIR.

CHAPTER IX.

An ACT regulating enclosures.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That all fields and grounds, kept for enclosures, shall be well enclosed with fence, composed of sufficient posts and rails, posts and palings, palisadoes, or rails alone, laid up in the manner which is commonly called a worm fence; which posts shall be deep set, and strongly fastened in the earth; and all fences,

Fences of wood, how to be made and of what heighth to be sufficient in law.

composed of posts and rails, post and palings, or palisadoes, shall be, at least, five feet in height; and all fences composed of rails, in the manner which is commonly denominated a worm fence, shall be, at least, five feet six inches in height, the uppermost rail of each and every panel thereof, supported by strong stakes, strongly set and fastened in the earth, so as to compose what is commonly called staking and riding; otherwise, the uppermost rail of every panel, of such worm fence, shall be braced with two strong rails, poles or stakes, locking each corner or angle thereof. And in all cases, wherein any fence is composed of

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Apertures between the rails, palings or palisadoes.

Worm to be one third the length of the rail.

Owners of animals breaking enclosures liable to pay damages.

Partition fences by whom to be made and maintained.

any of the foregoing materials, the apertures between any of the rails, palings, or palisadoes, within two feet of the surface of the earth, shall not be more than four inches; and from the distance of two feet from the earth, until the height of three feet six inches from the surface thereof, the apertures, between such rails, palings, or palisadoes, shall not be more than six inches; and that, in all worm fences, the worm of the same shall be, at least, one third of the length of the rails which compose the respective panels thereof.

SEC. 2. *And be it further enacted*, That if any horse, gelding, mare, colt, mule or ass, sheep, lamb, goat, kid, or cattle, shall break into any persons enclosure, the fence being of the aforesaid height, and strength; or, if any hog, shoat or pig, shall break into any person's enclosure, the fence being of the aforesaid height and sufficiency, and by the view of two persons, for that purpose appointed, by the court of general quarter sessions of the peace, found and approved to be such, then the owner of such creature or creatures, shall be liable to make good all damages to the owner of the enclosure; for the first offence, single damages, only; ever afterwards, double the damages sustained.

SEC. 3. *And be it further enacted*, That for the better ascertaining and regulating of partition fences, it is hereby directed, that when any neighbours shall improve lands adjacent to each other, or when any person shall enclose any land adjoining to another's land, already fenced, so that any part of the first person's fence becomes the partition fence between them; in both these cases, the charge of such division fence (so far as enclosed on both sides) shall be equally borne and

maintained by both parties; to which, and other ends, in this law mentioned, each court of general quarter sessions of the peace, yearly, and every year, in

**Court of
quarter ses-**

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the term next after the month of January, shall nominate, and is hereby required to nominate and appoint, three honest and able men, for each township, respectively; who, being duly sworn to a faithful discharge of the duties of their appointment, shall proceed, at the request of any person or persons feeling him, her or themselves aggrieved, to view all such fence and fences, about which any difference may happen or arise. And the aforesaid persons, or any two of them, in each township, respectively, shall be the sole judges of the charge to be borne by the delinquent, or by both, or either party, and of the sufficiency of all fences, whether partition fences, or others; and when they shall judge any fence to be insufficient, they shall give notice thereof to the owners or possessors; and if any one of the owners or possessors, upon request of the other, and due notice given by the said viewers, shall refuse or neglect to make or repair the said fence or fences, or to pay the moiety of the charges of any fence before made, being a division or common fence, within twenty days after notice given, then, upon proof thereof, before two justices of the peace, of the respective county, it shall be lawful for the said justices to order the person aggrieved and suffering thereby, to make or repair the said fence or fences, who shall be reimbursed his costs and charges from the person so refusing or neglecting to make or repair the partition fence or fences aforesaid, or to order the delinquent to pay the moiety of the charge of any fence before made, being a division or common fence, as the case may be. And if the delinquent shall neglect or refuse to pay, to the party injured, the said moiety of the charge of any fence before made, or to reimburse the costs and charges, of making or repairing the said fence or fences, under the order aforesaid, then the same shall be levied upon the delinquents goods and chattels, under warrant from the said justices, by distress

**sions to
appoint fence
viewers, &c.**

**Duty of fence
viewers.**

**Judges of the
sufficiency of
fences.**

**When owners
refuse
to make or
repair par-
tition fences,
how to pro-
ceed.**

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and sale thereof; the overplus, if any be, to be returned to the said

Proviso in favor of persons enclosing their ground with fences not above named.

Subjected to the same inspections, &c.

delinquent. *Provided*, that nothing herein contained shall be intended to prevent or debar any person or persons from inclosing his or their grounds in any manner they please, with sufficient walls, or fences of timber, other than those heretofore mentioned, or by dikes, hedges and ditches; all such walls and fences to be in height, at least, five feet from the ground; and all dikes to be, at least, three feet in height from the bottom of the ditch, and planted or set with thorn, or other quick set, so that such enclosures shall fully answer and secure the several purposes meant to be answered and secured by this law. *Provided also*, that such walls, or fences of timber, other than those heretofore mentioned, and dikes, hedges and ditches, shall be subject to all provisions, inspections and restrictions, respectively, to which, by this law, any other enclosure or fence is made liable, according to the true intent and meaning hereof. And it is hereby declared, that all laws and acts, or parts of laws and acts, of the territory, heretofore adopted or made, so far as the same respect the regulation of enclosures, be, and the same are hereby repealed; and that this act shall be in force from and after the publication thereof.

EDWARD TIFFIN, *Speaker*

Of the House of Representatives.

H. VANDER BURGH, *President*

Pro tempore of the Council.

APPROVED—October the 29th, 1799.

AR. ST. CLAIR.

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CHAPTER X.

An ACT providing for the service and return of process in certain cases.

SEC. I. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That if any plaintiff or plaintiffs shall sue out any writ of *capias ad respondendum* or *summons*, against two or more defendants, directed to the sheriff or coroner of the proper county, or to *elisors*, as the case may require, and the said sheriff, coroner or *elisors* cannot find each and every of the

When all the defendants named in a writ of mesne process cannot be found, service on one of them sufficient.

defendants, named in the said writ of *capias ad respondendum* or summons, within his or their bailiwick, it shall be the duty of the said sheriff, coroner or elisors to serve the said *capias* or summons on as many of the said defendants as may be found in his or their bailiwick, either by taking their bodies, or by delivering to them copies of such process, as the case may require. And the said sheriff, coroner or elisors shall make return of such process, by endorsing thereon "*Cepi Corpus*," as to the defendant, or "*Cepi Corpora*," as to the defendants, on whom the same hath been served in manner aforesaid; and by also endorsing thereon "*Non est in ventus*," as to the defendant, or "*Non sunt inventi*," as to the defendants, who are not to be found in his or their bailiwick.

How returns shall be made.

SEC. 2. *And be it further enacted*, That after the *capias* or summons hath been served and returned, as aforesaid, the plaintiff or plaintiffs may file a declaration against the defendant or defendants, on whom such service hath been made, suggesting therein, the return endorsed on the said process, as to the defendant or defendants on whom the same hath not been served, and may proceed to judgment against the said defendants according to

Plaintiff may proceed to judgment against the defendant on whom service hath been made.

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the custom and practice of the court; and after such judgment hath been obtained, the plaintiff or plaintiffs may, by a writ or writs of "*scire facias*," cause the defendant or defendants on whom such process hath not been served, to be made parties to the said judgment, unless such defendant or defendants shew good and sufficient cause why such judgment should not be entered against him, her or them, and the defendant or defendants, made parties to the judgment as aforesaid, shall be subject to the same final process, as though he, she or they had been duly served with mesne process, and had thereupon appeared and received a declaration and made defence, or suffered a default.

After judgment plaintiffs entitled to *scire facias* against all defendants named in the process.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
 H. VANDER BURGH, *President*
Pro tempore of the Council.

APPROVED—October the 29th, 1799.

AR. ST. CLAIR.

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CHAPTER XI.

An ACT requiring the interest of money and fixing the same at six per centum per annum and for preventing usury.

Legal interest,
what &c.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That from and after the publication of this act, all creditors (excepting as herein after excepted) shall be allowed to receive interest, at the rate of six per centum per annum, for all monies after they become due, on bond, bill, promissory note, or other instrument of writing; on any judgment recovered in any court of record, now or hereafter to be established within the territory, from the day of signing judgment, until effects be sold, or satisfaction of such judgment be made; likewise, on money lent; on money for the forbearance of the payment whereof an express promise hath been made for the payment of interest; on money due, on settlement of accounts, from the day of liquidating accounts between the parties and ascertaining the balance; on money received to the use of another and retained, without the owners knowledge, and on money withheld by an unreasonable and vexatious delay of payment.

No person
to take more
than 6 per
cent. per
annum in-
terest.

SEC. 2. *And be it further enacted,* That no person or persons shall, on any contract which shall be made, after the publication of this act, directly or indirectly take, for the loan or use of money, or other commodity, above the value of six dollars, for the forbearance of one hundred dollars, or the value thereof for one year, and so, proportionably, for any greater or less sums, any law, custom or usage, to the contrary notwithstanding.

SEC. 3. *And be it further enacted,* That if any person shall, directly, or indirectly, receive any

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Penalty for

money, obligation, promise, or other commodity, by way of premium,

or any other name, by which the same may be called, or understood, to the end of obtaining any higher rate of interest than six per centum per annum, for the loan or use of money, or any other commodity, on any contract which shall be made after the publication of this act, and shall institute an action in law, for the recovery of the money, due on, or by reason of the breach of such contract, so as aforesaid made, it shall be lawful for the defendant, in such action, in pleading, to set forth the special matter in bar of so much of the real sum of money, or price of the commodity, actually lent, advanced or sold, as shall be the amount of the aforesaid premium, or sum actually received; and if the plea of the defendant is confessed, or adjudged good on demurrer, or supported by the verdict of a jury, then, and in every such case, the plaintiff shall recover no more than what remains of the aforesaid sum of money, or price of the commodity actually lent, advanced or sold, after deducting the said premium, without even any interest on the principal; and if a residue is still left, the plaintiff may enter judgment for the same, and have execution thereof, with interest and costs accruing from the signing of the judgment. *Provided always,* That if the premium, or usurious interest and costs, exceed the principal, or real sum of money, or the price of the commodity actually lent, advanced or sold, the excess shall be deemed a debt of record, and on motion of the defendant, made in open court, such defendant may enter judgment for the same, with costs, at the next or any subsequent term, within one year, and have execution accordingly.

taking more
than 6 per
cent.

SEC. 4. *And be it further enacted,* That the act of the territory, entitled "A law declaring what laws shall be in force," published at Cincinnati, the fourteenth day of July, in the year of our Lord one thousand, seven hundred and ninety-five, so far as

What laws
repealed.

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the same respects and enforces the eighth chapter of the statute of the parliament of Great-Britain, begun and held in the thirteenth year of the reign of queen Elizabeth, and the ninth chapter of the statute of the parliament of Great-Britain, begun and held in the thirty-

seventh year of the reign of king Henry the eighth, be, and the same is hereby repealed.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
 H. VANDER BURGH, *President,*
Pro tempore of the Council.

APPROVED—November the 15th, 1799.

AR. ST. CLAIR.

CHAPTER XII.

An ACT authorizing and regulating arbitrations.

Persons having controversies may submit the same to an umpirage or arbitration. That such submission may be made a rule of court.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That all persons who have any controversy or controversies (for which there is no other remedy but by personal action, or by suit in equity) and who are desirous of settling or terminating the same, may agree to submit the said controversy or controversies to the umpirage or arbitration of any person or persons, to be, by them, mutually chosen for that purpose, and that their submission may be made a rule of any court of record within the territory.

SEC. 2. *And be it further enacted,* That when any

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Parties to enter into arbitration bonds, conditioned &c.

persons have agreed to submit any matter or matters, in controversy between them, to umpirage or arbitration, as aforesaid, and that the said submission may be made a rule of court, they shall enter into arbitration bonds, under their hands and seals, duly executed and delivered, with conditions for the faithful performance of the award or umpirage, which conditions shall set forth the name or names of the umpire or arbitrators, and the matter or matters submitted to his or their determination, and shall also expressly state their agreement, that the submission may be made a rule of any court of record within the territory, or that it may be made a rule of such particular court as they may name or point out in their submission. And when the umpire, or arbitrators, is, or are appointed, and the arbitration bonds

are duly executed and delivered, as aforesaid, either party may appoint a time and place for the umpire to attend, or the arbitrators to meet, of which he shall give written notice to the opposite party, and to the umpire or arbitrators, at least ten days before the time appointed for such meeting; and when the umpire or arbitrators shall be ready to proceed to the business for which he or they shall have been appointed, the parties may proceed to exhibit their proofs; and the umpire or arbitrators shall have power to adjourn from time to time, until he is prepared to make up his umpirage, or they are prepared to make up their award; provided the same be made up within the time stipulated in the submission.

Either party may appoint a time and place to meet.

Umpire or arbitrator may adjourn

SEC. 3. *And be it further enacted,* That the parties shall have the benefit of legal process to compel the attendance of witnesses, which process shall be issued by the prothonotary of the court of common pleas, or by the clerk of the general court, and shall be returnable before the umpire or arbi-

Parties entitled to subpoena to compel the attendance of witnesses.

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trators, on a day certain; and any person disobeying such process shall be deemed guilty of a contempt of the court from which such process issued, and shall be subject to the same penalties and forfeitures as are provided for disobeying writs of subpoena in other cases; and the costs of such witnesses shall be taxed by the umpire or arbitrators, according to the provisions contained in the law ascertaining the fees of witnesses, which costs, together with the sum hereinafter allowed to the umpire or arbitrators, shall be stated in the award or umpirage, and shall be made a part of the rule of court; and all witnesses examined by the umpire or arbitrators shall be under oath, unless otherwise agreed to by the parties.

SEC. 4. *And be it further enacted,* That the award, or final determination of the umpire or arbitrators, shall be drawn up in writing, and shall be signed by him or them, or so many of them as agree thereto, and a true copy of the said award or umpirage, shall, without delay, be delivered by the umpire or arbitrators to each of the parties; and if either of the parties shall refuse or neglect to obey the said award or umpirage, the other party may return the same, together with the submission or arbitration bond, to the court named in the submission, or if no court be named in the submission, then to the

The award to be in writing.

Copies thereof to be delivered to the parties.

An award
how enforced.

court of common pleas, or to the general court; and the submission and award or umpirage so returned, shall be entered on record and filed by the clerk, and a rule of court thereupon made; and after such rule is made, the party disobeying the same, shall be liable to be punished as for a contempt of the court, and the court, on motion, shall issue process accordingly, which process shall not be stayed or impeded by order of any other court of law or equity, or by the court from whence it issued, until the parties shall, in all things, obey the award or umpirage, unless it shall be

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made to appear on oath, that the umpire or arbitrators misbehaved, and that such award or umpirage was obtained by fraud, corruption, or other undue means; and no testimony shall be received to impeach or invalidate the said award or umpirage, after the second day of the term next after the term in which the submission was made a rule of court. *Provided always*, That before any submission be made a rule of court, the party moving for such rule, shall produce to the court satisfactory proof of the due execution of the submission or arbitration bond, and also, that the party refusing or neglecting to obey the award or umpirage, hath been furnished with a true copy thereof.

When
an award
shall be
made a
rule of
court

SEC. 5. *And be it further enacted*, That the umpire or arbitrators, shall be entitled to receive each the sum of one dollar per day, for each and every day which they shall employ in performing the duties of their appointment.

Fees
to the um-
pire, &c.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
H. VANDER BURGH, *President*
Pro tempore of the Council.

APPROVED—November the 15th, 1799.

AR. ST. CLAIR.

CHAPTER XIII.

An ACT to establish and regulate Ferries.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority

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of the same, That whenever it shall be found necessary to establish a public ferry over any river or creek, within the territory, the general assembly, on due application to them made, by the proprietor of land on either side, may establish and confirm the same, by a special act for that purpose. *Provided always*, That no application shall avail the proprietor, unless his or her intentions relative thereto have been published in the public papers of the county; and if there be no public press in the county, then in, at least, three of the most public places of the township in which such ferry is proposed to be established, three months previous to the making of such application, and shall, moreover, have published his or her intentions, by advertisement on the door of the court house of the proper county, for three days successively, during the sitting of the court, within the time above mentioned.

SEC. 2. *And be it further enacted*, That the court of general quarter sessions, in every county, be, and they are hereby empowered, authorised and required, to fix, from time to time, the rates which each ferry-keeper shall hereafter demand for the transportation of passengers, waggons, carriages, horses, cattle, &c. at any ferry now, or hereafter to be established in their respective counties within this territory, having due regard to the distance which the ferry boats have to travel, the dangers or difficulties incident to the same, and the state and condition of the river or creek, over which such ferry is established; and the owner or owners of any such ferry or ferries, shall, within three months from the day this act takes effect, or from the establishment of such ferry, execute and deliver a bond, with one or more sufficient securities, to the said court, in the penalty of one hundred dollars, payable to the treasurer of the county, or his successor in office, with a condition, that he or she will keep such ferry, or cause the same to be kept according

Ferries to be established by the general assembly.

How to make application for a ferry, &c.

Courts of quarter sessions to fix the rates of ferriage in their respective counties.

The owner of a ferry to give bond.

Condition thereof.

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to law; and that he or she will give passage to all public messengers and expresses, when required, from time to time, without any fee or reward for the same; and if the condition of the said bond shall, at any time, be broken, the penalty therein contained shall be recoverable, with costs of suit, for the use of the county. And in case any such person shall neglect or refuse to give such bond, he or she shall forfeit and pay the sum of fifty dollars, for every months refusal or neglect; one half to the use of the person prosecuting for the same, and the other half to the use of the county. All expresses, sent on public service by a commander in chief, colonel, lieutenant colonel, major, or commandant of any military post, to the governor, or commanding officer of the militia, shall be accounted public messengers and expresses, and shall pass ferry free, within the condition and meaning of the bond aforesaid, in case the dispatch, carried by such express, be endorsed "on public service," and signed by the person sending the same.

Penalty on failure to give bond.

Expresses to pass ferry free.

Ferry keepers to set up rates of ferriage,

and keep good & sufficient boats.

SEC. 3. *And be it further enacted*, That every ferry keeper, shall set and keep up, upon the margin of the river or creek, opposite to the ferry place of every public ferry, a post or board, on which shall be written the rates of ferriage, of such ferry, by law allowed. And if any ferry keeper shall demand, from any person, a greater sum, for the ferriage, than is or shall be allowed by the court of general quarter sessions to such ferry keeper, such offender shall forfeit, to the person so overcharged, the ferriage demanded and received, and also two dollars, with costs of suit, for every such offence, recoverable before any justice of the peace within the township wherein the offence has been committed.

SEC. 4. *And be it further enacted*, That each and every ferry keeper shall keep a good and suf-

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ficient boat, or boats, if more than one be necessary, with a sufficient number of able and skilful men to navigate the same, and to give due

attendance to the said ferry, or ferries, and the transportation of all persons who shall apply for the same, during the day time, that is to say, from day light, in the morning, until dark in the evening, that no unnecessary delay may happen to persons having occasion to use the same. *Provided always*, That all ferry-keepers shall be obliged, at any hour of the night, if required (except in cases of evident danger) to give passage to all public expresses above recited, and to all other persons requiring the same, on their tendering and paying double the rate of ferriage allowed to be taken during the day time.

Ferries to be kept from day light 'till dark.

When in the night, &c.

SEC. 5. And for encouraging ferry-keepers, and in consideration of setting over public messengers and the persons exempted by this act, *Be it further enacted*, That all men necessarily attending on ferries, in this territory, shall be free from militia duty, impressments, opening and repairing highways (so far as personal service is required) and from serving on juries. And if any person or persons, other than ferry-keepers, licensed as aforesaid, shall, for reward, set any person over any river or creek, whereon public ferries are appointed or established, at any place within five miles of any such public ferry, he, she or they, so offending, shall forfeit and pay a sum not exceeding twenty, nor less than five dollars, for every such offence; one moiety to the person prosecuting for the same, and the other moiety to the use of the county wherein the offence shall have been committed.

Ferry-men exempted from militia duty, &c.

Penalty on persons keeping ferries without being duly licensed.

When courts of quarter sessions may discontinue ferries.

SEC. 6. *And be it further enacted*, That if any ferry or ferries, which now are, or may hereafter be established, shall not be furnished with necessary boat or boats and ferrymen, within the space

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of six months after the establishment thereof, or shall at any time thereafter be wholly disused, or unfrequented for the space of one year, it shall and may be lawful for the court of quarter sessions for the county in which such ferry or ferries shall be, on complaint to them made, to summons the proprietor or proprietors of the same, to shew cause why it should not be discontinued; and to decide according to the testimony adduced, which decision shall be valid in law.

SEC. 7. *And be it further enacted*, That it shall and may be lawful for any ferry-keeper to take into his, or her boat or boats, any passenger or passengers, carriages, waggons, horses or cattle of any

kind whatsoever, to convey them over, and to receive the ferriages for the same, agreeably to the rates established by the courts of quarter sessions. *Provided nevertheless*, That all ferries, now kept by license from the governor, shall be, and they are hereby declared to be established ferries; *Provided*, The owner or owners of such ferries have the license recorded in the recorder's office in each county, wherein the ferry or ferries are, within three months after the taking effect of this act, subject to the same rules, regulations and restrictions as are herein contained.

Ferries kept under license from the governor continued, &c.

When this act shall take effect.

SEC. 8. *And be it further enacted*, That this act shall be in force from and after the first day of May next.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
 H. VANDER BURGH, *President*,
Pro tempore of the Council.

APPROVED—November the 15th, 1799.

AR. ST. CLAIR.

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CHAPTER XIV.

An ACT making Promissory Notes and Inland Bills of Exchange negociable.

SEC. 1. **B**E *it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same*, That all notes in writing, that shall hereafter be made and signed by any person or persons, body politic or corporate, whereby such person or persons, body politic or corporate, promise to pay any sum of money, or acknowledge any sum of money to be due to any other person or persons, or his, her or their order, or unto bearer, shall be taken to be due and payable, and the sum of money therein mentioned, shall, by virtue thereof, be due and payable to the person or persons to whom the said note is made; and

Notes in writing for the payment of money

every such note, made payable to any person or persons, his, her or their order, or unto bearer, shall be assignable, by endorsement thereon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, so as, absolutely, to transfer and vest the property thereof in each and every assignee or assignees, successively. And any assignee or assignees, to whom such sum of money is, by such endorsement or endorsements, made payable, may, in his, her or their own name, or names, institute and maintain an action, for the recovery thereof, against the person or persons who made and signed such note, or against him, her or them, who endorsed the same (having first used due diligence to obtain the money from the drawer or maker) and in every such action, in which judgment is given for the plaintiff or plaintiffs, he, she or they shall recover his, her or their damages and costs of suit.

assignable
by
endorsement
in writing.

Assignee
may sue in
his own name.

SEC. 2. *And be it further enacted,* That if any such note shall be endorsed, after the day on which

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the money therein contained becomes due and payable, and the endorser shall institute an action thereon, against the maker and signer of the same, the defendant, being the maker and signer, shall be allowed to set up the same defence that he might have done, had the said action been instituted, in the name and for the use of the person or persons to whom the said note was originally made due and payable.

When as-
signed after
the day of
payment.

SEC. 3. *And be it further enacted,* That if any such note shall be endorsed, before the day the money therein contained becomes due and payable, and the endorsee shall institute an action thereon, the defendant may give in evidence, at the trial, any money actually paid on the said note before the said note was endorsed or assigned to the plaintiff, on proving that the plaintiff had sufficient notice of the said payment, before he or she accepted or received such endorsement.

When
before the
day of
payment.

SEC. 4. And whereas doubts have arisen, whether inland bills of exchange are, by the custom of merchants, negotiable within this territory; therefore to remove such doubts, *Be it further enacted,* That all inland bills of exchange shall be negotiable by endorsement there-

Inland
bill of
exchange
declared ne-
gociable, &c

on, in the same manner as is above provided in case of promissory notes.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
 H. VANDER BURGH, *President*
Pro tempore of the Council.

APPROVED—November the 15th, 1799.
 AR. ST. CLAIR.

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CHAPTER XV.

An ACT to prevent trespassing by cutting of timber.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That every person who shall cut, fell, box, bore, or destroy any black-walnut, black, white, yellow or red oak, white wood, poplar, wild cherry, blue ash, yellow or black locust, chesnut, coffee or sugar tree or sapling, standing or growing upon land belonging to any other person or persons, without having first obtained permission so to do, from the owner or owners of such land, shall forfeit and pay, for every such tree, or sapling, so cut, felled, boxed, bored or destroyed, the sum of eight dollars. And every person who shall cut, fell, box, bore or destroy any tree or sapling, not herein above named and enumerated, standing or growing upon land belonging to any other person or persons, without permission, as aforesaid, shall forfeit and pay, for every such tree or sapling so cut, felled, boxed, bored or destroyed, the sum of three dollars.

SEC. 2. *And be it further enacted,* That the penalties herein above provided, shall be recoverable with costs of suit, either by action of debt in the name and for the use of the owner or owners of the land, or by action qui tam in the name of any person who will first sue for, and recover the same; the one half for the use of the person so suing, and the other half for the use of the owner or owners of the land. *Provided always,* That if in any action that may be instituted, by virtue of the provisions herein contained, before a justice of the peace, the defendant shall set up a title to the land on which the tree or trees

Eight dollars
 penalty for
 cutting,
 boxing, boring,
 or otherwise
 destroying
 certain
 trees, &c.

Three dollars
 penalty for all
 others.

Penalties how
 to be prose-
 cuted for and
 recovered.

If the defen-
 dant shall
 make title to
 the land how
 to proceed.

are alledged to have been cut, felled, boxed, bored or destroyed, and

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shall forthwith, give good and sufficient security to prosecute his claim of title to the said land to effect within one year, or to appear and defend an action to be instituted against him within one year, by virtue of the provisions herein contained, in any court of record within the territory having cognizance thereof, and in either case to abide by, and satisfy the judgment that may be given in such court, then the said justice shall proceed no further in the said cause, but shall forthwith dismiss the parties. And it shall be the duty of the said justice, thereupon, to tax the bill of costs that may have accrued before him, and so soon as the action shall be renewed or instituted for the purpose aforesaid, to transmit the said bill, together with the recognizance, to be taken as aforesaid, to the clerk of the court in which such action shall be instituted or renewed, which costs so taxed and transmitted, shall be made a part of the judgment to be rendered as aforesaid.

SEC. 3. *And be it further enacted,* That if the said recognizance shall be forfeited for not prosecuting as aforesaid, the justice shall proceed to enter judgment against the defendant for the demand of the plaintiff, which shall be taken to be confessed, and execution shall thereupon issue against the said defendant and his security or securities, and if the said recognizance shall be forfeited for not appearing and defending, or for not abiding by, and satisfying the judgment that shall be given in the court above, the party for whose benefit such recognizance was taken, may, by a writ or writs of scire facias, proceed to judgment and execution thereon.

SEC. 4. *And be it further enacted,* That if any person or persons shall, after the passing of this act, under pretence of any lease, or otherwise, cut, fell, box, bore, or destroy, any black walnut, black, white, yellow, or red oak, white wood, poplar,

Upon a forfeiture of the recognizance, how to proceed.

Penalty for trespassing on lands reserved for public uses.

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wild cherry, blue ash, yellow or black locust, chesnut, coffee or sugar tree, or sapling, standing or growing upon any lands within the territory, reserved, appropriated, or intended for the use and support of

schools, or for the use and support of religion, such person or persons shall forfeit and pay, for every such tree or sapling so cut, felled, boxed, bored, or destroyed, the sum of eight dollars; and if any person or persons shall cut, fell, box, bore, or destroy any other tree or sapling not herein above named and enumerated, standing or growing upon any lands within the territory, reserved, appropriated, or intended for the uses aforesaid, such person or persons shall forfeit and pay, for every such tree or sapling, so cut, felled, boxed, bored or destroyed, the sum of three dollars.

**Penalties,
how recovered
and appro-
priated.**

SEC. 5. *And be it further enacted,* That the penalties provided in the preceding section of this act, shall and may be recovered, with costs of suit, either by action of debt, brought by and in the name or names of the overseer or overseers of the poor of the township in which such tree or sapling shall have been cut, felled, boxed, bored or destroyed, as aforesaid, for the use of the poor of the said township, or by action qui tam, in the name of any other person, who will first sue for and recover the same; the one half for the person so suing and recovering, and the other half for the use of the poor of the township in which such tree or sapling shall have been cut, felled, boxed, bored or destroyed; and it shall be the duty of the overseer or overseers of the poor, on complaint made to him or them, against any person who may have cut, felled, boxed, bored or destroyed any tree or sapling, standing or growing upon any lands reserved for the uses aforesaid, within his or their townships, or upon his or their view or knowledge of such trespass, forthwith to institute an action against the trespasser for the

**Overseers to
prosecute;**

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purpose aforesaid, unless an action qui tam shall have been previously instituted for the said trespass, in the name of some other person, according to the provisions herein contained. And the said overseer or overseers, in the settlement of his or their accounts, shall be allowed a reasonable credit for the trouble and expense of such prosecution. *Provided always,* That nothing herein contained shall be construed to prevent ministers of the gospel from settling and improving any lands reserved for the use of religion.

**to receive
compensation.**

SEC. 6. *And be it further enacted*, That the act entitled "A law to prevent trespassing, by cutting of timber," adopted from the Pennsylvania code, and published at Cincinnati, the fourteenth day of July, one thousand seven hundred and ninety-five, be, and the same is hereby repealed.

Former law to prevent trespass, &c. repealed.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.

H. VANDER BURGH, *President*
Pro tempore of the Council.

APPROVED—November the 15th, 1799.

AR. ST. CLAIR.

CHAPTER XVI.

An ACT supplemental to the act entitled "An act to prevent trespassing by cutting of timber.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That nothing contained in the before re-

Persons holding lands in the college township under lease, &c.

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cited act, shall be so construed as to prevent persons now holding, by lease, lands in the college townships, or other lands appropriated for schools and religious purposes, within this territory, from cutting and using timber, agreeably to the tenor of such lease, nor shall it prevent the present settlers thereon from cutting timber on such parts thereof as they shall enclose and improve, until after such regulations as shall be made by the legislature of the territory are brought into operation.

Present settlers thereon.

SEC. 2. *And be it further enacted*, That no part of the said recited act, shall be so construed as to affect such inhabitants in the said territory, who may have settled on lands by mistake, or the owner or owners of which are unknown to them, so far as the said act relates to the penalties therein specified.

Persons settling on lands by mistake, or where the owners are unknown.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
 H. VANDER BURGH, *President*
Pro tempore of the Council.

APPROVED—December the 19th, 1799.

AR. ST. CLAIR.

CHAPTER XVII.

An ACT regulating grist-mills and millers.

Toll allowed
for grinding
grain.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That each and every miller, or the owner or owners, or occupiers of every water and wind grist mill, now erected, or which shall hereafter be built and erected, within this territory, shall be entitled to have and receive out of the

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grain, which shall be ground in his, her or their said mills, the following rates of toll, in full compensation therefor, to wit; for grinding and bolting wheat or rye into flour, one tenth part thereof; for grinding Indian corn, oats, barley and buck wheat, and the same bolting into flour, when required to be bolted, one seventh part thereof; for grinding Indian corn, oats, barley, and buck wheat, when the same is not required to be bolted, one eighth part thereof; for grinding malt and chopping rye, one twelfth part thereof.

For grinding
in horse mills.

SEC. 2. *And be it further enacted,* That each and every miller, or the owner or owners, or occupiers of each and every horse mill, when the miller, owner, or occupier thereof shall find and provide horses for turning the same, shall be entitled to take and receive out of wheat, to be ground and bolted in his, her or their said mills, one fifth part thereof; out of rye, Indian corn, oats, barley and buck wheat, one fourth part thereof; out of malt, and for chopping rye, one sixth part thereof. *Provided always,* That when the owner of the grain to be ground, shall provide the horses to grind the same, the miller, or owner, or occupier of said horse mill, shall be entitled to take and

receive the same toll as is provided and allowed to water and wind-mills, in the first section of this act, and no more.

SEC. 3. *And be it further enacted*, That if any miller, or the owner, or owners, or occupiers of any of the aforesaid described mills, within this territory, after the taking effect of this law, shall presume to demand, receive, or take any greater toll, fee, or reward, for grinding grain, or for grinding and bolting grain into flour, than as aforesaid, or shall knowingly cause the same to be done, he, she, or they, so offending, upon conviction thereof, before any justice of the peace of the proper county in which the mill shall be erected,

Penalty for taking more than lawful toll.

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shall forfeit and pay the sum of five dollars, with costs, for the use of the county in which the offence shall have been committed, to be levied on the offender's goods and chattels; and for want of goods and chattels, the offender shall be committed to the common-jail of the county, until the same shall be paid, or the offender discharged by law, and moreover, shall be liable to the action of the person injured for damages.

SEC. 4. *And be it further enacted*, That every miller, the owner or owners, or occupier of every grist mill, of the aforesaid description, shall be accountable to the owners of grain, received to grind, for the safe keeping the same, whilst in his, her or their mills; and if any grain, bag or cask, containing the same, shall be lost or destroyed, whilst entrusted in the care of any miller, for the purpose of being ground, the miller, owner, or occupier, as the case may be, shall make good the same to the owner thereof in damages. *Provided always*, That in order to entitle any owner of grain so deposited, and lost or destroyed, to recover the value thereof against the miller, owner or occupier of any of the above described mills, the owner of the grain shall cause the bag or bags, cask or casks, containing his, her or their grain, to be distinctly marked with the initial letters of his, her or their name or names. *Provided also*, That nothing in this section shall be so construed, as to charge any miller, owner, or occupier of any mill with the loss of grain, bags or casks that shall happen by robbery, fire or any other unavoidable accident, without the fault or neglect of such miller, owner or occupier thereof.

Owners to be accountable for grain &c.

Millers to
provide proper
measures.

SEC. 5. *And be it further enacted*, That every miller, or the owner, owners, or occupiers of the above described grist-mills, shall, on or before the first day of May, in the year of our Lord, one thousand eight hundred and one, provide and

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keep in his, her or their mills, one half bushel, one peck, one half peck, one two quart measure, and one quart measure, whereby to ascertain the toll allowed under this act, which measures shall be compared and sealed by the county standards. The measure of all grain ground, and toll thereof, shall be strike measure. And whoever being a miller, or owning, or occupying any of the mills described under this act, and failing to provide and keep the measures aforesaid, shall forfeit and pay, forty dollars for the use of the county, recoverable before any court of record of the proper county, having jurisdiction thereof, with costs.

When to take
effect.

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

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
H. VANDER BURGH, *President*
Pro tempore of the Council.

APPROVED—December the 2d, 1799.

AR. ST. CLAIR.

CHAPTER XVIII.

An ACT to regulate the disposition of water-crafts of certain descriptions, found gone or going adrift, and of stray animals.

Persons who
shall take up
boats, &c. a-
drift, how to
proceed.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That if any person shall take up any

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boat, flat, periague, canoe, or other small vessel, gone or going adrift, he or she shall, within five days cause the same to be viewed by some

house-holder of the county, where the same shall be taken up, and shall, forthwith, go with such house-holder before a justice of the peace of the same county, and make oath, when and where the same was taken up, and that the marks thereof have not been altered or defaced by him, or by any other person, to his knowledge, since the taking up; and the justice shall take from such house-holder, upon oath, an exact description of such boat, flat, periague, canoe, or other small vessel, and shall enter the same in his estray book, to be by him kept for that purpose, and shall transmit a certified copy thereof to the clerk of the court of quarter sessions of the county, to be by him recorded in his estray book, to be kept for that purpose, within fifteen days thereafter, if the said justice does not reside at a greater distance than fifteen miles from the clerk's office; but if the said justice resides at a greater distance than fifteen miles from the said office, he shall transmit the said certificate, within the space of thirty days; and the clerk shall cause a copy of such certificate, to be set up at his court house door, during the two succeeding terms to be held for said county, for which service he shall be entitled to take and receive twenty-five cents, for every such boat, flat, periague, canoe, or other small vessel, to be deposited by the taker up in the hands of said justice, and by him transmitted to the said clerk with the certified copy of such description; and the justice, for administering the oath, making the entry, and granting the certificate, as aforesaid, shall be entitled to twenty-five cents for his services, which sum shall be paid by the taker up.

SEC. 2. *And be it further enacted*, That every person, who shall take up a stray horse, gelding, mare, colt, mule, or ass, shall, within five days,

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advertise the same in three different places in the neighborhood, or township, and shall also, within ten days thereafter, unless it shall have been previously claimed and proved by the proper owner, and a tender made of the compensation hereinafter provided, take the same before some justice of the peace of the county where such stray shall be taken up, and make oath before such justice, that the same was taken up, at his, or her plantation, or place of residence, in said county, or otherwise (as the case may be) and that the marks or brands have not been altered by him, or any person or persons to his

Duty of the justice.

Duty of the clerk of the peace.

Allowance to justice & clerk, and by whom paid.

Persons taking up horses, &c. es-

trays, how to proceed.

knowledge, before or since the taking up; the justice shall then issue his warrant, to three disinterested house-holders, in the neighbourhood, unless they can be otherwise had, causing them to come before him to appraise said stray, and after they, or any two of them, are sworn to appraise such stray, without partiality, favour, or affection, they shall forthwith proceed to appraise the same, and immediately make return thereof, in writing, together with the description of the marks, natural and accidental, brand, stature, colour and age, of said horse, gelding, mare, colt, mule, or ass, to said justice, who shall enter the same in his estray book, and transmit a certified copy thereof, under his hand, together with the original return of the appraisers, under their hands, to the clerk of the court of quarter sessions of said county, within the time as limited in the first section of this act; who shall enter the same in his estray book, and file the aforesaid transcript, and certificate of the appraisers in his office. And the taker up shall pay, unto the said justice, fifty cents, and further, deposit in the hands of the said justice fifty cents, to be paid unto the clerk aforesaid; which sum of fifty cents shall be transmitted, at the same time with the aforesaid certificate of entry and appraisalment. And the said clerk shall cause a copy of such valuation and description to

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be publicly affixed, at the court-house door of his county, during three succeeding terms.

Persons taking up neat cattle, sheep &c. how to proceed.

SEC. 3. *And be it further enacted*, That any person who shall take up any head of neat cattle, sheep, hog or goat, shall, within five days after, cause the same to be advertised, in three different places in the neighborhood, or township, and shall also, within ten days thereafter (unless it shall have been previously claimed and proved by the proper owner, and a tender made of the compensation hereinafter provided) cause the same to be viewed, by some householder of the county, where the same shall be taken up, and immediately go, with such householder, before a justice of the said county, and make oath before him, as is required in taking up a stray horse, gelding, mare, colt, mule, or ass; and then such justice shall take from such householder, upon oath, a particular description of the marks, brands, colour and age, of every such neat cattle, sheep, hog, or goat. And such justice shall cause

Duty of the justice.

Fees to justice & clerk and how paid.

Duty of the clerk.

the said stray or strays to be appraised, in like manner as is required to be done in case of a stray horse, gelding, mare, colt, mule or ass; which description and valuation shall be entered, by such justice, in his estray book, and by such justice transmitted to the clerk of the court of quarter sessions of said county, and to be by him recorded in his estray book; and he shall cause a copy to be publicly affixed at the court house door of his county, as before directed in taking up any stray horse, gelding, mare, colt, mule, or ass. And the taker up shall pay the justice twenty-five cents, for his services, and deposit with such justice twenty-five cents, to be by him transmitted, at the same time with the certified copy, to the clerk, as aforesaid, for his services. *Provided*, That if two or more strays of the same species are taken up by the same person, at the same time, they shall be included in one entry, and in one advertisement, and in such case, the said justice

Fees to justice & clerk and how paid.

Proviso where two or more of

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and clerk shall receive no more pay than for one such species. *Provided also*, That no person shall be allowed, hereafter, to take up and post any head of neat cattle, sheep, hog or goat, between the first day of April and the first day of November following, unless the same may be found within the lawful enclosure of the taker up, having broken into the same.

Neat cattle &c. not to be taken up and posted between the first days of April and November, except, &c.

SEC. 4. *And be it further enacted*, That as a reward for taking up, there shall be paid by the owner to the taker up, or such other person as may be authorised by this act to receive the same, for every boat or flat, one dollar; for every periague, canoe or other small vessel, fifty cents; for every horse, gelding, mare, colt, mule or ass, one dollar; for every head of neat cattle, fifty cents; for every sheep or goat, twenty five cents, and for every hog above six months old, ten cents, together with the fees paid by the taker up to the justice and clerk aforesaid, and reasonable charges for keeping said estray or estrays, to be assessed by two disinterested householders, appointed by some one justice, in manner and form as other appraisers are to be appointed under this act, who shall, in the same manner, and under the same restrictions, proceed to make the appraisement and return to the said justice, as by this act, in other cases, is required; and on failure of the claimant to satisfy such fees and charges, the estray, or

Reward.

Charges for keeping.

estrays shall be, by the sheriff, after giving ten days notice, sold to the highest bidder, to satisfy such costs and charges of keeping, and the said sheriff, after paying such costs and charges, and deducting one dollar for his fees of sale, shall pay the remainder to the claimant.

SEC. 5. *And be it further enacted*, That if no owner shall appear to prove his or her property, within one year after such publication, and when the valuation does not exceed five dollars, the

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property shall be vested in the taker up; but when the valuation shall exceed five dollars, and no owner appears, within the time aforesaid, the property shall be vested in the sheriff of the county, to be sold to the best bidder, and the money arising from the sale thereof, after paying the fees that have accrued, and reasonable expences for keeping the same, shall be put into the county treasury, which expences shall be ascertained in manner and form as before directed by this act; saving, nevertheless, the right in the taker up, at the expiration of one year, to pay into the county treasury, the appraisement value of such estray; and in that case the property of said estray shall be vested in the taker up. Nevertheless, the former owner may and shall, at any time thereafter, by proving his or her property, in the court of quarter sessions of the county where such estray was taken up, and obtaining a certificate from the clerk, receive an order from the commissioners to the treasurer for the net proceeds, after paying costs and charges. And if any person shall trade, sell, or take away any such stray, or water craft, out of the territory, before he is vested with the right of property, agreeably to this act, for any purpose whatsoever, he or she, so offending, shall forfeit and pay double the value thereof, to be recovered by any person suing for the same, in any court of record within this territory having cognizance thereof; the one half to the informer, and the other half to the county. And it shall not be lawful for any person to take up any stray (except as shall hereafter be excepted) unless he shall have a freehold, be a tenant for three years, have a bond for the land on which he resides, or be in possession of the tenement on which such estray was found trespassing.

When no owner appears in one year how to proceed.

Penalties on persons selling, trading or taking away strays.

What persons authorised to take up strays.

SEC. 6. *And be it further enacted*, That any person, finding any stray horse, gelding, mare, colt, mule, or ass, running at large, without the

Horses, &c. found running at large without the

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settlement of this territory, may take up the same, and shall immediately carry such stray, or strays, before the nearest justice of the peace, and make oath, as before directed in this act, after which it may be lawful for him, if qualified as aforesaid, to post such stray, or strays, in the manner and form as herein before directed, as if the same had been taken up on his plantation, or place of residence. And when the taker up shall not be qualified, as aforesaid, he shall take the oath before required, and deliver up such stray to the said justice, who shall cause the same to be dealt with as before directed by this act; and if no owner appears, to prove his or her property, within one year, such justice shall deliver such stray, or strays, unto the sheriff of the county, to be disposed of in manner before directed, and after paying the taker up all reasonable charges, and deducting the expences for keeping, which shall be ascertained as aforesaid, such sheriff shall, within three months, pay the balance into the county treasury; nevertheless, the former owner, at any time after, by proving his or her property, before the court of quarter sessions in the county where the said stray was taken up, shall receive a certificate from the clerk of the said court to the commissioners, who shall give an order on the treasurer, to pay the balance aforesaid. *Provided always*, That nothing in this act contained, shall be construed to authorize any person or persons to take up any horse, gelding, mare, colt, mule or ass, running at large, between the first day of April and the first day of November, so as to entitle him or them to receive the reward or compensation herein provided, unless the same be found within the lawful enclosure of the taker up, having broken the same.

settlements, how to be taken up & dealt with.

When the taker up is not qualified, how to proceed.

When no owner appears in one year.

No horse, &c. to be taken up between April and November.

SEC. 7. *And be it further enacted*, That if any stray or water craft, taken up as aforesaid, shall die or get away before the owner shall claim his or her right, the taker up shall not be answerable for

When strays or water crafts die or get away.

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the same, unless it be proved that such stray or water craft, died or

Penalty on persons not qualified taking up estrays, except at his or her place of residence.

got away through the neglect or inattention of the taker up; and if any person shall take up any stray, at any other place, within the inhabitants, than his or her place of residence, or without being qualified as required by this act, such person shall forfeit and pay ten dollars, with costs, before any justice in the county where the offence shall have been committed; or not having property sufficient to pay such fine, he shall be liable to be confined, one month, in the jail of the county where he may be found, by warrant, under the hand and seal of any justice of the peace, directed to the proper officer, who shall confine such offending person accordingly, and the prison fees of such delinquent shall be paid by the county; nevertheless, such delinquent shall be liable to repay such fees to the county, should he, thereafter, have property sufficient. And any person taking up a stray, out of the limits of the settlements of this territory, and failing to comply with the requisitions of his act, shall be subject to the same penalties.

Persons taking up estrays without the limits of a settlement.

When estrays or water crafts are restored or lost, to be certified by the taker up

SEC. 8. *And be it further enacted,* That when any water craft or animal, taken up in pursuance of this act, the appraised value whereof shall exceed the sum of five dollars, may be restored to the proper owner, or when the same may be lost, it shall be the duty of the taker up, within one month afterwards, to certify, in writing, under the signature of the taker up, to the commissioners of the proper county, such restoration (where the same may be restored) with the name and place of residence of the person claiming the same, or such loss (where the same may be lost) together with the time when, and the manner thereof; and if the taker up of any such water craft or animal, taken up in pursuance of this act, shall neglect to make the certificate aforesaid, within the time limited by this act, or

Penalty for neglect.

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shall make a false statement of facts, in any such certificate, every person, so offending, for every such offence, shall forfeit and pay the value of such water craft, or the appraised value of such stray animal, respectively, to be recovered by action of debt, qui tam, or indictment, in any court where the same may be cognizable; one half thereof to the county respectively, and the other half to whoever will sue for the same.

SEC. 9. *And be it further enacted,* That the justices of the court of quarter sessions, of each county within this territory, shall, on or before the first day of July next, cause a pound to be made, at, or near the several court houses; and in all new counties that may be formed in this territory, after the first day of July next, within three months after the place of erecting the public buildings is fixed upon, with a good sufficient fence, gate, lock and key, where all stray horses, geldings, mares, colts, mules or asses, above two years old, taken up within twenty miles of the court house, shall be kept, on the first day of every court of quarter sessions, in said county for three succeeding terms, after the same is taken up, from twelve until four o'clock on each day, that the owner may have an opportunity of claiming his or her property; and any person taking up any stray horse, gelding, mare, colt, mule or ass, not exceeding two years old, shall not be compelled to exhibit such stray or strays at the court house, but shall be dealt with, in other respects, as is directed in this act. And when any person taking up any stray horse, gelding, mare, mule or ass, more than two years old, resides twenty miles and upwards from the court house, he shall not be compelled to exhibit such stray or strays more than once in the pound, which shall be on the first day of the second term after taking up. *Provided always,* That such taker up cause a particular description of such stray or strays, to be advertised at the door of the court

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house, at or before the term at which the same is put in the pound, by the clerk of the court of quarter sessions of said county, in manner and form as before directed by this act. And the justices of the quarter sessions for the said county, failing to have such pound erected, shall forfeit and pay a sum of twenty dollars, for every court thereafter, until the same be erected. And until such pound is erected, no person taking up any stray horse, gelding, mare, mule or ass, shall be liable for any penalty for not exhibiting the same. And the justices of the quarter sessions shall appoint some person to take care of the said pound, and keep the same in repair, whose duty it shall be to attend at the said pound on the several court days, during the time such strays are directed to continue therein, with the key of the same; and the said justices shall certify the expence attending the erecting and keep-

The justices of quarter sessions to cause pound to be erected.

What strays shall be put in the pound, and when.

Persons living twenty miles from the pound, taking up estray horses, &c.

Justices of quarter sessions neglecting to procure pounds to be erected.

Pound keeper, his duty.

Failing in
their duty.

ing of the said pound, to the commissioners of the county, to be paid out of the treasury in like manner and form that other county charges are liquidated and paid. And any person being appointed, and undertaking to take care of said pound, and failing to discharge his duty, agreeable to the directions of this act, shall forfeit and pay to the informer the sum of eight dollars for every such offence, with costs, recoverable before any justice of the county where such offence shall be committed.

Persons
acting con-
trary to this
act.

SEC. 10. *And be it further enacted*, That if any person shall act contrary to the duties enjoined by this act, for which no penalty is herein before particularly pointed out, the person so offending shall, on conviction thereof, forfeit and pay, for every such offence, not more than one hundred dollars, nor less than five dollars, with costs, to the use of the proper county, to be prosecuted for and recovered in like manner as other fines and forfeitures are under this act, and moreover, be liable

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to the action of the party injured, for such neglect; and that this act shall be in force from and after the publication thereof.

EDWARD TIFFIN, *Speaker*

Of the House of Representatives.

H. VANDER BURGH,

President of the Council.

APPROVED—December 2d, 1799.

AR. ST. CLAIR,

CHAPTER XIX.

An ACT for the prevention of vice and immorality.

WHEREAS the increase of vice and immorality in a nation, eventually tends, by corrupting the human mind, to wound individual happiness, as well as to destroy national prosperity, it becomes the indispensable duty of the legislature to adopt such measures as may appear most effectual for the suppressing its growth, and preventing its effects: therefore,

Preamble.

SEC. 1. *BE it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same,* That if any person shall be found reveling, fighting, or quarreling, doing or performing any worldly employment or business, whatsoever, on the first day of the week, commonly called Sunday, (works of necessity and charity only excepted) or shall use or practice any unlawful game, sport or diversion, whatsoever, or shall be found hunting or shooting, on the said day, and be convicted thereof, every such person, so offending, shall, for every

Sunday or the first day of the week how to be kept & observed.

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such offence, forfeit and pay a sum not exceeding two dollars, nor less than fifty cents, to be levied by distress; or in case such person, being a male, shall refuse or neglect to pay the said sum, or goods and chattels cannot be found, whereof to levy the same by distress, he shall be committed to the charge of one of the supervisors of the highways, in the township wherein the offence was committed, to be kept at hard labor for the space of two days. *Provided always,* That nothing herein contained shall be construed to hinder watermen from landing their passengers, or ferrymen from carrying over the water travellers, or persons removing with their families, on the first day of the week, commonly called Sunday.

Provision in favor of ferrymen, &c.

SEC. 2. *And be it further enacted,* That if any person of the age of sixteen years and upwards, shall profanely curse, damn, or swear, by the name of God, Christ Jesus, or the Holy Ghost, every person so offending, being thereof convicted, shall forfeit and pay, for every such profane curse, damn, or oath, a sum not exceeding two dollars,

Profane swearing, how punished.

nor less than fifty cents, at the discretion of the justice who may take cognizance thereof; and in case he shall refuse or neglect to pay the said forfeiture, or goods and chattels cannot be found, whereof to levy the same by distress, he shall be committed to the charge of one of the supervisors of the highways in the township wherein the offence was committed, to be kept at hard labor, for the space of two days, for every such offence, of which such person shall be convicted.

SEC. 3. *And be it further enacted,* That if any person of the age of sixteen years or upwards, shall be found in the public highway, or in any public house of entertainment, intoxicated by excessive drinking of spirituous, vinous, or other strong liquors, and making, or exciting any noise, contention or disturbance, it shall be lawful for any jus-

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tice of the peace, on complaint or view, to cause such person or persons to be committed to the common jail of the county, there to remain for a term of time not exceeding forty eight hours; and every person, so committed, shall pay the fees arising on such commitment. And if any person shall be found offending, as aforesaid, at any greater distance than five miles from the county jail, it shall be lawful for any justice of the peace to commit such person or persons to the custody of any constable within the township, for the like term of time, to be by such constable confined in any proper and convenient place, for the like term of time; and the said constable shall be entitled to the same fees as are allowed to the keeper of the jail in the like cases.

SEC. 4. *And be it further enacted,* That the judges of the supreme court, every justice of the court of common pleas, and every justice of the peace, within the limits of their several jurisdictions, are hereby empowered, authorized and required to proceed against and punish all persons offending against the preceding sections of this act; and, for that purpose, each of the said judges or justices, severally, may convict such offenders upon his own view and hearing, or shall issue, if need be, a warrant, summons or *capias*, according to the circumstances of the case, to bring the body of the person accused, as aforesaid, before him; and the same judges or justices shall, respectively, in a summary way, enquire into the truth of the accusation, and upon the testimony of one or more credible witnesses, or the confession of

**Drunkenness,
how punished.**

**Judges and
justices to
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nizance.**

**May convict
on view.**

the party, shall convict the person who shall be guilty, as aforesaid, and thereupon shall proceed to pronounce the forfeiture incurred by the person so convicted, as herein before directed; and if the person, so convicted, refuse or neglect to satisfy

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such forfeiture immediately, with costs, or to produce goods and chattels whereon to levy the said forfeiture, together with costs, then the said judge or justice shall commit the offender to one of the supervisors of the highways, as aforesaid, during such time as is herein before directed; and every such conviction may be in the following words, to wit: "Be it remembered, that on the day of in the year of A. B. of county, laborer, (or otherwise, as his rank, occupation or calling may be) is convicted before me, being one of the judges or justices, &c. in the county of of swearing profane oath or oaths, by the name of (or otherwise, as the offence and case may be) and I do adjudge him to forfeit for the same, the sum of and for want of goods and chattels, to be by the offender shewn, whereon to levy, &c. you are to take his body into custody, and him forthwith convey to one of the supervisors of the highways of the township, &c. who is commanded hereby to receive and keep him at hard labor, on the highway, for the space of two days. Given under my hand and seal, the day and year aforesaid." *Provided always*, That every such prosecution be commenced within seventy-two hours after the offence shall be committed.

Form of conviction.

Failing to satisfy the fine, to labor on the public high way.

SEC. 5. *And be it further enacted*, That if any person or persons shall cause to fight any cock or cocks, for money or any other valuable thing, or shall promote or encourage any match or matches of cock fighting, by betting thereon, or shall play at any match of bullets, in any place, for money or other valuable thing, or on any highway or public road with or without a bet, or shall play at cards, dice, billiards, bowls, shovel-board or any game of hazard or address, for money or other valuable thing, every such person, so offending, shall, upon conviction thereof, before any justice or ma-

Cock-fighting, bullet playing, cards, dice, &c. forbidden.

Penalty on gaming.

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On running horses in public high ways and streets.

On keeping billiard and E O tables.

Billiard tables of certain description licensed.

Persons applying for a license to give bond,

and pay thirty dollars.

gistrate, as aforesaid, forfeit and pay three dollars, for every such offence; and if any person or persons shall run any horse, mare or gelding, in any street or public highway, every person, so offending, shall, on conviction thereof, before any justice of the peace, or on the view of such justice, forfeit and pay the sum of five dollars, with costs.

SEC. 6. *And be it further enacted,* That no billiard table, E O table, or other device (except as hereinafter excepted) shall be set up or maintained in any dwelling house, out houses, or other place, by any person whatsoever, on pain of forfeiting every such billiard table, E O table, or other device, and of forfeiting moreover the sum of fifty dollars, upon conviction thereof, before any court having competent jurisdiction, held for the county wherein the offence shall be committed. *Provided always,* That every person, who, before the passing of this act, shall have set up a billiard table, in any place within this territory, shall be permitted to continue such billiard table, for the purpose of amusement only, for and during the term of two years, after the first day of May next, and no longer, having first obtained a license, for that purpose, from the prothonotary of the court of common pleas of the country in which such billiard table is to be set up and maintained; and the prothonotaries of the several counties are hereby authorized and directed, on application for that purpose, to issue such licenses, under their hands and seals of office, to continue in force for the term of one year; and any person applying for such license, shall, before the issuing of the same, execute and deliver to the said prothonotary, a bond, in the penal sum of one hundred dollars, with one substantial freeholder as his security, payable to the treasurer of the county in which such license is granted, or to his successor in office, which bond shall contain a condition, that no gambling or betting of money, or the value thereof, shall be permitted,

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or take place at the said table, under the penalty of forfeiting the said bond, for the use of the said county; and no person shall be entitled to such license, until he shall pay, into the hands of the prothonotary who is to issue the same, the sum of thirty dollars, for the use of the said county, and the further sum of one dollar for the use of the said prothonotary. And if any person shall set up any billiard table, after

the first day of May next, or shall continue any billiard table after the said first day of May, that shall have been set up after the passing of this act, or shall continue any billiard table, after the said first day of May next, that may have been set up before the passing of this act, without having obtained the license, as above provided, or shall, on any pretence, set up or continue any billiard table, after the expiration of two years from the said first day of May next, every person, so offending, shall be subject to the penalties herein above specified.

Provided also, That nothing in this act contained shall be construed so as to prohibit private families from exercising their free will, within their own private houses, for their amusement, in a peaceable manner. *Provided also,* That no person shall set up, or suffer to be set up, or kept, in his or her house, barn, stable, or other out house, arbor, bower or yard, any table, or other thing, reputed as a gaming table, or other device, for the purpose of encouraging gaming.

SEC. 7. *And be it further enacted,* That if any person or persons shall loose any money, or other valuable thing, at or upon any match of cock-fighting, bullet-playing or horse-racing, or at or upon any game of address, game of hazard, play or game, whatsoever, the person or persons who shall loose their money, or other valuable thing, shall not be compelled to pay or make good the same. And any contract, note, bill, bond, judgment, mortgage, or other security or conveyance,

No billiard table to be set up after the first day of May next

Proviso in favor of private amusements.

All securities made & entered into for securing payment of money &c. lost at gaming void &c.

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whatsoever, given, granted, drawn, or entered into, for the security or satisfaction of the same, or any part thereof, shall be utterly void and of no effect.

SEC. 8. *And be it further enacted,* That if any person or persons shall loose any money, or other thing of value, at or upon any game of address, or of hazard, or other play, and shall pay or deliver the same, or any part thereof, the person or persons so loosing and paying, or delivering the same, shall have a right within thirty days, then next thereafter, to sue for and recover the money or goods, so lost and paid, or delivered, or any part thereof, from the respective winner or winners thereof, with costs of suit, by action of debt, or case, founded on this act, to be prosecuted in any court of record, or where the value is within the sum cognizable by a single justice, the same may be recov-

Money or other property, lost at play may be recovered back, &c.

ered before any justice of the peace within this territory, subject to an appeal as in other cases.

SEC. 9. *And be it further enacted*, That if any person or persons shall challenge another to fight or box, at fisticuffs, or, with the intent to bring on a match at boxing, shall, in words or gesture, endeavor to provoke any other person or persons to commit an affray, whether an affray ensues or not, every person, so offending, on conviction thereof, shall forfeit and pay, for every such offence, a sum not exceeding five dollars, nor less than one dollar. And every magistrate of the county, where the offence shall have been committed, shall have cognizance thereof. *Provided however*, That such prosecution be commenced within four days from the time the offence was committed.

SEC. 10. *And be it further enacted*, That if any person within this territory, shall challenge, by word or in writing, the person of another to fight at sword, rapier, pistol, or other deadly weapon, the person so challenging, shall forfeit and pay for eve-

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ry such offence, being thereof lawfully convicted, in any court of record within the county wherein the offence shall be committed, having competent jurisdiction, by the testimony of one or more witnesses, or by the confession of the party offending, a sum not exceeding two hundred and fifty dollars, nor less than fifty dollars; or shall suffer imprisonment, for a term not exceeding twelve months, nor less than three months, without bail or mainprize. And the person who shall accept any such challenge, shall in like manner, upon conviction, forfeit and pay a sum not exceeding one hundred dollars, or shall suffer such imprisonment, for a term not exceeding six months, nor less than one month. And if any person shall, willingly and knowingly, carry and deliver any written challenge, or shall verbally deliver any message, purporting to be a challenge, or shall consent to be a second in any such intended duel, and shall be legally convicted thereof, as aforesaid, the person so offending, shall for every such offence, forfeit and pay a sum not exceeding one hundred dollars, nor less than fifty dollars; or shall suffer imprisonment for a term not exceeding six months, nor less than one month, as aforesaid.

Penalty for fighting or challenging to fight at fisticuffs, &c

Penalty for challenging by writing or verbally, accepting a

challenge, &c. fine or imprisonment.

Persons carrying or delivering a challenge, &c. fine or imprisonment.

SEC. 11. *And be it further enacted,* That all prosecutions under this act, shall be by action of debt, or trespass on the case, or by indictment, where the penalty exceeds a magistrate's jurisdiction; and all fines and penalties set or imposed and paid by virtue of the provisions herein contained, shall be paid into the treasury of the county in which such fine or penalty shall be set, or imposed, for the use of the said county. *Provided always,* That no person shall be prosecuted for any offence against this act (except such offences as are enumerated in the tenth section thereof) unless such prosecution be commenced within thirty days after the offence has been committed.

Prosecutions under this act to be debt, trespass on case, or indictment.

Within what time to be commenced.

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SEC. 12. *And be it further enacted,* That if any person or persons who shall be committed to the supervisor of the highway, by virtue of any of the provisions herein contained, shall disobey the orders or directions of the said supervisor, it shall be lawful for the said supervisor to commit such person or persons to the jail of the county, there to remain until the expiration of the time for which such person or persons may have been sentenced to labor on the highway; and the said supervisor shall endorse his order of commitment on the magistrate's warrant, and transmit the same to the jailer, who is hereby directed, on the receipt thereof, to receive such person or persons, and commit him or them accordingly.

Persons committed to the supervisors, refusing to labor, to be committed to prison.

SEC. 13. *And be it further enacted,* That this act shall be in force from and after the first day of May next.

Time of taking effect.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives
 H. VANDER BURGH,
President of the Council.

APPROVED—December 2d, 1799.

AR. ST. CLAIR.

CHAPTER XX.

An ACT to create the offices of a territorial treasurer, and of an auditor of public accounts.

BE it enacted, by the Legislative Council and House of
 SEC. 1. *Representatives in General Assembly, and it is hereby enacted by the authority of the same,* That the governor is hereby authorized to appoint a treasurer, and an auditor for this

Territorial treasurer & auditor to be appointed.

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territory, whose duties shall be regulated as is hereinafter defined.

SEC. 2. *And be it further enacted,* That it shall be the duty of the treasurer to receive and keep the monies of the territory, and to disburse the same upon warrants or certificates drawn by the auditor of public accounts; he shall take receipts for all monies paid by him, and make fair entries thereof in a book to be kept for that purpose, and shall give receipts for all monies, certificates or warrants, received by him, which receipts shall be attested by the auditor; and without such receipt, signed by the treasurer and attested by the auditor, no acknowledgment for money, warrants, or certificates received into the territorial treasury shall be valid. And the said treasurer shall, on the third day of every session of the legislature of the territory, lay before the legislature fair and accurate statements of all accounts by him from time to time settled; also, a true and perfect account of the state of the treasury. He shall, at all times, when required, submit to the legislature the inspection of all monies in his hands, and the examination of his accounts, and shall, prior to the entering upon the duties of his office, give bond with sufficient sureties, to be payable to the governor, or his successors in office, for the use of the territory, in the sum of twenty thousand dollars, conditioned for the faithful performance of the duties of his office, which bond shall be lodged by the governor with the secretary of the territory.

Duty of the treasurer.

To submit his accounts to the inspection of the legislature, &c.

To give bond in 20,000 dollars.

Audited certificates to be received in payment of taxes, &c.

SEC. 3. *And be it further enacted,* That all audited certificates shall be receivable, at all times, into the treasury for taxes, and all other public dues, of whatsoever nature; and the treasurer is hereby authorised to receive the same in discharge thereof.

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SEC. 4. *And be it further enacted,* That the treasurer shall, on application, redeem all or any part of all audited certificates with any monies that may be in the treasury, from time to time, prior to the first day of January, in the year of our Lord one thousand eight hundred and one, with interest to the day of such redemption.

Treasurer to redeem auditor's certificates;

SEC. 5. *And be it further enacted,* That it shall be the duty of the treasurer to prosecute for all delinquencies, of all officers of the revenue, collectors, or others, as the case may be, for debts and forfeitures of whatsoever nature, that are or may be due to the territory.

to prosecute for delinquencies, &c.

SEC. 6. *And be it further enacted,* That the clerks of the superior courts, circuit courts, courts of common pleas, and courts of general quarter sessions, shall, on or before the first Tuesday of May, in each and every year, render to the treasurer of the territory fair accounts of all fines and forfeitures and fees, of whatsoever nature, due to the treasury of the territory, as may appear by the records of their courts,

Clerks of the several courts to account with the treasurer for all fines.

respectively, under the penalty of one hundred dollars for every omission or neglect thereof, to be recovered by action of debt in the name and for the use of the territory; and it shall be the duty of the treasurer to issue his warrant to the sheriffs of the respective counties, for the collection thereof, who shall thereupon proceed to collect the same, in the most summary way, and forthwith transmit all monies and all other things so collected to the territorial treasury, under the penalty of one hundred dollars, to be recovered and applied in manner aforesaid; and the said sheriffs shall be allowed for such collections five per centum for all monies transmitted to, or paid by them into the public treasury.

Penalty on failure.

Treasurer to issue his warrants to sh'ffs for collection,

Penalty on sheriff failing.

5 per cent to sh'ff. for collecting.

SEC. 7. *And be it further enacted,* That the treasurer shall keep fair accounts, in separate books,

Treasurer to keep separate book,

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to be kept for that purpose, of all monies by him received and disbursed, and of all audited certificates by him received for public dues, of whatsoever nature, and of all such certificates which may be redeemed in the treasury, noting the date of their issuing, and the date of their redemption, with the interest paid thereon; and shall moreover

preserve such audited certificates as his vouchers, to authorise and justify such accounts.

Auditor's duty to liquidate and certify accounts, &c.

SEC. 8. *And be it further enacted*, That it shall be the duty of the auditor of the said territory, to receive and liquidate all accounts against the territory, which the existing laws may authorise him to receive and liquidate, and after examination, to certify the amount or balance due, directed to the treasurer of the territory. *Provided*, That if any person whose account shall have been so audited, be dissatisfied therewith, he may appeal to the general assembly of the territory at their next session, and not afterwards.

Further duty of the auditor.

SEC. 9. *And be it further enacted*, That it shall be the duty of the said auditor safely to keep all accounts and vouchers by him received, and a fair account of all receipts from the treasurer by him attested, and of all audited certificates and warrants on the treasurer by him disbursed, in separate books, to be kept for that purpose, subject to the inspection and examination of the legislature; and it shall moreover be the duty of the auditor to lay before the legislature, on the third day of every of their sessions, a fair statement of all the accounts he has audited, expressing the several sums by him certified to the treasurer to be due, and also of all receipts granted by the treasurer, and by him attested.

Auditor to give bond.

SEC. 10. *And be it further enacted*, That previous to his entering upon the duties of his office, the auditor shall enter into bond, with sufficient sureties, to be payable to the governor, or his

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successors in office, for the use of the territory, in the sum of twenty thousand dollars, conditioned for the faithful performance of the duties of his office, which bond shall be lodged by the governor with the secretary of the territory.

Auditor to issue certificates payable at the treasury.

SEC. 11. *And be it further enacted*, That the auditor shall issue certificates for monies due from the territory, in as many warrants or certificates as shall be required by the person or persons claiming the same, payable at the territorial treasury on demand, in gold or silver current coin of the United States, with an interest of six per centum per annum, from the date thereof, until redeemed, as aforesaid.

Provided, That no warrant or certificate shall be issued for any other sum than one dollar, five dollars, or twenty dollars.

SEC. 12. *And be it further enacted*, That all audited certificates, shall bear date on the day of issuing the same, and shall be in such form, and executed in such manner, as may be agreed upon by a joint committee, to consist of one member from the legislative council, and two members from the house of representatives, to be appointed for that purpose. *Provided always*, That the several sheriffs and collectors shall receive such audited certificates in discharge of public demands, of whatsoever nature, and shall note on the back thereof the day, month, and year of his receiving the same, at which period the interest thereon shall cease.

SEC. 13. *And be it further enacted*, That the faith of this territory, shall be, and is hereby pledged for the redemption of all audited certificates, payable as aforesaid, and all monies that may be in the treasury, from time to time, is hereby appropriated for the redemption of the same, in such manner as is herein before directed by the fourth section of this act.

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SEC. 14. *And be it further enacted*, That neither the treasurer, nor the auditor, shall, directly or indirectly, take or apply to his or their own use, any emolument or gain for negotiating or transacting any business, in either of their departments, other than what shall be allowed by law, nor shall either of them offer, or receive any audited certificates, on any pretence whatever, at less value than such certificate shall be issued for, with such interest as may be due thereon; and if either of them shall offend therein, he shall be deemed guilty of a high misdemeanor, and shall, upon conviction thereof, forfeit to the territory one thousand dollars, for every such offence, and shall be removed from office, and be forever thereafter incapable of holding any office of trust or profit under the authority of this territory. *Provided*, That if any other person than a public prosecutor shall give information of such offence, upon which a prosecution and conviction shall be had, one half of the aforesaid penalty of one thousand dollars, when recovered, shall be for the use of the person giving such information.

SEC. 15. *And be it further enacted*, That the auditor, as soon as

Certificates to be either 1, 5, or 20 dollars.

Certificates to bear date the day of issuing.

To be received in payment of taxes, &c.

Faith of the territory pledged for the redemption of audited certificates.

Penalty on the treasurer and auditor speculating on audited certificates.

Offence and fine.

Auditor to

procure a sufficient number of printed certificates, &c.

Auditor to indent all certificates, &c.

shall be convenient after his appointment, shall have a sufficient number of warrants or certificates, printed and signed by him, and ready to be delivered to such person or persons, as are entitled to the same; which certificates shall, in all cases, be conformable to this act, and disbursed according to the direction of the same.

SEC. 16. *And be it further enacted*, That to prevent impositions by counterfeits, the said certificates shall be printed on sheets, leaving sufficient space to indent the same; and the auditor is hereby required to indent all certificates by him issued.

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Penalty for forgery on auditor's certificates, &c.

SEC. 17. *And be it further enacted*, That if any person or persons, shall falsely make, alter, forge, or counterfeit, or cause, or procure to be falsely made, altered, forged, or counterfeited, or willingly act or assist in the false making, altering, forging or counterfeiting, any certificate, indent, warrant, or other public security of this territory; or shall utter, put off, or offer or cause to be uttered, put off, or offered in payment, or for sale, any such false, forged, altered, or counterfeited certificate, indent, warrant, or other public security, with intention to defraud any person, knowing the same to be false, altered, forged, or counterfeited, shall be deemed guilty of felony, and on conviction thereof, shall suffer death.

Death.

Treasurer & auditor to keep their offices at the seat of government. Salaries allowed them

SEC. 18. *And be it further enacted* That the territorial treasurer, and the auditor of public accounts, shall respectively keep their offices at the seat of the territorial government; and there shall be allowed to the treasurer and auditor aforesaid, the following annual salaries, payable yearly, at the treasury of the territory, to wit; to the territorial treasurer, the sum of four hundred dollars; and to the auditor of public accounts, the sum of four hundred and fifty dollars.

This act to be in force from passing

SEC. 19. *And be it further enacted*, That this act shall take effect, and be in force, from and after the passing thereof.

EDWARD TIFFIN, *Speaker*

Of the House of Representatives.

H. VANDER BURGH,

President of the Council.

APPROVED—December 2d, 1799.

AR. ST. CLAIR.

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CHAPTER XXI.

An ACT establishing courts for the trial of small causes.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That every action for debt or other demand (except such actions as is hereinafter excepted) shall be, and the same is hereby made cognizable before any justice of the peace, within the township in which the defendant resides or may be found, and the said justices are hereby authorized to hold a court to hear, try and determine the same, according to law; and the jurisdiction of every justice of the peace, under this act, shall be co-extensive with the limits of the township in which he resides, and his writs, precepts and process, authorized by this act, shall run in and thro' such township, and may be executed therein, but not elsewhere; and the constables of the several townships, and they only, shall be ministerial officers of the said court, and it shall be their duty to execute and return all precepts, summons', warrants and other process, issuing out of the said court, and to them or any of them directed and delivered, and to perform all acts appertaining to their offices aforesaid; and all such precepts, summons', warrants and other process, shall be tested of the day on which they are respectively issued, and shall be under the hand and seal of the justice issuing the same. *Provided always,* That if there is not a justice of the peace residing in the township in which the defendant lives, or if there is not a justice of the peace residing in the said township, who is disinterested in the event of the suit, or who is not of kin to either of the parties in or within the second degree, it shall be lawful for the plaintiff to institute his suit before a justice of the peace,

Actions for debt, &c. before a justice to be in that township wherein the defendant resides, &c. Jurisdiction of a justice.

Constables to serve justice's writs, &c.

How process issued by a justice shall bear test, &c. When no justice lives in the township, &c. how to proceed.

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in any of the adjoining townships, in the same county, and the said justice is hereby authorized to take cognizance thereof, any thing herein contained to the contrary notwithstanding.

SEC. 2. *And be it further enacted,* That the first process which shall be issued against any defendant, by virtue of this act, shall be a

First process to be summons or capias.

summons or warrant, in nature of a *capias ad respondendum*, as the case may require; and the summons shall be used in every case under this act, where the defendant is a freeholder within the county, and resides within the township; and the summons to be issued as aforesaid, shall specify a certain time, not less than six, nor more than ten days from the date of such process, and also a certain place at which the defendant is to appear, and shall be served at least three days before the time of appearance mentioned therein, by reading the same to the defendant, and by serving him or her with a copy thereof, if required, when the said defendant may be found; but if he or she cannot be found, then by leaving a copy thereof at his or her house, or place of abode, in presence of some person of the family, of the age of ten years or upwards, who shall be informed of the contents thereof; and the constable serving such summons, shall, on the oath of his office, endorse thereupon the time and manner of his executing the same, and shall subscribe his name thereto. *Provided always*, That in every case, in which a summons is made the proper process by this act, if it shall be sufficiently proved, on oath, to the satisfaction of the justice, that the plaintiff will be in danger of loosing his or her demand, unless the defendant be arrested, it shall be the duty of the justice to issue a warrant in the nature of a *capias*, any thing herein contained to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That if the defendant does not appear, at the time and place

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expressed in such summons, and it shall be found, by the return thereon endorsed, that the summons was duly served, and no sufficient reason be assigned to the justice why the defendant does not appear, then the said justice may proceed to hear and determine such cause, in the absence of the said defendant.

SEC. 4. *And be it further enacted*, That the warrant, in nature of a *capias ad respondendum*, shall be used in all cases under this act, in which the defendant is not a freeholder within the county, or does not reside within the township in which such process shall issue; and the said warrant shall be made returnable forthwith, after the service thereof; and the constable serving or executing the same, shall, accord-

Mode of service.

Cases where a *capias* may be demanded.

When defendant does

not appear, how to proceed.

Capias, when proper;

how served

ing to the command thereof, forthwith convey the defendant before the justice who issued the same, and the said justice shall thereupon either cause the said defendant to give bail for his or her appearing, and abiding the event of the said suit, or on neglect or refusal to give such bail, shall order the constable to convey him or her to the jail of the county, there to be kept in custody until the time appointed for the trial of the cause, which shall not exceed three days from the day of the return of the warrant, or the said justice may direct the constable to hold the defendant in his custody, until the plaintiff shall have notice and time to attend and proceed to trial; and the constable, who served such warrant, shall, on the oath of his office, endorse thereon the execution thereof, and sign his name thereto.

SEC. 5. *And be it further enacted*, That the justice shall endorse on the summons or warrant, before the same is delivered to the constable, the sum demanded by the plaintiff, together with the costs that have accrued, and the defendant shall have the privilege of paying the amount of the said de-

**and pro-
ceeded on.**

**Sum demanded
to be endorsed
on the back,
&c.**

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mand and costs so endorsed, without further proceedings in the cause, and it shall be lawful for the constable to receive the same and receipt therefor; which receipt shall be a full and complete discharge to the defendant, from the said demand and costs; and if the constable shall not pay the money, so received, to the justice who issued the process, or if he shall not pay the amount of the costs into the hands of the justice, and the debt or demand into the hands of the plaintiff, named in such process, within the space of seven days, after he may have received the same, then the said constable shall be liable to pay to the said plaintiff, or to his or her legal representative, double the amount of the said debt or demand, to be recovered with costs of suit, by an action of trespass on the case, in any court having cognizance thereof.

**Penalty on
constables
withholding
money.**

SEC. 6. *And be it further enacted*, That the recognizance of bail to be taken as is above provided, shall be in the following form, to wit.

Township }
 } ss.
County }

**Form of re-
cognizance of
bail.**

Whereas A. B. (naming the defendant) hath been arrested, and is in custody at the suit of C. D. (naming the plaintiff) in an action of

for the sum of now therefore you O. P. (naming the bail) do acknowledge yourself special bail in the said action, in the sum of dollars, to be levied on your goods and chattels, and for want thereof, upon your body, if default be made in the condition of your recognizance, which condition is, that the said A. B. (naming the defendant) shall be, and appear before (naming the justice) on the day of next, and if judgment be given against him or her, that he or she shall pay the costs and condemnation money, or surrender his or her body in execution. Ac-

M

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Justices empowered to take recognizances.

Defendant failing to appear,

justice to proceed in his absence.

When parties appear how to proceed.

May adjourn the trial.

Parties may enter before a justice without process.

knownledged before me one of the justices of the peace in and for the said county of the day of in the year of our Lord one thousand And every justice of the peace is hereby empowered to take such recognizance, which shall remain with such justice, for the benefit of the plaintiff in the suit. And if the defendant does not appear, after such recognizance entered into, at the time and place specified in the said recognizance, and no sufficient reason be assigned to the said justice why he or she does not appear, then the said justice may proceed to hear and determine the cause in the absence of such defendant; and when the parties to any suit, to be instituted by virtue of this act, shall appear at the time and place appointed for trial, the said justice shall proceed to hear and examine their respective allegations and proofs, and shall thereupon give judgment, with costs of suit, according to the justice and equity of the case, unless he shall think it proper, on the application of either party, to adjourn the trial, which adjournment shall not be made for a longer period than seven days when moved for by the plaintiff, nor for a longer period than fourteen days, when moved for by the defendant.

SEC. 7. *And be it further enacted*, That when parties agree to enter, without process, before a justice of the peace, any action herein made cognizable before him, such justice shall enter the same on his docket, and shall proceed to judgment and execution, in the same manner as though a summons or warrant had been issued, served and

returned. And in all actions instituted by virtue of the provisions herein contained, in which the plaintiff shall be non suited, discontinued or withdraw his or her suit, without the consent of the defendant, the said justice shall give judgment for the defendant, for the costs which have accrued.

Plaintiff discontinuing, or becoming non suit to pay costs, &c.

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SEC. 8. *And be it further enacted*, That if in any cause, instituted as aforesaid, it shall appear at the trial that there is a balance due to the defendant from the plaintiff, then the justice shall enter up judgment against such plaintiff, in favor of the defendant, for the sum so appearing to be due, with costs of suit, and such defendant shall be entitled to execution in the same manner as though such plaintiff had been the defendant in the cause.

If a balance found due defendant, justice to enter judgment.

SEC. 9. *And be it further enacted*, That the parties, in every case arising under this act, shall have the privilege of referring the matter in controversy between them to referees, who shall be chosen and mutually agreed upon between them, and who, after having heard the proofs and allegations of the parties, shall make their report in writing to the justice, and the said justice shall receive and file the same, and thereupon enter judgment accordingly.

The parties may refer their causes in dispute. &c.

Report how to be made.

SEC. 10. *And be it further enacted*, That when judgment shall be given against the plaintiff or defendant under this act, the justice who gave such judgment shall grant execution thereupon, returnable to such justice, within twenty days thereafter, commanding the constable to levy and make the debt or damages and costs of the goods and chattels of the party, and for want of sufficient goods and chattels whereon to levy and make the same, to take the body of such party, and to convey him or her to the common jail of the county, and the sheriff or keeper of such jail is hereby required to receive the person or persons so taken in execution, and him, her or them safely to keep, until the sum recovered, and the costs of suit be fully paid, and in default of such safe-keeping, the said sheriff shall be answerable to the party aggrieved, who shall have the same remedy against him, as is provided by law in cases of escapes. But in case the constable cannot find

Executions how granted and returned.

Where goods and chattels cannot be found, to take the body, &c.

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When goods and chattels cannot be found how the lands may be taken to satisfy, &c.

Body must first be released from prison.

Judgment against executors &c. how execution shall issue.

Executions against freeholders, when to issue, &c.

goods and chattels belonging to the party against whom such execution hath issued, sufficient to satisfy the judgment, it shall and may be lawful for the party in whose favor such judgment hath been rendered, to apply to the justice for a transcript thereof, whose duty it shall be to grant the same, which being filed in the office of the prothonotary of the court of common pleas, in the county in which the recovery hath been had, execution may issue therefrom, according to the rules and practice of the said court; and the amount of the said judgment, together with the costs of such removal, may be levied on the lands and tenements of the party against whom the same hath been rendered. *Provided always*, That no execution shall issue from the court of common pleas, in manner aforesaid, after the party hath been taken in execution and committed to jail, until he or she shall be discharged from imprisonment under such execution. *And provided also*, That when judgment shall be obtained against executors or administrators, execution shall issue thereon in the same manner as it is issued against them in the courts of record within the territory. *And provided also*, That when judgment shall be rendered as aforesaid, against a freeholder, no execution shall issue thereon until the expiration of three months, if the debt or demand be under twelve dollars, or until the expiration of six months, if such debt or demand exceed twelve dollars, from the time of the render of such judgment, unless the party in whose favor such judgment hath been rendered, shall make it appear on oath to the satisfaction of such justice, that he or she is in danger of losing his or her debt or damage, if such delay of execution be allowed, in which case the said justice shall issue execution forthwith, as is herein above provided, unless the party against whom execution is moved for, shall immediately give good and sufficient security to the adverse party, for the payment

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Persons not freeholders on giving security entitled to a stay of execution, &c.

of the debt or damage and costs, within the space of three months (or six months, as the case may be.) *And provided also*, That if judgment shall be given as aforesaid, against a person who is not a freeholder, such person shall have the execution against him or her respited for the like term of three months or six months, (as the case may be) on his or her entering into recognizance to the adverse party, with

one sufficient security, in the nature of special bail, conditioned to deliver the body of the said party to the sheriff of the county, at or before the expiration of the time so to be allowed, or to satisfy the amount of the judgment.

SEC. 11. *And be it further enacted,* That if any defendant who is not a freeholder, shall appear at the return of the warrant, or shall appear by consent without process, and procure a good and sufficient freeholder, resident in the township to join with him or her in a confession of judgment to the adverse party, with costs, then such defendant shall be entitled to all the benefits and privileges which any freeholder is entitled to by virtue of this act.

Defendant
not being a
freeholder,
&c.

SEC. 12. *And be it further enacted,* That every justice, before whom any action shall be commenced according to, and by virtue of the provisions contained in this act, shall open and keep a book, to be stiled his docket, in which he shall make fair entries of the names of the parties to every suit instituted before him, distinguishing between the plaintiff and defendant, and in which he shall note all the process that may issue in the cause, in the order in which it issues, and in which he shall state every motion made by either party and overruled, or made, objected to and allowed, and in which he shall also enter the judgment, stating the precise amount of the debt or damages and costs, together with the day on which the said judgment was rendered.

Justice to
keep a docket,
&c.

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SEC. 13. *And be it further enacted,* That it shall be the duty of the justice to make up and tax a bill of costs, in every action instituted before him, according to the provisions of the law ascertaining the fees to be allowed in such cases, setting down, in said bill, each item separately and distinctly, a true copy of which bill, certified and signed by the said justice, shall be delivered to the party against whom judgment hath been entered, or left at his or her usual place of abode, before such party shall be called upon to discharge or satisfy the said judgment, and every justice who shall issue an execution on any judgment, or receive the amount thereof without having previously tendered to the party against whom such judgment hath been rendered,

Justice to tax
costs.

Justice to
certify
and deliver
a copy,
&c.

No execution
to issue 'till
such bill be
delivered.

a certified bill of the costs, as above provided, or without having delivered the same to the constable to be left at his or her usual place of abode, and every justice who shall insert in the said bill of costs any charge for services not actually performed, or any higher charge for services actually performed than is allowed by law, shall forfeit and pay to the party against whom such bill hath been made and taxed, a sum of money equal to the amount of the cost taxed in the said suit, which sum shall and may be recovered, with costs, before any justice of the peace within the county, and the jurisdiction of every justice for the purpose of prosecuting for and recovering such forfeiture shall be coextensive with the boundaries of the county, any thing herein contained to the contrary notwithstanding. *Provided always,* That if the said forfeiture shall exceed the sum of eighteen dollars, then the same shall be recoverable by action of debt in any court of record within the territory, and not elsewhere.

Penalty on
failure.

How
recovered.

If above 18
dollars.

Appeals
granted.

SEC. 14. *And be it further enacted,* That if any person or persons shall conceive him, her or themselves agrieved by any judgment rendered as aforesaid, it shall and may be lawful for such person or

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Twenty days
allowed.

persons, at any time within the space of twenty days, next after the rendering of such judgment, to appeal therefrom to the court of common pleas, next to be holden for the county in which such suit hath been tried, he, she or they first entering into recognizance, with at least one sufficient security, in a sum at least double the amount of the said judgment, and sufficient to answer all costs, to prosecute the said appeal with effect, and to abide the order which the court of common pleas may make therein; and upon any appeal demanded from any such judgment, the justice who pronounced the same shall send a transcript thereof to the prothonotary of the court of common pleas of the county, in which such appeal is made, on or before the first day of the term next following such appeal, and all proceedings before the said justice, or on any process issued by him on the said judgment, shall be stayed from the time of demanding such appeal, unless the party demanding the same shall refuse and neglect to give the security above required. *Provided always,* That no defendant shall be allowed

Upon an
appeal justice
to certify his
proceedings

Cases in

an appeal from a judgment rendered against him or her, unless the same shall amount to two dollars or upwards, without costs; nor shall any plaintiff be allowed an appeal from any judgment rendered against him or her, unless his or her original demand against the defendant amounted to two dollars or upwards, or from any judgment given for him or her, unless the original sum demanded by him or her from the defendant, shall exceed the sum recovered by four dollars; nor shall either party be entitled to an appeal in any case in which judgment hath been entered on the report of referees appointed as aforesaid.

SEC. 15. *And be it further enacted*, That at the term to which any such appeal shall be made, the person so appealing shall cause an entry of the suit to made by the prothonotary of such court, and

which no appeal lies fr'm a justice's judgment.

Persons appealing, to enter the same.

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the plaintiff in the court below, whether appellant or appellee, shall be plaintiff in the court above, and after such entry hath been made, the suit shall be considered in the same light, and the parties shall proceed in all respects in the same manner as though the suit had been originally instituted in the said court, and mesne process returned to the term in which such entry is made, and reference shall be had to the proceedings in the court below, no further than to include in the judgment to be rendered in the court above the costs taxed in the court below. *Provided*, That the costs which shall accrue for services in the court of common pleas, on such appeal, shall be two third parts only of the costs allowed by law for the same services, in suits, originally instituted in the said court. *And provided also*, That the justice, who rendered the judgment, from which the appeal is made, shall not be permitted to sit on the bench when the cause is heard and determined in the court above.

Proceedings thereon.

SEC. 16. *And be it further enacted*, That if the plaintiff, after an appeal hath been made and entered, as is above provided, shall file a declaration in an action not cognizable by a single justice, by virtue of this act, the defendant may thereupon file his or her plea in abatement to the jurisdiction of the court, and if it shall appear to the said court, that the said justice had not cognizance of such suit, by virtue of this act, they shall proceed to enter judgment for the defendant, with costs

Where defendant may plead in abatement upon an appeal, &c.

of suit. *Provided*, That such judgment shall not bar the plaintiff from a recovery in a subsequent action for the same cause, instituted in a court having cognizance thereof.

On an appeal,
justice to make
out a tran-
script, &c.

SEC. 17. *And be it further enacted*, That whenever an appeal shall be demanded in manner aforesaid or a writ of certiorari shall be presented to a justice, requiring him to certify the proceedings had before him in any cause arising under this act, it

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shall be the duty of such justice to make a fair and accurate transcript from his docket of all the entries contained therein relative to the said cause, and to transmit the same forthwith to the proper court; and if it shall appear that the said justice hath not made a just and true entry on his said docket, of all the proceedings had before him in the cause, he may be compelled, by a writ of mandamus, to correct and complete the said entry, and forthwith to certify the same to the proper court; and if it shall appear that any justice hath altered or changed, or caused or suffered to be altered or changed the entries made on his docket, in matter of substance, with an intent to injure either of the parties, he shall be deemed guilty of a high misdemeanor, and on conviction thereof by indictment, shall be fined in a sum, not more than one hundred dollars, nor less than fifty dollars, and shall moreover pay the costs of prosecution, and shall stand committed until the fine and fees are paid.

Justices fail-
ing to make
true entries.

Penalty.

SEC. 18. *And be it further enacted*, That no justice of the peace, by virtue of the provisions contained in this act, shall institute or sustain two or more actions or suits between the same parties, for demands which are of such a nature, as by the rules of law may be consolidated in one action, under the penalty of eighteen dollars, to be recovered for the use, and in the name of any person who shall first sue for the same, in the same manner as is provided in the thirteenth section of this act; and every judgment recovered against any defendant or defendants, by virtue of the provisions herein contained, may be pleaded in bar, and such plea shall be received in any court within the territory, as a complete bar to any subsequent action or suit, instituted by the same plaintiff or plaintiffs, against the same defendant or de-

Not to in-
stitute two
actions be-
tween the same
parties that
might by law
be joined
in one.

When judg-
ment may
be plead in
bar to a
subsequent
action &c.

N

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defendants, for any demand due and owing from the same defendant or defendants to the same plaintiff or plaintiffs, at the time of the instituting of the action in which such judgment shall have been obtained, if the demand on which such judgment hath been obtained, and the demand on which such subsequent action or suit shall have been commenced, shall be of such a nature, as by the rules of law, might have been consolidated and joined in one action.

SEC. 19. *And be it further enacted,* That no constable who does not possess a freehold estate of the value of one hundred dollars, or upwards, shall be permitted to serve, or execute any process that may or shall be issued under this act, until he hath executed and delivered a bond with one good and sufficient freeholder as his security, payable to the treasurer of the county in which he resides, in the penal sum of two hundred dollars, with a condition that he will faithfully perform the duties of his office as constable within his township, and that he will justly and fairly account for, and pay over all monies that may come to his hands upon, or by virtue of any process issuing under this act, according to the provisions thereof. And every bond executed and delivered as aforesaid, shall be held for the benefit and security of all suitors in the courts of the respective townships. And if the condition of such bond shall at any time be broken, it shall be the duty of the treasurer, on demand made for that purpose, to deliver the said bond to the party aggrieved who is hereby authorised and empowered, to institute an action thereon, having first indemnified the said treasurer against all costs that may accrue on such prosecution, and after judgment obtained on any bond executed, as aforesaid, the court may proceed, from time to time, to award execution against the defendants for money withheld or imbezzled by the said constable, or for penalties recovered.

When constables shall give bond.

Condition thereof.

To be holden for the benefit of suitors.

When condition broken, how to proceed.

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against him by virtue of the provisions herein contained, until the amount of monies levied shall equal the amount of such judgment. *Provided,* That no execution shall issue, as aforesaid, until the defendants be served with a copy of a rule to shew cause why such execution

When and how execution shall issue, &c.

should not be awarded. And if any person or persons shall be injured by the illegal conduct of any constable, under color of process issuing under this act, and shall thereupon obtain judgment against such constable, and goods and chattels cannot be found sufficient to satisfy the said judgment, such person or persons shall have the same remedy against the said constable and his security, as is herein provided.

Actions not cognizable before a justice, under this act.

SEC. 20. *And be it further enacted*, That this act shall not be construed or understood to extend to or embrace, nor shall any thing herein contained extend to or embrace any action of debt on bonds for the performance of covenants, actions of covenant, actions of replevin, or upon any real contract, actions of trespass on the case for trover and conversion, or slander, actions of trespass vi et armis, or actions wherein the title of lands shall, in any wise, come in question.

Actions commenced in court of common pleas cognizable before a justice not to carry costs

SEC. 21. *And be it further enacted*, That if any person or persons shall commence, sue, or prosecute any suit or suits, for any debt or demand, by this act made cognizable before a justice of the peace, in any other manner than is authorized and directed by this act, and shall obtain a verdict or judgment therein, for debt or damage, which, without costs of suit, shall not amount to eighteen dollars, or more, not having caused an oath or affirmation to be made, before the suing out of the *capias* or summons, and filed in the office of the prothonotary or clerk of the court from whence such process issued, that he, she or they, so making oath or affirmation, did truly believe the debt

unless affidavit be made, &c.

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due, or damage sustained, amounted to the sum of eighteen dollars, or more, he, she or they, so prosecuting, shall not receive any costs in such suit, any law, usage or custom to the contrary notwithstanding.

Actions for slander and trespass vi et armis what costs given.

SEC. 22. *And be it further enacted*, That if in any action of trespass on the case for slander, or action of trespass vi et armis, that may hereafter be instituted, in any court of record within the territory, the plaintiff shall recover a sum less than five dollars, such plaintiff shall be allowed to recover two thirds of the costs given by law in such suit, and no more.

What laws repealed.

SEC. 23. *And be it further enacted*, That the law entitled, "A law for the speedy and easy recovery of small debts," adopted from the Pennsylvania code, and published at Cincinnati, the third day of

June, in the year of our Lord one thousand, seven hundred and ninety-five, and all other laws, and parts of laws heretofore adopted and published within the territory, so far as the same relate to the power of single magistrates in civil causes; and also, so much of a law entitled "A law for the limitation of actions," adopted from the Pennsylvania code, and published at Cincinnati, the tenth day of June, in the year of our Lord one thousand, seven hundred and ninety-five, as respects the recovery of costs in actions of slander, and also so much of the law entitled, "A law declaring what laws shall be in force," adopted from the Virginia code, and published at Cincinnati, the fourteenth day of July, in the year of our Lord one thousand, seven hundred and ninety-five, as adopts and enforces the second section of the sixth chapter of the statute, enacted in the forty-third year of the reign of queen Elizabeth, be, and the same are hereby repealed. *Provided always*, That nothing herein contained shall be construed to affect any action or suit that shall

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have been commenced under the present existing laws, and that shall be pending at the time when this law shall come in force.

SEC. 24. *And be it further enacted*, That this law shall be in force, and take effect, from and after the first day of May next, and not before. When to take effect.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
 H. VANDER BURGH,
President of the Council.

APPROVED—December 2d, 1799.

AR. ST. CLAIR.

CHAPTER XXII.

An ACT providing for the appointment of constables.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That it shall be the duty of the court of general quarter sessions of the peace, in each and every county, to appoint at the sessions next after the first day of March, annually, one or more respectable and confidential persons, in each and every township within their respective counties, to serve as constables; and the constables so appointed shall continue in office, by virtue of such appointment, for the term of one year, and so long thereafter as may be sufficient for their successors in office to have notice of their appointments, take the oath and enter on the duties of their offices. *Provided*, That nothing herein contained shall oblige them to serve as constables for a longer time than three

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months, after the expiration of the term of one year, as aforesaid.

SEC. 2. *And be it further enacted*, That every constable, before he enters upon the duties of his office, shall take the following oath, or affirmation. "I do swear (or affirm, as the case may be) that I will faithfully discharge the duties of my office, as constable, within the county of _____ according to the best of my understanding and abilities;" which oath, or affirmation, shall be taken before the court of general quarter sessions of the peace, or before any justice of the said court; and the justice administering such oath (if out of court) shall make a certificate thereof, and cause the same to be filed with the clerk of the sessions, by which such constable shall have been appointed; and it shall be the duty of every constable, as far as in him lies, to apprehend and bring to justice, all felons and disturbers of the peace; to suppress all riots, routs and unlawful assemblies, and to keep and preserve the peace within the county in which he shall have been appointed, and also to serve and execute all warrants, writs, precepts, and other process to him lawfully directed, and generally to do and perform all things appertaining to the office of constable within the territory. *Provided always*, That nothing herein contained shall

Court of
quarter ses-
sions to ap-
point consta-
bles.

Term of
service.

Oath of
office.

Before
whom
taken.

Their duty.

Proviso.

be construed, to require any constable, not qualified as is provided in the act entitled, "An act establishing courts for the trial of small causes," to serve or execute any process that may issue by virtue of the provisions in that act contained.

SEC. 3. *And be it further enacted,* That every person, who shall be appointed to the office of constable in manner aforesaid, and who shall not, within eight days after notice of such appointment, take the oath herein prescribed, and every constable who, having taken the oath aforesaid, shall neglect or refuse to perform any of the duties appertaining to his office, shall forfeit and pay, for

**Failing to
take an
oath**

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every such neglect or refusal, the sum of twenty dollars, to be recovered with costs of suit, before any court of record within the county in which such constable resides, in the name of any person who will sue for the same; the one half to the use of the person so suing, and the other half to the use of the county. *Provided always,* That no person shall be liable to the penalty herein specified for not accepting of the appointment of a constable in the same county more than once in the term of ten years.

SEC. 4. *And be it further enacted,* That when any constable, in any township within this territory, appointed as aforesaid, shall die or remove out of the township, or shall be otherwise disqualified from holding such office, it shall be the duty of any justice of the peace in the township, in which such death, removal, or disqualification shall happen, to appoint a constable to fill such vacancy, and return his name to the next court of quarter sessions, held for the county, who shall confirm the said appointment, or appoint another; and the constables, so appointed, shall take the same oath, and be subject to the same forfeitures for neglect of duty, as those appointed by the court. *Provided, nevertheless,* That nothing in this act shall be construed so as to prevent any magistrate in the territory from appointing any suitable person to act as constable in a criminal case, or in case of attachments, where there is a probability that the criminal will escape, or where goods and chattels are about to be removed, if delay is made for the purpose of applying to the constable of the township.

**When a
constable
shall die,
&c how
his place
shall be
supplied.**

**Magistrate's
power to
appoint
constables
in special
cases**

Former
law
repealed.

SEC. 5. *And be it further enacted*, That so much of an act entitled, "An act to authorize and require the courts of general quarter sessions of the peace to divide the counties into townships, and to alter the boundaries of the same when necessary,

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When to
take effect.

and also to appoint constables, overseers of the poor, and clerks of townships, and for other purposes therein mentioned," passed at Cincinnati, in the county of Hamilton, the sixth day of November, in the year of our Lord one thousand, seven hundred and ninety, as relates to the appointment and duty of constables, be, and the same is hereby repealed; and that this act shall be in force and take effect from and after the first day of February next.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
H. VANDER BURGH,
President of the Council.

APPROVED—December 2d, 1799.

AR. ST. CLAIR.

CHAPTER XXIII.

An ACT to ascertain the number of free male inhabitants, of the age of twenty-one, in the territory of the United States, north-west of the river Ohio, and to regulate the elections of representatives for the same.

Preamble.

WHEREAS, the right of the citizens of the territory of the United States, north-west of the river Ohio, to be represented in the legislature thereof by their delegates, elected by the freeholders inhabiting the same, is secured by the ordinance for the government of the territory, but the manner in which that right may be exercised is undefined; therefore,

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Duty of
the court
of quarter
sessions.

SEC. 1. *Be it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same*, That the courts of general quarter sessions of

the peace, of the several counties of this territory, shall, and they are hereby authorised and required, in their respective sessions to be holden next after the month of January, which shall be in the year of our Lord one thousand, eight hundred, and in like manner every second year afterwards, to nominate some constable of each of the several townships within their counties, respectively, whose duty it shall be to take the number of free male inhabitants of the age of twenty-one years, and upwards, within their respective townships. And the constables so appointed shall respectively take an oath or affirmation before some justice of the peace of their respective counties, previous to their entering on the duties of this act required. The oath or affirmation of the constable shall be, I, A. B. constable of (here insert the township) do solemnly swear (or affirm) that I will well and truly make a just and perfect enumeration of all free male inhabitants of the age of twenty-one years, and upwards, within the township allotted to me, and return the same to the clerk of the peace for this county of (here insert the county) within forty days, from and after the first Tuesday of May next, to the best of my abilities. The enumeration shall commence on the first Tuesday of May next, and on the first Tuesday of May every second year afterwards, and shall be closed within thirty days after the commencement thereof. The several constables shall, within forty days after the commencement of the enumeration, return to the clerk of the peace of their respective counties, accurate returns of all free male inhabitants of twenty-one years of age, within the townships allotted to them, respectively; which returns

**Constable
to take
oath.**

**When
enumera-
tion to
commence,**

**and when
& to whom
to be re-
turned.**

O

[106]

shall be made in a schedule, distinguishing the several families in which may be found a free male inhabitant of the age of twenty-one years, by the name of their respective master, mistress, or other principal person therein, in manner following, to wit. The number of free male inhabitants of the age of twenty one years within my township of _____ consists of _____ as appears in a schedule hereunto annexed. Subscribed by me this _____ day of _____
A. B. constable.

Form of
the schedule.

Schedule of the number of free male inhabitants of twenty-one years of age, within the township allotted to me, A. B.

Heads of families in which is found a free male inhabitant of twenty-one years of age.

Number of free male inhabitants of twenty-one years of age, including heads of families, who are free males of the age of twenty-one years.

When a constable is unable to take the enumeration by death &c. how another is to be appointed.

SEC. 2. *And be it further enacted*, That if any constable, as aforesaid, appointed for the purpose aforesaid, shall die or remove, or be unable to serve, on notice thereof given in writing to the clerk of the peace of the proper county, by any two freeholders thereof, it shall be the duty of such clerk of the peace to issue a summons, giving notice thereof to some three justices of the peace of such county, who are hereby required forthwith to convene at the court house, or place of holding courts in such county, and some two of them to appoint some other suitable person constable, in room of such constable, so as aforesaid deceased, removed or unable to serve, and give him notice of such his appointment, who shall take the same oath, and discharge the same duties, under the same penalties as by this act is required and imposed upon the constables appointed by the directions of the first section thereof.

Constable failing in his duty.

SEC. 3. *And be it further enacted*, That any constable failing to make return, or making a

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false return, through negligence or design, of the enumeration of the township allotted to him, to the clerk of the peace of his county, within the time limited by this act, he shall forfeit the sum of forty dollars.

Constables to set up a schedule of the inhabitants of their district.

SEC. 4. *And be it further enacted*, That each constable, previous to making his return to the clerk of the peace, shall cause a true copy, signed by himself, of the schedule of the free male inhabitants of the age of twenty-one years within his township, to be set up at some public place within the same township, there to remain for the inspection of all concerned, proof of which copy of the schedule being set up and suffered to remain for three days shall be made, before he can claim any compensation for his services in taking the enumeration.

SEC. 5. *And be it further enacted*, That the clerks of the peace, respectively, shall file the several returns, aforesaid, and carefully preserve the same, and shall forthwith transmit, under their hands and the seals of their counties, to the governor of this territory, the aggregate amount of all free male inhabitants of the age of twenty-one years within their respective counties, agreeably to the returns to them respectively made in form aforesaid; and any clerk of the peace who shall neglect to discharge all or any of the duties aforesaid, imposed upon him by this act, shall forfeit, for every offence, the sum of five hundred dollars, to be recovered by action of debt, qui tam, or indictment in any court having cognizance of the same, to be held in the county in which the offence shall have been committed; the one half thereof to the use of such county, respectively, and the other half to the use of whoever will sue for the same; but where the prosecution shall first be commenced on behalf of the county alone, the whole shall accrue to its use.

Clerk of the peace, his duty.

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SEC. 6. *And be it further enacted*, That every free male inhabitant, of the age of twenty-one years, whose usual place of abode shall be in any family on the aforesaid first Tuesday of May, shall be returned as of such family, whether he be at home or absent at the taking of the enumeration; and every free male inhabitant of the age of twenty-one years, who shall be found without a settled place of residence in any township, but an inhabitant of the county, shall be enumerated as belonging to the family where he shall have been on the aforesaid first Tuesday of May.

Persons of the age of 21 years not having families, how returned.

SEC. 7. *And be it further enacted*, That each and every master, mistress, or other principal person belonging to any family, within any township of any county within this territory, shall and is hereby obliged to render to such constable a true account, if required, to the best of his or her knowledge, of all and every free male of the age of twenty-one years, belonging to such family, respectively, according to the several descriptions aforesaid, under the penalty of two dollars, to be recovered by such constable to his own use.

List of male persons of the age of 21 belonging to a family, how given in to the constable.

SEC. 8. *And be it further enacted*, That the aggregate amount of the free male inhabitants of the age of twenty-one years, of any county within this territory, in manner aforesaid, transmitted to the governor

Governor to issue his writs of election to the several counties.

by the clerk of the peace of such county, shall be to the governor sufficient proof whereby to ascertain the number of representatives to be chosen for such county in the next general election for representatives to serve in the general assembly, who shall accordingly issue a writ of election, directed to the sheriff of each respective county, wherefrom the aggregate amount aforesaid shall have been received, fifteen days before the time of holding the next general election, specifying therein the number of representatives,

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and the time and place of the convening of the general assembly. And whereas the period of two years, for which the members of the house of representatives are elected to serve in the general assembly, will expire on the twenty-second day of January, in the year of our Lord one thousand, eight hundred and one,

SEC. 9. Therefore, *Be it enacted*, That all general elections, for representatives to serve in the general assembly, shall invariably be begun on the second Tuesday of October, in the year of our Lord one thousand eight hundred, and afterwards on the second Tuesday of October biennially, and be held at the court house, or place of holding courts in the several counties. The poll of the election shall be opened between the hours of ten and eleven of the clock in the forenoon, and shall be kept open, without interruption or adjournment, until five of the clock of the afternoon of the same first day of the election, when it shall be adjourned until ten of the clock of the next morning, when the poll shall again be opened, and carried on without adjournment until five of the clock of the afternoon of the same second day, when the poll shall finally close, unless the judges of the election deem it advisable to continue the election, or some candidate require them to continue the same; and if the election is to be continued, it shall be adjourned until ten of the clock of the next morning, when the poll shall again be opened, and continue open, without adjournment, until three of the clock of the afternoon of the said third day, and no longer, when the election shall close, and the judges of the said election shall then proclaim the person or persons (if more than one are to be elected) highest in number of votes, duly elected. *Provided always*, That when, through any casualty, the governor's writ of

Representatives, on what day to be elected.

Hour of opening and how conducted.

When no writ arrives in due

election does not reach the sheriff of any coun-

time, how to proceed.

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ty previous to the hour of opening the poll of the election, then the electors thereof shall have the right to elect the same number of representatives which they were entitled to agreeably to their last return transmitted to the governor.

SEC. 10. *And be it further enacted,* That the sheriffs of the several counties shall, and they are hereby authorised and required, each to take to his assistance, two of the justices of the court of common pleas for their respective counties, ten days before the commencement of any general election, and two days before any occasional election, which two justices, together with the sheriff, shall be judges of all elections for representatives to serve for their respective counties, in the general assembly. And if any sheriff shall be absent, by reason of sickness, or other disability, when the poll is to be opened, his deputy, by him specially appointed, shall act in his stead. And if the aforesaid justices, or either of them, are absent, whether wilfully, or by reason of sickness, or other disability, when the poll is to be opened, the sheriff shall supply his or their place, by choosing from among the freeholders present, one or more, who shall supply the place of such absent justice or justices. And if any sheriff shall refuse or neglect to discharge the duties by this act of him required, whereby any county may be deprived of its full representation in the legislature of this territory, for every such offence, he shall forfeit and pay the sum of five hundred dollars, to the use of the county, to be recovered by indictment in any court to be held in such county wherein the same may be cognizable.

Sheriff to take to his assistance two justices of the common pleas.

Justice failing to attend how to proceed.

Penalty on sheriff failing to do his duty.

SEC. 11. *And be it further enacted,* That the aforesaid judges of the election shall appoint two poll keepers, who, previous to any vote being received, shall severally take an oath or affirmation before some justice of the peace of their re-

Poll keepers to be appointed.

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spective county. The oath or affirmation of the poll keeper shall be, I, A. B. do solemnly swear (or affirm) that I will truly keep the poll of this election, to commence here this (here insert the day, month

Oath.

and year) for a member (or members as the case may be) to represent this county of (here insert the county) in the general assembly of this territory, and that I will deliver fair and perfect entries thereof to the judges of the same election, at the close thereof, to the best of my ability. It shall be the duty of the several poll keepers, respectively, to attend in the election room during the time that votes are received, and to enter the names of all voters in columns under the name of the person or persons for whom they respectively vote, and at the close of the election, to number the votes which every person voted for has received, and there and then deliver their respective books of entries, with their names respectively thereto subscribed, to the judges of the election. And whereas doubts have arisen in that part of the ordinance for the government of this territory, which relates to the qualifications of electors of representatives; therefore, for the purpose of obviating all doubts thereon, and to secure the right of suffrage to every person, who, according to the true intent, spirit and meaning of the ordinance aforesaid, is entitled thereto,

Duty of the
poll keepers.

Qualifications
of an elector.

SEC. 12. *Be it further enacted*, That every free male inhabitant of the age of twenty-one years, resident in the territory, and who hath been a citizen of any state in the union, or who hath been two years resident in this territory, and holds a freehold in fifty acres of land, within any county of the same, or any less quantity in the county in which he shall reside, which, with the improvements made thereon, shall be of the value of one hundred dollars, or who has paid for, and in virtue of a deed of covenant for further assurance, from a person vested with the fee, is in the actual

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possession of fifty acres of land, subject to taxation in the county in which he shall be resident, shall be, and are hereby declared to be duly qualified electors of representatives for the counties in which they are respectively resident.

SEC. 13. *And be it further enacted*, That every elector shall vote once, and no more, in any election for representatives; and the manner of voting shall be by the elector, at any time while the poll of the election is open, to approach the bar in the election room, and addressing the judges of such election, in his proper person, in an audible

Manner of
voting.

voice, to be heard by the judges of the election, and poll keepers thereof, to mention by name the person or persons, to the number of representatives to which such county may be entitled, and the poll keepers shall enter his vote accordingly, and then he shall withdraw.

SEC. 14. And whereas the citizens of the county of Jefferson, made a return of the number of their free male inhabitants to the governor, by which it appeared that the said county of Jefferson was entitled to an additional representative in the general assembly, and in consequence of their distance from the seat of government, the said additional representative was not elected; therefore, *Be it further enacted*, That the governor be, and he is hereby authorised to issue his writ, empowering the electors of the said county of Jefferson, to elect and choose one person to represent them in the general assembly at the next session, whose term of service shall expire on the twenty-second day of January, one thousand eight hundred and one.

County of Jefferson entitled to an additional representative.

SEC. 15. *And be it further enacted*, That at the time and place of holding elections, and before the poll be begun, the sheriff shall affix at the outer door of the house in which the election shall be held, a notice in writing, expressing the number

Sheriff to give notice, &c.

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of representatives to be elected at the ensuing election, and the names of the persons whom he hath selected for assistant judges thereof; and previous to any votes being received, the assistant judges shall severally take an oath (or affirmation) before some person qualified to administer oaths. The oath (or affirmation) of an assistant shall be, I, A. B. do solemnly swear (or affirm) that I will duly attend the ensuing election throughout the continuance of the same, and that I will truly assist the other judges thereof, to the best of my ability, according to law, and that I will endeavor to prevent all fraud, deceit and abuse in carrying on the same. It shall be the duty of the judges of the election to preserve order and regularity in conducting the said election, to receive the votes of all persons who to them may appear to be duly qualified electors, and where they entertain doubts, they may interrogate such person on oath, touching his qualifications as an elector. And it shall be their further duty to observe that the poll is fairly kept, and at the close of the election, to proclaim the person or

Assistant judges to take an oath.

Judges of the election, their duty.

persons (if more than one are to be elected) highest in votes, duly elected.

SEC. 16. *And be it further enacted*, That when any writ of any occasional election, shall be issued by the governor, in case of the death or removal from office of any representative, the same writ shall be directed to the sheriff of such county, respectively, for which such representative, who is dead or removed from office, shall have been elected; and the sheriff, on receiving the writ, shall forthwith give due and public notice throughout the county, ten days before the holding such election, and the same shall be holden within twenty days after the writ of election is received by the sheriff, and conducted in like manner aforesaid.

SEC. 17. *And be it further enacted*, That the sheriff and other judges of the election, shall deli-

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ver, to every person proclaimed duly elected, a certificate of his election, signed with their names, and attested by the poll keepers; and the sheriff shall cause a fair copy of the poll, certified by the poll keepers, and the writ (when it has come to his hands in due time) certified by himself, (otherwise a certificate of the proceedings, for want of such writ) to be forthwith transmitted to the office of the secretary of the territory; and shall, within twenty days from the close of the election, deliver duplicates of the poll, and the writ (or other certificate) to the clerk of the peace of the proper county, who shall carefully preserve the same.

SEC. 18. *And be it further enacted*, That if any candidate or elector of the proper county, who chooses to contest the validity of any election, or the right of any person proclaimed duly elected in any county, to his seat in the legislature, such person shall give notice, in writing, to the person whose election he means to contest, or leave a written notice thereof at the house where such person last resided, within ten days after such election, expressing the points on which the same shall be contested, and shall, within the same time, give notice to the coronor of the county, who shall thereupon summons two justices of the court of common pleas of the same county, other than those who

Occasional elections, how to be conducted, &c. and for what cause writs to issue.

Certificates, how made to the persons elected.

Poll, how closed, &c.

Of contested elections,

coroner's duty therein.

were judges of the election, who shall be severally obliged to attend under the penalty of fifty dollars. The said coroner shall appoint a place and time for the said two justices of the pleas, as aforesaid, to meet within the said county, which shall be within twenty days after the election. The said two justices, and every of them, shall have power to issue subpoenas, and compel the attendance of all persons required to give evidence, under the penalty of fifty dollars, to be levied on each and every delinquent, who hath been duly served with process. And the said two justices, so

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met, shall hear and certify, under seal, all testimony relative to the said contested election to the house of representatives, at their next session. No person shall contest any election, unless he is an elector of that county in which the election is held, nor shall any testimony be received which does not relate to the point specified in the notice. Copies, attested by the person who delivers or leaves the said notices, shall be delivered to the said justices of the pleas.

**Testimony,
how to be
taken and
certified.**

SEC. 19. *And be it further enacted,* That all persons elected, or appointed to serve in either branch of the legislature, and consenting thereto, shall be obliged to give due attendance at such time and place as may be directed by the governor, having received previous and timely notice of their respective elections or appointments, under the penalty of one hundred and fifty dollars, to the use of the territory; unless for good cause shewn the house to which he is elected or appointed a member, shall remit the same, or any part thereof.

**Persons
duly elected
to serve in
the legis-
lature, fail-
ing to attend,
&c.**

SEC. 20. *And be it further enacted,* That each house, or branch of the legislature, shall have the right of expelling its own members for disorderly behavior, or transgressing the rules. *Provided,* That no member shall be expelled without the concurrence of two thirds of the members present; and no member shall be questioned a second time for the same offence.

**How & for
what mem-
bers may
be expelled.**

SEC. 21. *And be it further enacted,* That no candidate, or other person for him, shall attempt to obtain votes by bribery, threats, or treating with meat or drink; and any person, so offending, shall be incapable of holding a seat in either branch of the legislature, for the space of two years, next thereafter; or if any person, in order to obtain votes, either for himself or any favorite candidate, shall make any

**Bribery, &c
at elections,
how pun-
ished.**

sham conveyance of land, title bond, or lease of land to any person, with the

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intent of enabling him to vote, every person, so offending, by making such sham conveyance, title bond, or lease, shall, on conviction thereof, forfeit, for every such offence, the land so pretended to be conveyed, sold or leased to the territory. And every person, so offending, by receiving any such sham conveyance, title bond, or lease, shall, on conviction, forfeit the value of the land so pretended to be held by such pretended conveyance, title bond, or lease, to the use of the territory.

SEC. 22. *And be it further enacted,* That for all services done in pursuance of this act, in ascertaining the numbers, and conducting the elections, and making returns thereof by the constables, clerk of the peace, sheriff, assistant judges of elections, and poll keepers, respectively, in any county, a reasonable compensation shall be allowed by the commissioners of such county, respectively, or any two of them, who are hereby directed, at any time, on application for that purpose, to settle the said demands, and issue their order for the same, which shall be paid out of the county treasury. This act shall take effect, and be in force, from and after the passing thereof.

EDWARD TIFFIN, *Speaker*

Of the House of Representatives.

H. VANDER BURGH,

President of the Council.

APPROVED—December 6th, 1799.

AR. ST. CLAIR.

Compensation
for services
under this
act how
made.

Time of taking
effect.

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CHAPTER XXIV.

An ACT to prevent the introduction of spirituous liquors into certain Indian towns.

WHEREAS it appears to the general assembly, by a communication from his excellency the governor, that the church of United Brethren have sent certain missionaries into this territory, for the benevolent purpose of preaching the Gospel, of establishing schools and cultivating habits of industry and sobriety among the Indians, and that the object of the mission is greatly impeded by the frequent introduction of spirituous liquors into the Indian towns, settled under their direction; a practice which has a direct tendency to vitiate the minds and enervate the constitutions of the Indians, and, by exposing them to fraud and imposition, to endanger the peace and friendship subsisting between them and us; and whereas the ordinance for the government of the territory makes it the duty of the legislature, from time to time, to enact laws, founded in justice and humanity, for preventing of wrongs being done to the Indians, and for preserving peace and friendship with them;

Preamble.

SEC. 1. Therefore, *Be it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same,* That, from and after the first day of May next, it shall not be lawful for any person or persons to take or carry, or cause to be taken or carried, for sale, any rum, brandy, whiskey, or other spirituous liquor, within the boundaries of either of the three several tracts of land, surveyed by the surveyor general of the United States, at Shoenbrun, Gnadenhutten and Salem, in the county of Washington, according to an act of congress, passed the first day of June, in the year of

Spiritous liquors not to be carried into certain Indian towns without license.

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our Lord one thousand, seven hundred and ninety six (which lands were formerly set apart for the society of United Brethren for propagating the gospel among the heathen) without a written permission, for that purpose, from the agent and missionaries of the said society

Penalty for offending herein.

of United Brethren. And if any person or persons shall, after the said first day of May next, take or carry, or cause to be taken or carried, for sale, any rum, brandy, whiskey, or other spirituous liquor, within the boundaries of either of the tracts of land above described, without a license, as aforesaid, every person, so offending, shall, upon conviction thereof by indictment, forfeit and pay a sum not less than ten, nor more than sixty dollars, to be applied to the use of the territory, and shall, moreover, forfeit all such rum, brandy, whiskey, or other spirituous liquor, for the use of the said society of United Brethren; and the said agent and missionaries are authorised, and each and every of them is hereby authorised to seize and distrain the same for the use aforesaid.

No liquors to be sold in certain Indian towns.

SEC. 2. *And be it further enacted*, That if any person or persons shall, after the said first day of May next, offer any rum, brandy, whiskey, or other spirituous liquor for sale or barter, in any other town or settlement of Indians within the territory, established under the direction of the agent and missionaries of the said society, or of either of them, every person offering such rum, brandy, whiskey, or other spirituous liquor, for sale or barter, as aforesaid, shall forfeit the same for the use of said society; and the said agent and missionaries are authorised, and each and every of them is hereby authorised to seize and distrain the same for the use aforesaid. *Provided nevertheless*, That nothing in this act contained shall be so construed as to prevent any person or persons from

Proviso in favor of persons transporting liquor, &c.

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transporting or removing any of the liquors, as aforesaid, into or through the said towns, either by land or water, provided such person or persons shall not expose the same, or any part thereof, for sale, within the limits of the said towns or districts.

EDWARD TIFFIN, *Speaker*

Of the House of Representatives.

H. VANDER BURGH,

President of the Council.

APPROVED—December 6th, 1799.

AR. ST. CLAIR.

CHAPTER XXV.

An ACT regulating the firing of woods, prairies and other lands.

WHEREAS there are persons in the habit of setting on fire the leaves and herbage in the woods, prairies, and other grounds, thereby producing a conflagration prejudicial to the soil, destructive to the timber and the improvements within this territory; therefore,

Preamble.

SEC. 1 *Be it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same,* That whosoever shall, at any time, except as is herein after excepted, wilfully or negligently set on fire, or cause to be set on fire, any woods, prairies, or other grounds, whatsoever, within this territory, and being thereof legally convicted, by the oath or affirmation of one or more credible

Penalty for firing woods prairies &c.

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witnesses, in any court having cognizance of the same, shall pay a fine not exceeding one hundred dollars, nor less than five dollars; the one half of which to be paid to the person prosecuting for the same, and the other half to the use of the county wherein the offence shall have been committed.

SEC. 2. *And be it further enacted,* That when any person or persons, so offending, shall thereby occasion any loss, damage or injury to any other person or persons, every person, so offending, shall be and is hereby declared liable to make good all damages to the person or persons injured, with costs of suit, in any court having cognizance of the same.

Offenders liable to make good all damages.

SEC. 3. *And be it further enacted,* That when any servant or servants shall offend against the tenor of this law, and be duly convicted of the same, except his, her or their master or mistress shall pay the fine herein above provided, with damages and costs for said offence, then such servant or servants, so offending, shall be committed to the prison of his, her or their proper county, until all such debts, dues and demands are paid, or be whipped not exceeding thirty-nine stripes, at the discretion of the court, having cognizance thereof.

Servants offending against this law how punished.

Not prohibited to set fire to rubbish &c. on their own lands, &c. When praries may be burned.

SEC. 4. *And be it further enacted*, That nothing in this act contained shall be so construed as to prevent any person or persons from setting on fire any rubbish, leaves or brush on his, her or their farms or plantations, as often as occasion may require, if the same be done without damage to the property of any other person or persons. *Provided also*, That nothing in this act shall be so construed as to prevent any person or persons from setting on fire praries, or cleared lands, between the first day of December and the tenth day of March, if the same be done without damage, as

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aforesaid. This act shall be in force from and after the passing of the same.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
 H. VANDER BURGH,
President of the Council.

APPROVED—December 6th, 1799.

AR. ST. CLAIR.

CHAPTER XXVI.

An ACT establishing and regulating the militia.

Persons liable to do militia duty

to be enrolled

by the commanding officers of companies.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That each and every free, able bodied, white male citizen, of the territory, who is or shall be of the age of eighteen years, and under the age of forty five-years, except as is herein after excepted, shall severally and respectively be enrolled in the militia, by the captain or commanding officer of the company within whose bounds such citizen shall reside, within twenty days next after such residence; and it shall, at all times hereafter, be the duty of such captain, or commanding officer of a company, to enroll every such citizen, as aforesaid; and also those who may, from time to time, arrive at the age of eighteen years, or being of the age of eighteen years and under the age of forty-five years, (except as is hereinafter ex-

cepted) shall come to reside within his bounds, and shall, without delay, notify such citizen of the said enrollment, by a proper non-commissioned officer of the company, by whom such notice may be proved; and every

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citizen, so enrolled and notified, shall, within six months thereafter, provide himself with a good musket, a sufficient bayonet and belt, or a fusee, two spare flints, a knapsack and a pouch, with a box therein, to contain not less than twenty-four cartridges, suited to the bore of his musket or fusee, each cartridge to contain a proper quantity of powder and ball, or a good rifle, knapsack, pouch and powder horn, with twenty balls suited to the bore of his rifle, and a quarter of a pound of powder; and every enrolled person shall so appear armed, accoutred and provided when called out to muster, or into service, except when called out on company days, to exercise only, he may appear without a knapsack. The commissioned officers shall severally be armed with a sword or hanger, and espartoon; and every citizen, so enrolled and providing himself with arms, ammunition and accoutrements, required as aforesaid, shall hold the same exempted from all suits, distresses, executions or sales for debt, damages, or the payment of taxes.

Militia, how to be armed.

Commissioned officers, how to be armed

Arms, &c. exempted from all seizures.

SEC. 2. *And be it further enacted*, That the judges of the supreme court, the attorney general, the clerk of the supreme court of the territory, all ministers of the gospel, licensed to preach according to the rules of their sect, all keepers of jails, and such other persons as are exempted by the laws of the United States shall be, and hereby are exempted from militia duty.

What persons exempted from militia duty.

SEC. 3. *And be it further enacted*, That the militia of the territory shall, as soon as may be after the passing of this law, be divided into divisions, brigades, regiments, battalions and companies. Each division, brigade and regiment shall be numbered, and a record of such numbers made in the adjutant general's office, and when in the field, or in service in the territory, each division, brigade, or regiment shall, respectively, take rank

Militia, how to be divided,

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according to their numbers, reckoning the first or lowest number

highest in rank. Each division shall consist of two brigades; each brigade of not less than two, nor more than four regiments; each regiment of two battalions; each battalion of four companies; and each company shall consist of sixty-four privates. *Provided always*, That if local circumstances should require it, a company may be formed of forty, or extended to eighty rank and file.

and how
officered.

SEC. 4. *And be it further enacted*, That the militia of the territory shall be officered as follows, to wit; to each division there shall be one major general, who shall be allowed two aids-de-camp, with the rank of major; to each brigade one brigadier general, with one brigade inspector, to serve as brigade major, with the rank of major, to be appointed by the brigadier general from among the commissioned officers of his brigade; to each regiment one lieutenant colonel commandant; to each battalion one major, and to each company one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and one fifer. The regimental staff shall consist of one adjutant, one clerk, one quarter master, and one pay master, to be chosen from among the subaltern officers, if fit persons can be found; one surgeon, one surgeon's mate, one sergeant major, one quarter master sergeant, one drum major, and one fife major.

One company
of artillery &
one troop of
horse to be
attached to
each brigade.
How
officered
& armed.

SEC. 5. *And be it further enacted*, That there shall be attached to each brigade one company of artillery, and one troop of horse, when in the opinion of the brigadier general the said companies, or either of them can, with convenience, be raised and equipped within his brigade. To every company of artillery there shall be one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer and one

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fifer, and not less than twenty, nor more than thirty matrosses; the non-commissioned officers shall be armed with a sword or hanger, and each private, or matross, shall be furnished with a fusee, bayonet and belt, with a cartridge box to contain twelve cartridges. And to each troop of horse there shall be one captain, two lieutenants, one cornet, four sergeants, four corporals, one sadler, one farrier, one trumpeter, and not less than thirty, nor more than sixty privates. The commissioned officers shall furnish themselves with good horses, saddles and holsters, and be armed with a sword and pair of pistols; and each

dragoon shall provide himself with a servicable horse, a good saddle and holsters, a bridle, mail pillion and valice, a breast plate and crupper, a pair of boots and spurs, and be armed with a sabre, a pistol or pair of pistols, and cartridge box, to contain twelve cartridges for pistols. Each company of artillery and troop of horse shall be formed of volunteers from the brigade, and be enlisted by the officers commanding them, and shall be uniformly clothed in regimentals, furnished at their own expense, the colour and fashion to be determined by the brigadier general commanding the brigade to which they belong.

**To be formed
by volunteer
enlistments.**

**To dress in
uniform.**

SEC. 6. And whereas it will be of great utility and advantage, in establishing a well disciplined militia, to annex to each battalion a light company, to be formed of young men, from the age of eighteen to twenty-eight years, whose activity and domestic circumstances will admit of a frequency of training, and who will be in a state of readiness in all cases of emergency, not practicable or convenient for the militia in general, and their returning to the main body, on their arrival at the latter period, will be giving thereto a military pride and experience from which the best of consequences must result; therefore, *Be it further enacted*, That the governor shall appoint and com-

**Companies of
light infantry,
grenadiers and
riflemen, to be
raised**

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mission one captain, one lieutenant and one ensign to each battalion; and the said companies shall be distinguished by the denomination of grenadier, light infantry or rifle men, at the discretion of the commanding officer of the brigade. Every person belonging to the said light companies shall wear, while on duty, such caps and uniforms as the field officers of the regiment shall direct, to be purchased by such companies at their own expense. And the officers of such light companies shall, after qualifying in manner hereafter directed, proceed to raise their companies by voluntary enlistment any where within the bounds of the battalion to which they may be attached, of young men, as before directed; and as the men of such light companies shall, from time to time, arrive at the age of twenty-eight years, the captain shall make report thereof to the commanding officer of the battalion, who shall order them to be enrolled in the district company they may respectively live in, and the deficiency shall be supplied by a new enlistment. The said companies shall, in all respects, be subject to the same

**by volun-
tary enlist-
ment.**

**At the age
of 28 to be
enrolled in
the district
companies.**

regulations and orders as the rest of the militia, except as is herein after excepted.

**Counties,
in what
manner div-
ided into
districts, &c**

SEC. 7. *And be it further enacted,* That the commanding officers of regiments, battalions and companies, in each county, shall, on the first Monday in May next, meet at their respective court houses, then and there to divide the counties into districts for the purpose of forming the regiments, battalions and companies, by this act established, which district, so laid off, shall be designated by certain lines and bounds, to be by them established, and which shall be recorded by the clerk of each regiment. *Provided always,* That if emigration into any of the company districts shall render it necessary to form new districts, so as to affix to each district its proper number of effective militia, it shall be the duty of the captain of each

**When new
districts shall
be formed.**

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company, which shall have increased above the proper number, to notify the commandant of the battalion to which such company belongs thereof, who shall give the like information to the commandant of his regiment, whose duty it shall be to cause a meeting of the commanding officers of the companies of such battalion, or regiment (as the case may be) from which such new company is to be taken, at the most convenient place in the battalion or regiment, as soon as may be; and the officers, so met, shall proceed to divide such district, in case it contains a sufficient number of effective men so as to form two companies, or otherwise to take from the several adjoining districts such parts as they can spare, without reducing the original company or companies below their proper quota, and thereof form one new company.

**Manner
thereof.**

**Requisites to a
command.**

SEC. 8. *And be it further enacted,* That no person shall be eligible to a command in the militia, who is not a citizen of the United States, and has not resided twelve months in this territory.

**Commissioned
officers before
they act,
what neces-
sary.**

SEC. 9. *And be it further enacted,* That every officer, commissioned by virtue of this act, shall, previous to his entering on the execution of his respective office, take the oath of allegiance to the United States, and the following oath or affirmation, to wit; I, _____ do solemnly swear (or affirm as the case may be) that I will faithfully and justly execute the duties of a _____ in the

militia of the territory, according to the best of my abilities; so help me God; which oath, or affirmation, shall be endorsed on the back of the commission by the person administering the same.

SEC. 10. *And be it further enacted*, That all commissioned officers shall take rank according to the date of their commissions; and when two or more of the same grade be of equal date, then

Rank of officers, how to be determined.

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their rank shall be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company or detachment.

SEC. 11. *And be it further enacted*, That each battalion and regiment shall be provided with regimental standards, with the number of the regiment inscribed on the same, by the field officers; and each company with the regimental colors, with the number of the company in such regiment inscribed thereon; a drum and fife, by the commissioned officers of the company, in such manner as shall herein after be directed.

Regimental standards to be provided

SEC. 12. *And be it further enacted*, That there shall be an adjutant general appointed in the territory, whose duty it shall be to distribute all orders from the commander in chief of the territory to the several corps; to attend all public reviews, when the commander in chief shall review the militia, or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by this act; to furnish blank forms of the different returns that may be required, and to explain the principles on which they should be made; to receive from the several officers of the different corps throughout the territory returns of the militia under their commands, reporting the actual situation of the arms, accoutrements and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and discipline; all which the several officers of the divisions, brigades, regiments and battalions are hereby required to make in the usual manner, so that the said adjutant general may be duly furnished therewith; from all of which returns he shall make proper abstracts, and lay the same, annually, before the commander in chief of the territory. *Provided always*, That the adjutant gene-

Adjutant general, his duty.

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ral of the militia of this territory shall be, ex officio, inspector general of the same.

Brigade in-
spector, his
duty.

SEC. 13. *And be it further enacted*, That it shall be the duty of the brigade inspector to attend all musters of officers within his brigade; to exercise and examine them; to note delinquencies, and return the same forthwith to the lieutenant colonel of the regiment to which they belong; to attend the regimental and battalion meetings of the militia composing their several brigades, during the time of their being under arms; to inspect their arms, ammunition and accoutrements; superintend their exercise and manœuvres, and introduce the system of military discipline pointed out in the twenty fifth article for the government of the militia, described throughout the brigade, agreeable to law, and such orders as they shall, from time to time receive from the commander in chief of the territory, or the commander of the brigade, for the time being; to make returns to the adjutant general of the territory twice in every year, the first on or before the first day of August, and the second on or before the first day of December, of all the militia of the brigade to which he belongs, reporting therein the actual situation of the arms, accoutrements and ammunition of the several corps, and every other thing which, in his judgment, may relate to their government, and the general advancement of good order and military discipline.

Officers to meet
and exercise,
&c

SEC. 14. And whereas it will be productive of very considerable advantages to the disciplining the militia to have frequent meetings of the commissioned and non commissioned officers of each regiment or battalion, *Be it further enacted*, That the commissioned and non commissioned officers of each battalion, or regiment, at the discretion of the brigadier general, shall meet at some conve-

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nient place, as near as may be in the centre of each battalion or regiment, to be pointed out by the brigadier general, as often as he may think expedient, not exceeding six days in every year, for the purpose of being trained and instructed, by the brigade inspector, for the space of five hours each day.

SEC. 15. *And be it further enacted,* That it shall be the duty of each captain, after having enrolled his company, as directed by this law, to appoint four persons to his company as sergeants, giving to each his rank of first, second, third and fourth sergeant; and also four persons as corporals, giving to each his rank of first, second, third and fourth corporal, giving his company notice thereof, and shall report the said appointments to the commandant of the regiment, who shall thereupon make out his warrants to such non commissioned officers, accordingly; and they are to be obeyed and respected as such; and if any person or persons, on receiving due notice of any such appointment, shall refuse to perform the duties of the office to which he or they are appointed, such person or persons shall be returned to the next court of enquiry by his or their captain, to be fined as this law directs.

Captains to appoint sergeants, &c.

Persons refusing to serve liable to a fine.

SEC. 16. *And be it further enacted,* That it shall be the duty of the commanding officer of each and every company, so enrolled, forthwith to divide his company into divisions by ballot, from one to eight, for the purpose of a regular routine of duty, when called into actual service, and shall return a roster of such division, with the rotative number attached to each class, within fifteen days, to the commanding officer of his battalion, who shall forthwith transmit the same to the commandant of the regiment, who shall order the same to be recorded by the clerk thereof.

Captains to make divisions of their companies, &c.

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SEC. 17. *And be it further enacted,* That every militia man, removing out of the bounds of one company to another, shall apply to the commanding officer of the company he is removing from, who shall give him a discharge, certifying the class to which he belongs, which certificate the said militia man shall produce to the captain, or commanding officer of the company, in the district in which he shall next settle, within ten days after his settlement; and the said captain, or commanding officer, is hereby required to enroll him in the class specified in said certificate. And on failure of any militia man obtaining a certificate, in the manner aforesaid, and presenting the same, as before directed, the captain, or commanding officer of the company

Persons moving from one company to another what necessary.

to which he shall remove is hereby required to enroll such delinquent the foremost in the first class for duty, notifying him thereof, and that he must hold himself in readiness to perform any duty by this act required.

SEC. 18. *And be it further enacted*, That there shall be private musters of each company of cavalry, artillery, grenadiers, light infantry and rifle men, once in every two months, at such time and place as the commandant thereof shall appoint, except in the months of December, January, February and March in every year; and every other company, formed by virtue of this act, once in every two months (except as before excepted) to be appointed by the commanding officer thereof, at, or as near as may be, the centre of the company district. There shall be a muster of each battalion in the month of April in every year, which shall be appointed by the commanding officers of the respective regiments, who shall fix on the most suitable place, as near as may be to the centre of the battalion district, and shall superintend the exercise and direct the evolutions that shall be performed; and there shall be a muster

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of each regiment in the month of October, in every year, which shall be appointed by the brigadier general, or commanding officer of the brigade to which such regiment belongs, at or as near as may be to the centre of the regimental district, and shall be made under the superintendance and direction of the brigadier general, or commander of the regiment, which company, battalion and regimental muster shall continue one day each, and no longer.

SEC. 19. *And be it further enacted*, That the brigadier generals, or commanding officers of brigades, shall cause notices, in writing, of the times and places of the said musters, to be given to the commanding officers of regiments, at least twenty-five days; the commanding officers of regiments shall give notice of the regimental and battalion musters, to the commanding officers of battalions, at least twenty days; the commanding officers of battalions shall give notice of the regimental and battalion musters, to the commanding officers of companies, at least fifteen days, and the captains, or commanding officers of companies, shall give notice of the regimental, battalion and

**Company
musters
how often
holden.**

**Battalion
muster.**

Regimental

muster.

**Notice of
musters,
when and
how given.**

private musters, to the individuals of their respective companies, by themselves or sergeants, at least five days before such regimental, battalion or company muster (as the case may be) shall be holden. The notices to be given by the commanding officers of brigades, regiments and battalions shall be in writing, and delivered to the person or persons, or left at the usual place of his or their abode, by such commanding officers themselves, or such other officer or officers as they may think fit to order. And the commanding officers of companies shall have power to assign to each sergeant of their respective companies his due proportion thereof, whose duty it shall be to give the notice before directed to that portion of the company to him assigned, which may be done by per-

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sonal summons, or by leaving notices, in writing, at the usual places of abode of the persons to be notified.

SEC. 20. *And be it further enacted*, That the militia of the territory shall be divided into divisions and brigades, in manner following, to wit; the counties of Jefferson and Washington shall form one division and two brigades, with an appointment of one major general to the division, and one brigadier general to each county; the counties of Ross and Adams shall form a second division, and two brigades, with the appointment of one major general to the division, with one brigadier general to the county of Ross, and one brigadier general to the county of Adams; the county of Hamilton shall form a third division, and be commanded by one major general and two brigadiers; the county of Knox shall form a brigade, to be commanded by a brigadier general; the counties of Randolph and St. Clair shall compose a brigade, and be commanded by a brigadier general; and the county of Wayne shall form one brigade, to be commanded by a brigadier general. *Provided always*, That when any new county shall be laid off, the same shall be retained in that division or brigade from from which the same was principally taken.

**Divisions &
brigades, how
made and
officered.**

SEC. 21. *And be it further enacted*, That every officer and soldier shall appear, at his respective muster field, on the day appointed, by eleven o'clock; and at every muster each captain, or commanding officer of a company, shall direct the first sergeant of his company, in

**Hour of
muster,**

of roll call.

**Delinquents
how noted
and returned.**

his presence, to call the roll at half past eleven o'clock, precisely, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof, as well as of the strength of the company, number of rifles, muskets, bayonets, fuseses &c. on parade, to the commanding

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**Roll of com-
missioned
officers, when
called**

officer of his battalion, within ten days after any such regimental, battalion or company muster. And every commanding officer of a battalion shall, at his regimental or battalion muster (as the case may be) at the hour on which the battalion is to be formed, in like manner, proceed to call the names of the commissioned officers of his battalion, examine and note down all delinquencies, and make return thereof, together with those reported from commanding officers of companies, to the commanding officer of the regiment to which he belongs, within fifteen days next succeeding such battalion or regimental muster (as the case may be) who shall lay the whole before the court hereafter appointed to take cognizance and determine on them; and to each of the said returns shall be annexed the following certificate, to wit; I, _____ do certify that the returns, hereunto annexed, contain all the delinquencies which have occurred in my company (or battalion, as the case may be) since my last return. And to the battalion returns shall be added, and that the reports which accompany them, are all which have been made by the commanding officers of companies, within my battalion.

**Certificates to
accompany
returns.**

SEC. 22. *And be it further enacted*, That the commanding officers of each regiment, within twenty days next after a muster of his regiment, or of the battalions of the same, shall cause the adjutant of his regiment to make out a complete return of the same (agreeably to such forms as shall be furnished by the adjutant general, noting particularly its strength and number of arms) to the inspector of the brigade.

**Adjutants to
make returns,
&c.**

**Court of enquiry
& assess-
ment of fines,
how formed.**

SEC. 23. *And be it further enacted*, That the commissioned officers of the first battalion, in each regiment, shall meet on the second Tuesday, and the commissioned officers of the second battalion

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of each regiment shall meet on the second Thursday, next after each regimental or battalion muster, as near as may be the centre of the battalion, to be pointed out by the lieutenant colonel at the battalion or regimental muster, and public notice thereof given to the battalion or battalions, whilst on parade, a majority of whom shall form a court of enquiry and assessment of fines; and it shall be the duty of the lieutenant colonel commandant to preside at such board, and in case of his absence, by sickness or otherwise, the next officer in rank shall preside. The said court shall take the following oath, to be administered by the senior officer present, and afterwards by any other officer of the said board to him, to wit; I, _____ do solemnly swear (or affirm as the case may be) that I will truly and faithfully enquire into all delinquencies which appear on the returns to be laid before me, and will assess the fines thereon as shall seem just, without partiality, favor or affection, so help me God. The lieutenant colonel commandant, or commanding officer of the regiment, shall then lay before the said court all delinquencies, as directed by this act, whereupon they shall proceed to hear and determine on them.

Form of the oath.

Delinquencies, by whom laid before the court.

SEC. 24. And for enforcing obedience to this act, *Be it enacted*, That the following forfeitures and penalties shall be incurred for delinquencies, to wit; by a lieutenant colonel commandant, or commanding officer of a regiment, for failing to take any oath, to direct his adjutant to summons any court or board, to deliver any commission or commissions, to appoint a regimental or battalion muster, to give information of the places of holding courts of enquiries, to attend the same, to report delinquencies, to attend a battalion or regimental muster, or a muster of officers, to appoint the staff officers to his regiment, not less than ten, nor more than one hundred dollars; by a major, or commanding officer

For neglect of duty,

by a colonel

major,

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of a battalion, for failing to take an oath, to attend any court or board, to give notice of any regimental or battalion muster, to examine and train his battalion, to report delinquencies, to make a return or to attend a muster of officers, he shall forfeit and pay any sum not less than eight, nor more than eighty dollars; by a captain, or commanding officer of a company, (as the case may be) for failing to take an oath,

captain,

subaltern,

non commis-
sioned officer,

private.

to attend any court or board, to enroll his company, to appoint private musters, to give notice of a regimental or battalion muster, to attend any muster armed, to examine and exercise his company, as is by the twenty fifth article directed for the government of the militia, to call his roll and report delinquencies, to make any return or appoint non commissioned officers, as directed by this act, he shall forfeit and pay any sum not exceeding fifty nor less than five dollars, for every such offence; by a subaltern officer, for failing to take any oath, to attend any court or board, to attend any muster armed, as is by this act directed, for every such offence or neglect he shall forfeit and pay any sum not exceeding forty, nor less than four dollars; by a non commissioned officer, for failing or neglecting to attend any muster of officers, to attend any muster of his company, to serve if appointed, as a non commissioned officer for the term of one year, to take charge of any part of his company, or march them as directed, for every such offence or neglect he shall forfeit and pay any sum not exceeding twenty, nor less than two dollars; by a private man, for failing or neglecting to attend a regimental or battalion muster armed and equipped as directed by law, shall forfeit and pay any sum not exceeding six dollars, nor less than one dollar and fifty cents; to attend a muster of his company at the time and place appointed, in manner aforesaid, during the whole time the same is

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on parade, any sum not exceeding three dollars, nor less than one dollar.

Fines on
persons
under 21, by
whom paid.

SEC. 25. *And be it further enacted,* That the fathers shall be bound for the payment of fines incurred by their sons, under the age of twenty-one, guardians for the payment of fines incurred by their wards, and masters for the payment of fines incurred by their apprentices, and be charged therewith by the collectors of fines accordingly.

How fines
may be re-
mitted.

SEC. 26. *And be it further enacted,* That any court of enquiry, for good cause shewn, may remit fines assessed by the court preceding the same, and in such cases it shall be the duty of the clerk, to certify the same to the collector of fines, who shall thereupon not collect such fine or fines, or refund the same if collected.

SEC. 27. *And be it further enacted,* That all fines to be assessed by virtue of this act, shall be collected by the sheriff or collector, as the case may be, of the county or township in which the delinquent resides; and it shall be the duty of the clerk of each regiment to deliver to the sheriff or collector, as aforesaid, a certified list of all the delinquencies therein, on or before the first day of January in every year, and take his receipt therefor, which shall be lodged, by the said clerk, in the county treasurer's office, within twenty days after he received the same, taking his receipt therefor; and he shall deliver within ten days after receiving the treasurer's receipt, a duplicate thereof to the lieutenant colonel of his regiment; and the sheriff or collector, as aforesaid, shall collect and account for all fines placed in his hands, as aforesaid, on or before the first day of November in the same year, and on failure the treasurer of the county, on giving him twenty days previous notice, shall obtain judgment and execution for the same, with costs, and ten per centum interest

**By whom,
and in what
manner col-
lected.**

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on the amount from the time the same became due; and should any person, so charged with fines, fail to make payment, on or before the fifteenth day of June, in any year, the sheriff or collector, as aforesaid, is hereby authorised and required to make distress and sale therefor, in the same manner as is directed in the collection of taxes. *Provided always,* That any sheriff or collector shall be credited by his list of delinquents and insolvents, to be first examined by the court or courts of enquiry within his county.

SEC. 28. *And be it further enacted,* That all monies paid into the treasury, in manner aforesaid, shall be appropriated first, to the purpose of procuring the necessary number of drums, fifes and colors, and secondly, the remainder, if any, to pay the different officers directed to be paid by this law, subject to the orders of the courts of enquiry, countersigned by the lieutenant colonel.

**How fines
shall be ap-
propriated.**

SEC. 29. *And be it further enacted,* That the adjutant general shall be allowed the sum of fifty dollars, and each brigade inspector the sum of forty dollars yearly for stationary, for the use of their respective offices; and the territorial treasurer is hereby authorised and directed to pay the same on the certificate of the auditor of public

**Stationary al-
lowed the
adjutant
general and
brigade in-
spectors.**

The adjutant, clerk, &c. to be compensated.

accounts; the adjutant, clerk, provost-martials, the fife and drum majors, and other fifers and drummers of each regiment, shall receive such compensation for their services as the courts of enquiry think proper.

Persons unable to equip according to law, &c.

SEC. 30. *And be it further enacted*, That if any militia man shall make it appear to the satisfaction of the officers of the company to which he belongs, that he is unable to furnish or equip himself as by this law is directed, and the said officers satisfying the succeeding court of enquiry thereof, it shall be in the power of such court, to remit

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any fine that may have been imposed by virtue of this law, and to grant such militia man exemption from all such fines until he shall be enabled, in the opinion of the officers of his company, to furnish and equip himself agreeably to this law.

By standers on parade insulting an officer or soldier, how to be proceeded with.

SEC. 31. *And be it further enacted*, That if any bystander at a regimental, battalion or company muster, shall insult, or otherwise molest any officer or soldier whilst on parade, the commanding officer of the regiment, battalion, troop, or company (as the case may be) may order such person or persons to be put under guard, for any time not exceeding six hours, and to pay a fine not exceeding four dollars, which shall be collected as other militia fines are.

Clerk of the regiment, his duty.

SEC. 32. *And be it further enacted*, That it shall be the duty of each clerk of the regiment to attend the courts of enquiry therein, to take the minutes of their proceedings, receive all returns from the commandants of battalions and companies, and record the whole in a proper book prepared for that purpose; he shall also, record the class rolls of each company in his regiment, and shall furnish the sheriff or collector (as the case may be) with a list of the delinquents in his regiment, stating the number of fines due from each delinquent, and the muster at which they were delinquents, and on failure or neglect of any clerk to perform any of the duties imposed on him by this law, he shall be fined by any court of enquiry, in any sum, not exceeding fifty dollars.

Failing therein.

SEC. 33. *And be it further enacted*, That whenever it may be necessary to call into actual service any part of the militia, on an actual or threatened invasion of this territory, or of any of the neighboring states, that it shall and may be lawful for the governor to order into actual service, such part of the militia, by classes, as the exigency may

Governor empowered to call forth the militia.

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require. *Provided*, that the part, so called, doth not exceed four classes of the militia of the brigade or brigades so called out; and *Provided also*, That such brigade or brigades shall not be again called into actual service, until an equal number of classes of the militia of the other brigade or brigades, respectively, be first called, unless the danger of an invasion from the Indians or others, should make it necessary to keep in reserve the militia of such brigade or brigades, for their immediate defence.

Not to exceed four classes, at one time.

SEC 34. *And be it further enacted*, That all orders for the militia to be called forth as aforesaid, shall be sent to the commanding officers of brigades, with a notification of the place or places of rendezvous, who shall immediately take measures for detaching the same, with the necessary number and rank of officers; and if any brigadier general shall fail herein, or fail or neglect to comply with any of the duties of him required by virtue of this act, he shall forfeit and pay any sum not exceeding one thousand dollars, to be assessed by a general court martial.

Governor to forward his orders to the brigadier general.

Brigadier general failing in his duty.

SEC 35. *And be it further enacted*, That each battalion or regiment of the territory, shall be divided into eight classes (preserving to each man his original class) all troops of horse and flank companies, whether grenadiers, light infantry or rifle men, shall be called into service by companies or detachments, and not by classes; the first flank company making part of the first call, and the second flank company shall make part of the fifth call of the militia, and be commanded by their own proper officers.

Militia, how to be classed.

SEC. 36. *And be it further enacted*, That to the end the militia, when called by classes, shall be properly officered, the following order is hereby directed and enjoined; that is to say,

The order of classing commissioned officer

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For the 1st draft, the	1st capt.	2d lt.	and	4th ensign
2d do.	2d do.	1st do.		3d do.
3d do.	3d do.	4th do.		2d do.
4th do.	4th do.	3d do.		1st do.
5th do.	5th do.	6th do.		8th do.
6th do.	6th do.	5th do.		7th do.
7th do.	7th do.	8th do.		6th do.
8th do.	8th do.	7th do.		5th do.

Field officers routine of command &c.

Term of service & how relieved.

When the militia may be called into service other than by classes.

Captains, their duty when the militia are called into service.

Adjutant, his duty.

Non commissioned officers to take tour of duty with the commissioned officers, and the routine of the field officers shall be according to the date of their respective commissions. The first colonel of the brigade shall command the first detachment, if it amounts to a colonel's command, if it does not, the command shall devolve on the first major, liable to serve three months and no longer, and to be relieved by the class next in numerical order; the relief to arrive at least two days before the expiration of the term of the class to be relieved. But nothing herein contained shall prevent the governor, or any commanding officer of a county, from employing or calling out a part or the whole of any class, or any companies, regiment or regiments, without respect to this rule, whenever the exigency is too sudden to allow the assembling of the militia, which compose the particular classes; and the service of the persons, so called out, shall be accounted as a part of their tour of duty.

SEC. 37. *And be it further enacted,* That when any detachment of the militia shall be called into service, the captain of each company shall take care that his proportion of men are assembled, and marched to the proper place of parade or rendezvous, under the care of a commissioned officer or sergeant, with a list of the men, which list shall be delivered to the adjutant of the regiment, whose duty it shall be to attend at the place appointed to receive the detachment from the several companies of his regiment; and he shall make out a

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roll of the whole, mentioning the rank of the officers, and names of the non commissioned officers and privates, and when the detachment shall be completed and placed under the proper officer, he shall attend them to the place appointed for the meeting of the detachment of the

brigade, when the several adjutants shall deliver to the brigade major or inspector, or officer appointed to command the whole detachment, a complete roll, containing the names of the commissioned and non commissioned officers and privates composing the detachment from each regiment or battalion, noting such remarks as circumstances may require. And it shall be the duty of the officer appointed to the command of said detachment, to cause two complete rolls to be made out and certified under his hand, one of which rolls he shall forthwith transmit to the adjutant general, and the other to the brigade inspector.

Officer commanding a detachment, his duty.

SEC. 38. *And be it further enacted*, That it shall and may be lawful for any person called to do a tour of duty, to send a sufficient substitute, such substitute being approved by the captain or commanding officer of the company, which he shall be offered to serve in. *Provided always*, That persons serving by substitute as aforesaid, if said substitute be called in his own turn into actual service, before the time expires which he was to serve for his employer, that then the person procuring such substitute shall march, or find a person to march in his substitute's turn (to be accepted as aforesaid) or be liable to pay his fine for neglect, which fine is to be recovered in the same manner as is directed in the case of any militia man neglecting or refusing to do a tour of duty; and that sons who are not subject to the militia law, may be admitted as substitutes for their fathers, to be accepted as aforesaid.

When persons called out may serve by substitutes. Condition thereof.

SEC. 39. *And be it further enacted*, That the lieutenant colonel of each regiment from which de-

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tachments are drawn, shall (if not otherwise to be obtained) cause to be procured by impressment for each company, a waggon, team and driver, or a sufficient number of pack horses, six axes, and six camp kettles, or pots of convenient size, all which shall be delivered to the commanding officer of the company, who shall be accountable for returning the same when his tour is over; and the articles aforesaid shall be returned to the owner, who shall be allowed for the use, damage and detention of the same, whatever shall be adjudged by a court of enquiry of the regiment. And to the end, that if any articles im-

When impressment of certain articles may be made.

When lost, &c. how indemnification shall be made the owners.

pressed be lost, the owner may be paid for the same, the lieutenant colonel shall cause all property by him impressed by virtue of this act, to be valued by three house holders, or any two of them on oath, before the same shall be sent away, and shall give such owner a receipt for the same, stating the quantity, quality and value of the property impressed, together with a certificate of the appraisers; and upon proof being made of any article being lost, the valuation thereof shall be allowed, and the said allowance shall be certified to the auditor of public accounts. The said court shall make enquiry into the cause of such loss, and if it shall appear that such loss was occasioned by the misconduct or inattention of any officer, the brigade inspector is hereby authorised and required to prosecute a suit against such officer to recover damages for the use of the territory.

Commanding officer of a county, upon an actual or threatened invasion thereof, how to proceed.

SEC. 40. *And be it further enacted*, That if any sudden invasion shall be made, or threatened to be made, into any county or district within this territory by Indians, or any other power, the commanding officer of the militia of such county or district, is hereby authorised and required to order out the whole, or such part of the militia of his county or district, as he may think necessary,

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in such manner as he may think best for the repelling such invasion, and shall call on the commanding officers of the adjacent counties or districts for such aid as he may conceive necessary, who shall forthwith in like manner furnish the same. And for assembling the militia required upon such occasions, or by order of the executive, the same measures shall be taken to summon them as is directed in the case of musters; and it shall be the duty of every commanding officer of a county or district, on receiving information of the intended invasion of his, or any neighboring county or district, forthwith to convey information of the same by special messenger or otherwise, to the governor of the territory for the time being, that he may make the necessary arrangements to repel the same.

Persons prosecuted under this law how they may plead.

SEC. 41. *And be it further enacted*, That if any suit or suits shall be brought or commenced against any person or persons for any thing done in pursuance of this act, the action shall be laid in the county where the cause of such action did arise, and not elsewhere; and the

defendant or defendants in such action or actions to be brought may plead the general issue, and give this act and the special matter in evidence. And in case the plaintiff or plaintiffs in any such action, shall fail in supporting the same, he, she or they so failing, shall pay to the defendant or defendants in every such action, double costs.

Plaintiffs failing, to pay double costs.

SEC. 42. *And be it further enacted,* That the following articles, rules and regulations shall govern the militia of this territory, to wit:

Articles.

Article I. If any field or other commissioned officer, at any regimental review, or on any other occasion, when the regiment, battalion or company to which he may belong, or in which he may hold a command, is paraded in arms, shall misbehave or demean himself in an unofficer like man-

Commissioned officers misbehaving, how punished.

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ner, he shall, for such offence, be cashiered or punished by fine, at the discretion of a general court martial, as the case may require, in any sum not exceeding sixty dollars; and if any non commissioned officer or private shall, on any occasion of parading the company to which he belongs, be drunk, or shall disobey orders, or shall use any reproachful or abusive language to his officers, or any of them, or shall quarrel or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard by the commanding officer or officers present, until the company is dismissed, and shall be, by a regimental court martial, fined not more than twenty dollars, nor less than one dollar.

Non commissioned officers and privates misbehaving, &c.

Article II. If the lieutenant colonel or commanding officer of any regiment or battalion, shall neglect or refuse to give orders for assembling his regiment or battalion, at the direction of the commander of the brigade to which he belongs, or in case of an invasion of the county or district to which such regiment or battalion belongs, he shall be cashiered and punished by fine, not exceeding six hundred dollars, at the discretion of a general court martial; and if a commissioned officer of any company shall, on any occasion, neglect or refuse to give orders for assembling the company to which he belongs, or any part thereof, at the direction of the lieutenant colonel or commanding officer of the regiment to which such company belongs, he shall be cashiered and punished by fine, not exceeding two hundred

Lieut. Col. refusing to give orders, &c.

how punished.

Capt. refusing, &c.

how punished.

Non commissioned officer, &c.

dollars, at the discretion of a brigade or general court martial; and a non commissioned officer, offending in such case, shall be fined at the discretion of a regimental court martial, in any sum not exceeding twenty dollars.

Penalty on captains fail

Article III. If any captain or commanding officer of a company, shall refuse or neglect to make

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ing to make out a list of persons noticed for a tour of duty

out a list of the persons noticed to perform any tour of duty, and send or convey the same to the lieutenant colonel, or commanding officer of the regiment, to which such company may belong, or if he shall fail to call forth such officers and men as shall, from time to time, be legally called from his company, upon any call from the governor on an invasion or insurrection in the county or district, or requisition from an adjacent county or district, or failing on any such occasion to repair to the place of rendezvous, for such neglect or refusal he shall be cashiered or fined at the discretion of a general court martial, in any sum not exceeding one hundred dollars, nor less than five dollars.

Desertion, how to be punished.

Article IV. If any militia man shall desert while he is on a tour of duty, he shall be fined not exceeding fifty dollars, and be obliged to march on the next tour of duty under the same penalties as the first. If a non commissioned officer shall so desert, he shall be degraded and placed in the ranks, and shall pay a fine not exceeding seventy five dollars, and be obliged to serve another tour as a private.

General court martial.

Article V. Every general court martial shall consist of thirteen members, exclusive of a judge advocate, all of whom shall be commissioned officers not under the rank of captain, and the officer highest in rank shall preside.

Regimental court martial.

Article VI. Every regimental court martial shall be composed of five members, all commissioned officers, one of their number a president, not under the rank of captain.

Members, how to vote, &c.

Article VII. All members of a court martial are to behave with decency and calmness, and in giving their votes, are to begin with the youngest in commission.

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Article VIII. No officer shall be tried but by a general court martial, nor by officers of an inferior rank, if it can be avoided; nor shall any proceedings or trials be carried on except between the hours of eight o'clock in the morning and three o'clock in the afternoon, excepting in cases which in the opinion of the officer appointing the court, requires an immediate example.

Officers to be tried by a general court martial.

Article IX. The judge advocate shall prosecute in the name of the territory, but shall so far consider himself as counsel for the prisoner, as to object to any leading question to any witnesses, or any question to the prisoner, the answer to which might lead to criminate himself.

Judge advocate, how to prosecute &c.

Article X. When a non commissioned officer or private is confined under guard, his crime shall be lodged with the officer of the guard within twelve hours after the prisoner's confinement, otherwise the prisoner shall be set at liberty.

Of persons under guard

Article XI. In every court martial not less than two thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted.

Court martial, two-thirds must agree, &c.

Article XII. The president of each and every court martial, whether general or regimental, shall require all witnesses in order to the trial of offenders, to declare on oath, or affirmation, that the evidence they shall give, is the truth, the whole truth and nothing but the truth. And the members of all such courts shall take an oath, or affirmation, as follows, to wit; I, _____ do solemnly swear (or affirm as the case may be) that I will hear and determine, according to evidence, to the best of my understanding, and the custom of war in like cases, between the territory of the United States, north-west of the Ohio river, and _____ now to be tried; and that I will not disclose the opinion of this court, until approved or disapprov-

Witnesses to declare on oath.

Members of a court martial, to take an oath, &c.

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ed by the commanding officer (or commander in chief as the case may be) and that I will not, at any time, discover or disclose the opinion of any particular member, unless called upon to give evidence

By whom administered.

thereof by a court of justice in due course of law; which oath shall be administered by the judge advocate to the president and members.

Judge advocate to take an oath.

Article XIII. The judge advocate shall be appointed by the officer ordering the court martial, and shall take the following oath or affirmation, which shall be administered by the president, to wit; I,

do swear (or affirm as the case may be) that I will faithfully execute the office of judge advocate to this court, now met for the trial of _____ to the best of my abilities and understanding, and the custom of war in like cases; and that I will not disclose nor discover the opinion of this court martial, until approved or disapproved of by the commanding officer, and that I will not at any time disclose or discover the vote or opinion of any member, unless called upon by a court of justice to give evidence thereof in due course of law. It shall be the duty of the judge advocate to prosecute for the territory, and to keep a record of the whole proceedings of the court, taking into view the depositions of all witnesses that may be introduced.

His duty.

Article XIV. Courts martial shall appoint a provost martial, whose duty it shall be to summon all witnesses, having received process for that purpose from the president of the court, to execute the orders of the court and keep by-standers from interrupting the court whilst sitting. And all persons, called as witnesses, in any case before a court martial, who shall refuse to attend and give evidence, shall be censured or fined, at the discretion of the court, in any sum not exceeding fifty dollars.

Provost-martial, his duty.

Article XV. No officer or private, being charged with transgressing these rules, shall be suffered

Witnesses refusing to attend how punished.

Officers, & transgress-

Article XVI. If any non commissioned officer or private shall think himself injured by his lieutenant colonel, or the commanding officer of the regiment, and shall, upon due application made to him, be refused redress, he may complain to the brigadier, who shall direct

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ing these rules, &c.

to do duty in the regiment, company or troop to which he belongs, until he has had his trial by a court martial, and every person, so charged, shall be tried as soon as a court martial can conveniently be assembled.

Colonel, injuring a non commissioned officer or private, what proceedings

Article XVII. If any non commissioned officer or private shall think himself injured by his lieutenant colonel, or the commanding officer of the regiment, and shall, upon due application made to him, be refused redress, he may complain to the brigadier, who shall direct

three commissioned officers to enquire into the nature of the complaint; and if they report that the person complaining, in their opinion, has been injured, the brigadier general shall then direct the brigade inspector, at a certain time and place, to summon a general court martial, for the purpose of doing justice to the person complaining; and shall also direct the brigade inspector to give the person complained of at least eight days previous notice of the time and place of the meeting of any such court martial.

Article XVII. If any non commissioned officer or private shall think himself injured by his captain, or other superior in the battalion, troop or company to which he belongs, he may complain to the commanding officer of the regiment, who shall cause his adjutant to summon a regimental court martial, for doing justice according to the nature of the case.

thereon, &c.

If injured by a captain &c. how to proceed.

Article XVIII. The party tried by any general court martial shall be entitled to a copy of the sentence and proceedings of such court martial after the decision on the sentence, upon demand thereof made by himself, or by any person or persons in his behalf, whether such sentence be approved or not.

When the person tried entitled to a copy of sentence.

Article XIX. No penalty shall be inflicted at the discretion of a court martial, other than degrading, cashiering or fining.

Court martial, its power.

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Article XX. The commanding officer, for the time being, shall have full power of pardoning or mitigating any censures, or penalties so ordered to be inflicted on any private or non commissioned officer, for the breach of any of these articles by a general court martial; and every offender, convicted as aforesaid, by any regimental court martial, may be pardoned, or have the penalty mitigated by the lieutenant colonel or commanding officer of the regiment, excepting only where such censures or penalties are directed as satisfaction for injuries received by an officer or private from another; but in case of officers, such sentence to be approved of by the commander in chief of the militia, who is empowered to pardon or mitigate such sentence, or disapprove of the same.

Of pardons, and mitigation of fines, &c.

Article XXI. If any commissioned officer shall, at any time, or upon any occasion, behave in an unofficerlike, ungentlemanly, or dis-

Commissioned officers misbehaving, &c.

how proceeded
against, &c.

graceful manner, the commander in chief, if the person accused be a major general; the general of division, if a brigadier general; the brigadier general, if a field officer, or the lieutenant colonel or commanding officer of a regiment, if an inferior officer, as the case may be, upon the application of a commissioned officer, may appoint a board of three officers to enquire into the matter of complaint, and if upon their report it shall appear to him deserving of trial, then, and in such case, he shall direct a court martial, whose proceedings herein shall have the same effect as if the offence had been committed when on actual duty.

Hours of
parade, &c.

Article XXII. The militia, on the days of training, may be detained under arms, on duty in the field, any time not exceeding six hours; provided they are not kept above three hours under arms at any one time without being allowed to refresh themselves.

Fines to whom
paid.

Article XXIII. All fines that shall be incurred by

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any breach of these rules, shall be paid to the treasurer of the county in which the offender resides (whose receipt shall be a discharge for the same) within sixty days after they become due; but in case of neglect or refusal to pay any of the said fines, they shall be levied and collected in manner herein before directed.

Militia, when
called into
actual service.

Article XXIV. The militia of this territory, whilst in actual service, shall be subject to the same rules and regulations as the federal army, and shall receive the same pay and rations as is allowed by the United States to the militia when in actual service; *provided*, that upon any transgression or offence of a militia man, whether officer or private, against the rules and regulations of the federal army, the cause shall be tried and determined by a court martial of the militia of this territory, if the same can be convened.

Certain rules
of discipline
established by
congress to be
observed &c.

Article XXV. The rules of discipline approved and established by congress, in their resolution of the twenty ninth of March, one thousand seven hundred and seventy nine, shall be observed by the militia throughout this territory, except such deviations from said rules as may be rendered necessary by the requisitions of the acts of congress, or some other unavoidable circumstances. It shall be the duty of the commanding officer, at every training, whether by regi-

mental, battalion or single company, to cause the militia to be exercised and trained agreeably to the said rules of discipline and the instructions laid down by the baron Steuben, and annexed to the said rules of discipline, pointing out the respective duties of the officers, non commissioned officers and privates, are recommended and enjoined upon the militia of this territory, as particularly and fully as if the said instructions were repeated and expressed in this act at length; and it shall be the duty of every captain to instruct his non commissioned officers accordingly.

Baron Steuben's
instructions,
&c.

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Article XXVI. If any militia man, on receiving three days previous notice thereof, shall neglect or refuse to be in readiness to march on any tour of duty, armed and equipped, as required by this act, he shall forfeit and pay a sum not more than one hundred dollars, nor less than eight dollars for every month he is required by law to serve on such tour, to be assessed (on proper proof thereof made) by a regimental court martial. *Provided always*, That if any militia man shall be sick, or make any other just or satisfactory excuse to the court martial, such fine shall not be assessed, but such militia man shall be obliged to perform a tour of duty on the next call of the militia.

On a call
for a tour
of duty,
what notice,
&c.

Article XXVII. The foregoing articles shall be read at all regimental and battalion musters, by order of the commanding officer.

These articles,
when to be
read.

SEC. 43. *And be it further enacted*, That all laws, and parts of laws, heretofore made for the regulation of the militia of the territory, shall be, and the same are hereby repealed. This act take effect and be in force from and after the first day of March next.

Laws repealed.

When this act
shall take
effect.

EDWARD TIFFIN, *Speaker*

Of the House of Representatives.

H. VANDER BURGH,

President of the Council.

APPROVED—December 13th, 1799.

AR. ST. CLAIR.

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CHAPTER XXVII.

An ACT defining and regulating privileges in certain cases.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That the members of the legislative council and house of representatives, and the secretaries, clerks, serjeants at arms, door keepers and messengers of either branch of the general assembly, shall be privileged from arrest during the sitting of the legislature, or of the branch thereof to which they respectively belong, and also, during the time necessarily employed in travelling to and returning from the place of their meeting, allowing one day for every fifteen miles of the distance by the road most usually travelled. And all proceedings in suits pending, in which either of the persons above mentioned is a party, shall be stayed during the time aforesaid. And whoever shall arrest either of the persons above named, during the time they are entitled to privilege, as above provided, shall forfeit and pay, for every such offence, the sum of one hundred dollars, to be recovered, with costs of suit, by action of debt, for the use and in the name of the person injured. And all persons legally entitled to vote for representatives to the general assembly, shall be privileged from arrest during the time of their attendance at elections, and while on the way going to and returning from such elections.

SEC. 2. *And be it further enacted,* That the judges and clerks of the general court, and the attorney general, shall be privileged from arrest while attending at the said court, and for and during the space of fifteen days next before the commencement, and for and during the space of ten days

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next after the close of any term thereof; and also during the time necessarily employed in going to, holding and returning from any circuit court, court of oyer and terminer and general jail delivery, or court of nisi prius, in any county within the territory.

SEC. 3. *And be it further enacted,* That the judges of the several courts of common pleas, within the territory, during the sitting of their respective courts, and during the space of forty-eight hours next

Specially privileged, members of the legislature & their officers whilst in session.

Person arresting liable to a fine.

Electors, while attending elections.

Judges of the general court, &c. while in session.

Judges of th' common pleas, and

before the commencement, and during the like space of time next after the close of any term thereof; and the justices of the several courts of general quarter sessions of the peace, during the sitting of the sessions, and during the space of forty-eight hours next before the opening, and next after the close of any session thereof, and while engaged in hearing and determining any action, suit, or plaint, instituted before them or either of them; and all attornies, counsellors at law, prothonotaries, clerks, sheriffs, coroners, constables and cryers, and all suitors, witnesses, and jurors, while attending court, and while going to and returning from court, shall be privileged from arrest.

Justices of the quarter sessions.

Attornies, clerks, &c.

Times and places that no arrest shall be made.

SEC. 4. *And be it further enacted*, That no person shall be arrested while doing militia duty, under the order of his commanding officer; or while going to, or returning from the place of duty or parade; nor shall any person be arrested on the first day of the week, commonly called Sunday; or in any place of religious worship, during the performance of divine worship; or in the chamber of the legislative council or house of representatives, during their sitting; or in any court of justice, during the sitting of the court; or on the fourth day of the month of July, the anniversary of American independence.

SEC. 5. *And be it further enacted*, That nothing herein contained shall be construed to extend to

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cases of treason, felony, or breach of the peace. *Provided always*, That when either of the members, or officers of the general assembly shall be arrested during the sitting of the legislature, upon any charge of treason, felony, or breach of the peace, it shall be the duty of the person issuing the process on which the arrest is made, forthwith to give written notice thereof to the house, in which the person arrested shall be a member or officer, addressed to the president, or speaker, as the case may be.

Privilege not to extend to treason, felony, or breach of the peace.

SEC. 6. *And be it further enacted*, That nothing herein contained shall be construed to privilege any person herein named from being served, at any time, with a summons, or notice to appear; and all arrests, not contrary to the provisions herein contained, made in any place, or on any river or water course, within or bounding the terri-

No privilege in case of a summons, &c.

When arrest
is made con-
trary to this
law,
how dis-
charged.

tory, shall be deemed lawful. And if any person shall be arrested contrary to the provisions herein contained, such person may and shall be discharged, by a writ of habeas corpus, or in a summary way by motion before the court from which the process shall have issued, at the cost of the party suing out such process.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.

H. VANDER BURGH,
President of the Council.

APPROVED—December 6th, 1799.

AR. ST. CLAIR.

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CHAPTER XXVIII.

An ACT for allowing compensation to the members of the house of representatives who attended to put in nomination the members of the legislative council, and for defraying the incidental expenses accrued thereon.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That each and every member of the house of representatives, who attended, pursuant to the governor's proclamation, to put in nomination the members of the legislative council, are entitled to, and shall receive a compensation for their services, respectively, the sum of three dollars, for each and every day's attendance on the foregoing business, and shall moreover receive three dollars for every fifteen miles travel, to and from their respective places of residence to Cincinnati, to be computed at the estimated distance by the most usual route.

SEC. 2. *And be it further enacted,* That Jacob Visger, a member of the house of representatives to serve for the county of Wayne, who, on account of his late election, did not arrive until the members aforesaid had risen, shall be entitled to, and receive the sum of three dollars for every fifteen miles travel to and from his place of residence to Cincinnati, as aforesaid.

Allowance
to the mem-
bers of the
convention.

To Jacob
Visger.

SEC. 3. *And be it further enacted*, That Charles Killgore, the clerk to the aforesaid house, is entitled to, and shall receive the sum of five dollars per day, as a compensation for his services while employed in the business of the said house.

To Charles Killgore, clerk.

SEC. 4. *And be it further enacted*, That James Lowes, who acted as door-keeper, is entitled to,

To James Lowes, door keeper.

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and shall receive a compensation for his services of one dollar and fifty cents per day, for each and every day employed in that service.

SEC. 5. *And be it further enacted*, That the members aforesaid be reimbursed the sum of one hundred and sixty-five dollars and fifty-four cents, which they have laid out in defraying the expences of certain expresses, sent with writs of election to the respective counties, and in furnishing and repairing the house in which they sat, and which is now in the use and occupation of the house of representatives.

Certain expences reimbursed.

SEC. 6. *And be it further enacted*, That Arthur St. Clair, esquire, is entitled to, and shall receive the sum of one hundred and thirty three dollars and thirty-three cents, for the use and occupation of the aforesaid house, from the meeting of the aforesaid house of representatives, to the meeting of the general assembly, on the sixteenth day of September last.

Allowance for house rent.

SEC. 7. *And be it further enacted*, That the whole of the money aforesaid, shall be paid out of the treasury of the territory, on the warrants of the auditor of public accounts.

How to be paid.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.

H. VANDER BURGH,
President of the Council.

APPROVED—December 13th, 1799.

AR. ST. CLAIR.

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CHAPTER XXIX.

*An ACT for the relief of poor persons imprisoned for debt.***Preamble.**

WHEREAS the detention in prison of persons destitute of property can be of no advantage to their creditors, but their release from confinement, duly guarded, may be of service to society, by placing the unfortunate in a situation, by honest industry, to support themselves and families, as well as to discharge their just debts; therefore,

Poor persons imprisoned for debt when to be discharged therefrom.

SEC. 1. *BE it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same,* That all persons, who now stand committed by force of any execution, already issued, from any court in this territory, on a judgment recovered at the suit of any person, or who hereafter shall be committed by force of an execution issued, or to be issued, upon a judgment recovered, or which shall hereafter be recovered in any court within this territory, shall complain that he or she hath not estate sufficient to support him or her in prison, the jailer or keeper of such prison shall, on such complaint made, forthwith apply to some one of the justices, assigned to keep the peace in and for said county in which such person is imprisoned, and to him make known such complaint, whereupon it shall be the duty of the justice applied to forthwith to make out a notification in writing, under his hand and seal, thereby signifying to the execution creditor or creditors, such prisoner's desire of taking the privilege and benefit allowed in and by this act, returnable on the first day in term of the next court of general quarter sessions of the peace for the said county, which notification shall be served on the execution creditor or creditors of such prisoner, if he, she or they live within the county, his or her executor or administrator;

Proceedings.

Justice to issue a notification,

to be served on the execution creditor.

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and if such creditor or creditors live out of the county, upon his, her or their agent or attorney, who brought forward the suit on which the judgment, whereon the execution by which the prisoner stands committed, was rendered, which service of such notification shall be made, either by reading the same to him or her, or by leaving an attested copy

Service of notice, how to be made.

thereof at the usual place of abode of such creditor or creditors, agent or attorney, as the case may be, at least thirty days before the return thereof, that he, she or they may be present, if they see cause to object to such prisoner being allowed the benefit of this act. *Provided*, That if any execution creditor or creditors live out of the county, and have no agent or attorney, as aforesaid, living within the same, an attested copy of such notification shall be left with the clerk or prothonotary of the court, or the justice by whom the said execution was signed, at least forty days before the return of said notification.

When the execution creditor does not live in the county.

SEC 2. *And be it further enacted*, That the court of general quarter sessions of that county, in which the prisoner is, or shall be confined, is hereby authorized and empowered to examine the said notification and return thereupon made, and if the same shall have been made and served agreeably to this law, the same court shall forthwith order the prisoner brought up, and proceed upon the examination of such prisoner, touching his or her complaint, and likewise hear whatever objections the creditor or creditors, their agent or attorney shall think proper to make and offer against such prisoner, should he, she or they appear and make such objections, at the time in such notification mentioned; and it shall be lawful for all creditors, who may be in any way affected by the order of the court, to examine any person or persons under oath before the court, touching the property of the prisoner, and for that purpose every such cre-

Courts of quarter sessions, their duty, &c.

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ditor shall be entitled to a writ or writs of subpœna, which writ or writs shall be issued by the clerk of the said court, and shall be obeyed under the same penalties and forfeitures as is by law provided in other cases, and the court having fully examined such prisoner, and the objections offered, shall, if said court think proper so to do, proceed to administer to such prisoner the oath or affirmation following, to wit; I, A. B. do in the presence of Almighty God, solemnly swear (or affirm as the case may be) that I have not any estate, real or personal in possession, reversion or remainder, sufficient to support myself in prison, or to pay prison charges, 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

To administer an oath, &c.

entrusted any person or persons whatsoever, with all, or any part of the estate, real or personal, whereof I have been the lawful owner or possessor, with an intent or design to secure the same, or to receive, or to expect any profit or advantage therefor, 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, and this as I shall answer to God at the great day) which said oath or affirmation, being administered and taken in open court by such prisoner, the court shall thereupon proceed, if the prisoner shall stand committed for no other cause, to make an order for the discharge of such prisoner, and a certificate thereof, under the seal of the court, shall be transmitted to the jailor or the keeper of such prison, which shall be to him a sufficient authority to discharge such prisoner from further confinement, by virtue of such execution; and the said jailor or keeper of every such prison, is hereby required and directed, if the prisoner shall stand committed for no other cause, forthwith to liberate such prisoner from further confinement. *Provided always,*

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When the court shall order a prisoner discharged, &c.

Prison fees, how paid.

That if such prisoner be unable to pay his or her prison fees, the execution creditor or creditors shall become liable for the payment of the same, and for the diet of the said prisoner, not exceeding twelve and an half cents per day, in proportion to their several demands. *Provided also,* That the prisoner shall be afterwards liable for the payment of such prison fees and charges to the execution creditor or creditors, in the same manner as any other debt on execution, as aforesaid.

Penalty on a person swearing falsely.

SEC. 3. *And be it further enacted,* That if any such prisoner, as aforesaid, shall be convicted of having sold, leased, or otherwise conveyed, concealed, or disposed of, or entrusted his or her estate, or any part thereof, directly or indirectly, contrary to his or her foregoing oath or affirmation, he or she shall not only be liable to the pains and penalties of wilful perjury, but shall receive no benefit from the said oath or affirmation. And in case such prisoner, at the time of the intended caption, shall not take the said oath or affirmation, or be not admitted thereto by the said court, he or she shall be remanded back to prison, and shall not be entitled to the benefit of this act, unless a new notification be made out and served, in manner aforesaid.

SEC. 4. *And be it further enacted*, That all and every judgment obtained against such prisoner, shall, notwithstanding such discharge as aforesaid, be, and remain good and effectual in law, to all intents and purposes, against any estate whatsoever, which may then, or at any time afterwards, belong to him or her; and the creditor or creditors, agent or attorney, the executors or administrators, may take out a new execution against the lands, tenements and hereditaments, or the goods and chattels of such prisoner (his or her wearing apparel, and household furniture, necessary for

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him or herself and family, and tools necessary for his or her trade, or occupation, and one milch cow, if he or she be a householder, only excepted) for the satisfaction of the debt and costs, in like manner as might have been done in case the prisoner had never been taken in execution.

SEC. 5. *And be it further enacted*, That no person who hath been liberated from prison, by virtue of the provisions of this act, shall be subject to imprisonment on final process, for any debt contracted, or for any damages accrued, for the breach of any contract entered into prior to such liberation, unless such liberation shall have been fraudulently obtained. *Provided always*, That if any debtor liberated from prison, in manner aforesaid, shall remove from this territory, every such person shall forfeit all his or her right of exemption from imprisonment, to every intent, the same as though he or she had not obtained the benefit of this act.

SEC. 6. *And be it further enacted*, That if any sheriff or other officer, shall be prosecuted for the escape of any person liberated under this act, such sheriff or other officer, may, under the plea of the general issue, give this act, and the special matter in evidence.

SEC. 7. *And be it further enacted*, That this act shall take effect and be in force from and after the passing thereof.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
 H. VANDER BURGH,
President of the Council.

APPROVED—December 13th, 1799.

AR. ST. CLAIR.

Judgment to remain in full force against any estate.

Not again to be imprisoned.

Not to remove out of the territory

On a prosecution for escape, how the sheriff may plead.

Time of taking effect.

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CHAPTER XXVIII.

An ACT for opening and regulating public roads and highways.

Public roads to be open'd and kept in repair.

Courts of quarter sessions, their power.

When notice shall be given to the proprietor of land over which a new road is contemplated to be run.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That all public roads or highways, established by lawful authority, shall be opened, amended and kept in repair, agreeable to the directions of this act, and the courts of general quarter sessions of the peace, in their respective counties, shall have authority upon application, to make and enforce all orders necessary, as well for opening all new roads which may be useful and convenient, as to vacate any public road, or part of any public road, which, upon enquiry shall be found useless and burdensome, within the limits of their respective counties.

SEC. 2. *And be it further enacted,* That previous to any application being made to the court of general quarter sessions of the peace, for an order to lay out any new road, every person, through whose improved land such proposed road may be designed to be run, who is known to be resident in the same, or any adjoining county, shall have notice thereof from some person about to apply for the same; or else a note in writing, expressing such intended application, under the signature of some one or more of the persons about to apply, shall be left at the house, or last place of abode, or with the agent respectively of every such holder of improved land, at least twenty days before the session in which such application shall be made; and further, such intended application shall be advertised in some public place in each township, through which such proposed road may be designed to be run for thirty days prior to the ses-

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sion as aforesaid; and a similar advertisement shall be affixed and kept upon the court house door for two days of the term in which application shall be made.

SEC. 3. *And be it further enacted*, That every application for any public road shall be by petition, specifying particularly where such road begins, the remarkable places by which such road shall pass, and where the same shall terminate, presented to the court of general quarter sessions of the peace of the proper county, signed by at least twelve householders resident in the same county, three of whom shall be freeholders of the neighborhood, who shall be liable for the costs accruing on such petition, survey and view, unless the road so petitioned for, shall appear to the court, from the report of the viewers, to be of public and general utility to the citizens of the county at large, when the costs attending the same shall be paid out of the county treasury.

Application for a public road, to be by petition, &c.

Costs, how paid.

SEC. 4. *And be it further enacted*, That when any petition in form aforesaid, is presented to any court of general quarter sessions of the peace, within any county of this territory, praying for an order to lay out a new road through any part of the same county, and the court be satisfied that the petitioners have given the necessary notice required by this act, the court shall order such petition to be publicly read in open court, and thereupon shall appoint three disinterested freeholders of the county, which said freeholders, or any two of whom, shall proceed to view the ground on which such proposed road is to run; and also to appoint a skilful surveyor to accompany the aforesaid viewers, and to survey the said road agreeably to the view of the aforesaid freeholders. It shall be the duty of the said viewers and surveyor, at some convenient time before the next session, to repair to the place where such proposed road begins, and

When an order for a new road is made, &c.

Court to appoint three viewers and a surveyor, &c.

Their duty, &c.

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the said viewers shall, with diligence and attention, examine the ground and lay out such road as nearly to the prayer of the petitioners, as a passable way can be obtained, at a moderate expence, having special regard to continue the road in the same direction as far as circumstances will admit, and not to take the same through any person's enclosure, of one year's standing without the owner's consent, unless a preferable way cannot otherwise be had with convenience to the

Surveyor to take to his assistance two chain men.

public; and the aforesaid surveyor shall take to his assistance two persons of honest reputation, as chain bearers, and he shall, according to the view of the aforesaid freeholders, survey such road, conspicuously marking the same throughout, and truly noting the several courses and distances thereof, and at every mile's end, shall erect a monument, expressing the number thereof, and shall protract a survey of the said road, which, together with the proceedings of the aforesaid viewers shall be certified respectively, and returned to the court of general quarter sessions of the peace, next to be held for such county; and the court on receiving such return, shall cause the same to be publicly read in open sessions, on two different days of the same term, at which such return shall have been made, and if no objections are made to such proposed highway, on the second reading of the return aforesaid, it shall be the duty of the court to order the said road to be opened a necessary width, not exceeding sixty-six feet, and made in other respects convenient for the passage of travellers, and cause a record thereof to be made, which shall thenceforth be deemed a public road.

Court on receiving the return, how to proceed.

Persons objecting to a road passing over their lands, how to proceed.

SEC. 5. *And be it further enacted,* That if any person through whose land any proposed public road may run, feels aggrieved thereby, such person may at any time before such road is recorded, and not afterwards, set forth his or her grievance, by way

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Court to appoint five freeholders, &c.

of remonstrance, against such proposed road, or any part thereof, presented to the court of general quarter sessions of the peace of the proper county, and the court shall nominate five disinterested freeholders of the county, who shall not be related to any of the parties interested in opening or objecting against such proposed road, and shall assign a day for such freeholders to meet, where such proposed road begins; it shall be the duty of such five freeholders respectively, having had five days previous notice from either of the parties, to meet on the day and at the place assigned by the court, and then, or on any other day prior to the next sessions, to which a majority may adjourn (having first taken an oath or affirmation, before some person qualified to administer oaths, impartially to assess the damage, or several damages which any such objector or objectors may be likely to sus-

Their duty.

To take an oath, &c.

tain by reason of such proposed road, in case the same should be opened and continued through his, her or their land) to review such proposed road, and take into their consideration how much less valuable any tract of land, the property of such objector or objectors, will be rendered by reason of such proposed road, should the same be opened and continued through such tract respectively, and shall assess the damage, or several damages accordingly, and report the same to the court of general quarter sessions of the peace, next to be holden for the proper county; and if any three of them agree in assessing damages to the amount of the costs accruing on such remonstrance, the court may, if they consider it expedient, order the damages to be defrayed out of the county stock, or if that may be considered inexpedient, and the petitioners will defray the same, then, in either case, such road shall be ordered to be opened, and a record thereof made, and the costs and charges having accrued in virtue of such remonstrance, shall be defrayed out of the county

To assess the damages.

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stock; but if three of such freeholders do not agree in assessing damages to the amount of the costs aforesaid, then such objector or objectors shall pay the costs, and such proposed road shall be ordered to be opened and recorded in like manner as though no such objections had been made.

Costs how to be paid.

SEC. 6. *And be it further enacted*, That objections, in time and manner aforesaid, to any proposed public road, may be made by any twelve freeholders, or householders, of the neighborhood through which the same runs, on account of the same being likely to be useless and burdensome to the township, respectively; and when such objections are made, the court shall proceed, in like manner, by review thereof, as prescribed in the last preceding section of this act; and if the freeholders who review the same, or any three of them agree, that the said proposed road is likely to be useless and burdensome if it be opened and kept in repair by the public, then, unless the petitioners, respectively, will agree to open and keep in repair such proposed road, at their own private expence, all the proceedings shall be stayed, and the petitioners shall, in either case, pay the costs and charges which may have accrued; but if three of the aforesaid viewers do not report

By whom, and in what manner objections may be made to a proposed public road.

against such proposed road, as likely to be useless and burdensome, then the objectors shall pay the costs and charges which shall have accrued on such review, and the said proposed road shall be ordered to be opened and a record thereof made, and shall thenceforth be deemed a public road.

SEC. 7. *And be it further enacted*, That if any person through whose land any public road shall run, shall be desirous of cultivating such part of his land, it shall be lawful for such person or persons, to petition the court of quarter sessions to permit him, her or them, at his, her or their own expence, to turn such road through any part of his

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her or their own land, on as good ground, and without encreasing the distance to the injury of the public, and upon such petition, the said court shall appoint three disinterested freeholders, who shall proceed to view the ground on which the said road is designed to be turned, and measure the respective distances of that part of the road already established, and of the proposed way, until it shall intersect the road established as aforesaid, and at the next term of the said court, shall report the several distances, with their opinion respecting the ground on which such proposed road is to run, and if it shall appear to the satisfaction of the court aforesaid, that the ground on which such new part of the road is designed to run, is equally situated, and that the difference in the distance will not materially injure the public, such court shall permit him, her or them to turn such road, and on receiving satisfactory assurance, that such petitioner or petitioners have opened such proposed road, equally convenient for travellers, shall vacate so much of the former road as shall lie between the different points of intersection, and record such new report, which afterwards shall be a public road or highway.

SEC. 8. *And be it further enacted*, That when any public road or highway shall be considered useless, and the repairing thereof be an unreasonable burden to the township, any twelve freeholders, or householders of such township, may make application in writing, signed by such persons, setting forth the situation and other circumstances of the road which they wish vacated as aforesaid, in a clear

Any person desirous to change the road running thro' his land how to proceed.

Court to appoint three viewers, &c.

When and how to report.

Public roads becoming useless, &c. how to be discontinued.

and intelligible manner, which shall, on the term in which it is presented, be publicly read in open sessions, on two different days of the session, and no further, or other proceedings shall be then had thereon, but the same shall be adjourned to the next session, when the same shall again be read in

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open court, when, if objections are not made thereto in writing, signed by twelve freeholders or householders, such court shall, on any day in the same sessions, other than the first day of the same, proceed to vacate such public road, or parts of public road as aforesaid, and the cost and charges shall be defrayed by the county; but if objections in manner aforesaid are made, the court shall proceed in like manner by viewers thereof, as they are authorised to do in the laying out of public roads and highways, and the judgment of any court of quarter sessions as aforesaid, shall be conclusive in the premises, if the same be not appealed from in nine months after giving any such judgment.

Appeal allowed.

SEC. 9. *And be it further enacted,* That an appeal from the proceedings of any court of quarter sessions of the peace of any of the counties within this territory as aforesaid, shall lie and be allowed to the general court of the territory, which court shall, if the party or parties applying for the same enter into sufficient security for the costs and charges thereof, order and appoint another view of such road, and proceed thereon in like manner as the county courts of general quarter sessions are enabled by this act to proceed, and the determination and judgment of such general court shall be final.

General court to take cognizance of appeals, &c.

Provided always, That nothing in this act shall be understood to give authority to any court of quarter sessions of the peace to vacate any street or highway in any city, borough, town or village in this territory, which hath been laid out by the late proprietors thereof, or by any other person or persons, and dedicated to public use; nor to vacate any road laid out by order of court, which is not repairable at public charge, nor any road or passage claimed by private right, nor to rivers, or streams of water.

No street to be vacated in any city, town or village.

SEC. 10. *And be it further enacted,* That all

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Male persons of a certain age, to work yearly, two days on the highways.

male persons of the age of twenty-one years, and not exceeding fifty, who have resided thirty days in any township of any county within this territory, and who are not a township charge, shall over and above the rate of assessment hereinafter mentioned, be liable, yearly and every year, to do and perform two days work on the public roads, under the direction of the supervisor within whose limits they shall be respectively residents; and it shall be the duty of every supervisor, respectively, to call out every such resident as aforesaid, when in his opinion it may be expedient to work on the public road or highway, within the division respectively allotted to him; and if any such resident, having had three days notice thereof from the supervisor, shall neglect or refuse to attend by himself or substitute to the acceptance of the supervisor, on the day, and at the place appointed for working on the public road, with such necessary and common articles of husbandry, as the said supervisors shall have directed him to bring, wherewith to labor, or having attended, shall refuse to obey the direction of the supervisor, or shall spend or waste the day in idleness or inattention to the duty assigned him, every such delinquent shall forfeit for every such neglect or refusal, the sum of seventy-five cents, to be recovered at the suit of the supervisor, respectively, before any justice of the peace of the township wherein the delinquent shall reside, to be appropriated towards repairing the public roads within the same township.

To be called out by a supervisor, on three day's notice.

Penalty on persons failing, &c.

Court of quarter sessions to appoint supervisors.

SEC. 11. *And be it further enacted,* That the court of general quarter sessions, of each and every county, at their first term, to be held after the first day of January, yearly and every year, shall appoint a necessary number of freeholders in each and every township within their respective counties, to be supervisors of the highways; and the said supervisors of the public roads and highways,

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Their duty.

of the several townships shall, and they are hereby required and enjoined, as often as the said several roads and highways within their

respective townships shall be out of repair, or as often as any new road shall be laid out and directed to be opened by lawful authority, to hire and employ a sufficient number of laborers to work upon, open, amend, clear and repair the same in the most effectual manner, and to purchase wood and all other materials necessary for that purpose, and to oversee the said laborers, keep them close to their business, and take care that the said roads and highways be effectually opened, cleared, amended and repaired, according to the true intent and meaning of this act.

SEC. 12. And in order to enable the said supervisors the more effectually to discharge their duty, *Be it further enacted*, That it shall and may be lawful for the supervisors aforesaid, or any other person or persons by his or their order and direction, to enter upon any lands adjoining to, or lying near the public roads and highways within their respective townships, and to cut or open such drains or ditches through the same, as he or they shall judge necessary completely to carry off and drain the water from such roads, provided the same be done with as little injury and damage as may be to the owner of such lands, which drains and ditches so cut and opened, shall be kept open by the said supervisors, if necessary, and shall not be stopped or filled up by the owner or owners of such land, or any other person or persons whatsoever, under the penalty of five dollars for every such offence, to be recovered before any justice of the peace in the county, and to be applied to the purpose of opening and repairing highways in the district wherein the offence shall have been committed.

Supervisors when to enter private property, & open ditches, &c.

Penalty for filling up ditches, &c.

SEC. 13. *And be it further enacted*, That the

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said supervisors shall have full power and authority on any unimproved ground, or lands adjoining the said public road or highway, within their respective townships, to dig, or cause to be dug any gravel, sand or stone, or to gather any loose stones lying on the said lands, or to cut down any wood or trees growing adjoining to the said roads or highways, as he or they shall think necessary, for the purpose aforesaid; provided the same be done with as little damage as may be to the owner or owners of such land, and the same sand, gravel, stones or wood, so dug, gathered or cut, to be carried off without the let, hindrance or control of the owner.

Supervisors empowered to dig sand, cut timber, &c. on unimproved lands.

Persons la-
boring on
highways
demanding
money, &c.
of travellers

SEC. 14. *And be it further enacted,* That if any person or persons working on the highways, or being with them, shall ask any money or drink, or any other reward whatsoever, of any person passing or travelling upon the said public road or highway, he shall for every offence, pay the sum of one dollar, to be recovered by the supervisor, or any other person suing for the same, before any justice of the peace in the county, and applied for and towards repairing the said highways or public roads within the township wherein the offence shall have been committed; and in case any supervisor shall connive at any person asking and demanding any reward from any traveller as aforesaid, or shall himself extort, or endeavor to extort any money, or other thing from any traveller as aforesaid, every supervisor so offending, shall forfeit and pay for each offence, the sum of five dollars, to be recovered by any person whatsoever, in manner aforesaid, one half to the use of the prosecutor, and the other half to and for the service of the said road or highway.

Supervisors
conniving
thereat.

When super-
visors refuse
or ne-

SEC. 15. *And be it further enacted,* That all and every supervisor or supervisors of the public roads and highways within this territory, who shall re-

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glect to do
their duty, to
be fined.

fuse or neglect to do and perform his or their duty, as directed by this act, shall be fined, and pay a sum, not exceeding twelve dollars, nor less than two dollars, for every such offence, to be recovered in a summary way before any justice of the peace of the county, by any person prosecuting for the same, and to be applied towards repairing the public roads and highways within their respective districts, where such fines and penalties are incurred. *Provided always,* That if any such supervisor or supervisors shall conceive himself, or themselves aggrieved by the judgment of such justice, he may appeal to the next county court of quarter sessions, who shall, on the petition of the party, take such order therein, as to them shall appear just and reasonable, and the same shall be conclusive on all parties.

May appeal.

Quarter ses-
sions to
appoint free-
holders to
settle the
accounts of
supervisors.

SEC. 16. *And be it further enacted,* That the court of general quarter sessions in each county, shall, yearly and every year, at the term on which they shall appoint supervisors, appoint three capable and respectable freeholders, in each and every township, whose duty it shall be to meet on the second Friday in April, annually, at some

convenient place in their respective townships, and then and there, or at such other time and place as they or a majority of them shall appoint, examine, correct and settle the books and accounts of the supervisor or supervisors, of their respective townships, for the preceding year, and the supervisor or supervisors, who shall have served the preceding year, shall, on the said second Friday of April, in every year, or at such other time and place as the aforesaid freeholders or a majority of them shall appoint, make up and produce fair and clear accounts of all such sums of money, by him or them expended on the high ways, and of all sums of money by him or them received, by virtue of assessment or otherwise, and of all fines and penal-

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ties due from themselves and others, which have come to their hands, which accounts shall be entered in a book, to be provided for that purpose, and shall be attested on oath or affirmation, by such supervisor or supervisors, before any justice of the peace, if the said freeholders, or any two of them, shall require the same; and the said freeholders, so appointed to settle the accounts aforesaid, shall have full power to adjust and settle such accounts, so produced to them as aforesaid, and to allow of such charges and sums only, as they, or a majority of them, shall think to be just and reasonable; and if there shall appear to be any money remaining in the hands of the person or persons who shall have served as a supervisor or supervisors, as aforesaid, they shall, by order, in writing, agreed by them, or any two of them, direct the same to be paid to the succeeding supervisor or supervisors; but in case such person shall be found to be in advance, for monies expended, and shall have carefully collected the sums of money assessed and imposed by virtue of this act, then the said freeholders or any two of them, shall, in like manner, order the succeeding supervisor or supervisors, to repay and reimburse the same, as soon as a sufficient sum of money shall have come to their hands; and if any person or persons, who shall have served as supervisor or supervisors, shall neglect or refuse to make up and produce fair and just accounts as aforesaid, or having made up and produced such accounts, shall neglect or refuse forthwith to pay the monies which he or they shall be ordered as aforesaid, or shall not deliver up the books wherein such accounts shall be entered, to their successors, it shall and may be

Account, when to be exhibited on oath.

When monies remain in the hands of supervisors, &c.

When in advance, how reimbursed.

Supervisors neglecting to settle their accounts.

lawful for any justice of the peace, on complaint to him made by the said freeholders, or any two of them, to commit such delinquent or delinquents to the county jail, until he or they comply as aforesaid.

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Supervisors
when ag-
grieved may
appeal.

SEC. 17. *And be it further enacted*, That if any supervisor shall think himself aggrieved by the settlement of such accounts as aforesaid, he may (having first paid over to his successor or successors, the balance found to be in his hands) appeal to the next court of quarter sessions, who shall, on the petition of the party, take such order therein and give such relief, as to them shall seem just and reasonable, and the same shall conclude and bind all parties. *Provided always*, That if any person or persons, shall be sued or prosecuted for any thing done in pursuance of this act, he, or they may plead the general issue, and give this act, and the special matter in evidence for their justification, and if the plaintiff or prosecutor become non suit, or forbear prosecution, or suffer a discontinuance, or if a verdict pass against him in such action or suit, the defendant shall have double costs, to be recovered as in case where costs by law are given to defendants; and no such suit or prosecution shall be maintained, unless it be commenced within three months after cause given, or unless security first be given for the costs.

When prose-
cuted how to
plead, &c.

Duty of the
freeholders,
&c.

SEC. 18. *And be it further enacted*, That it shall be the duty of the freeholders appointed by this act, to examine and settle the accounts of the supervisors, to lay off to each supervisor in each township, their just proportion of the roads or highways, in the said townships, to be denominated districts; and the supervisor or supervisors shall pay particular attention to the said roads or highways so assigned them, as by this law is required, and shall make a return to the county commissioners of their division, stating the boundaries of each district.

Commissioners
to levy a road
tax.

SEC. 19. *And be it further enacted*, That the county commissioners of each and every county in this territory, shall, at the same time they lay the county rates and levies in their respective coun-

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ties, levy on all persons subject to taxation within the township or district, in the same manner as county, or territorial rates are levied, so much money as may be necessary to keep in good repair all public

roads within the same township. *Provided always*, That the said levy shall not exceed one half of the tax laid on the same persons respectively, for defraying territorial or county expences.

To what amount.

SEC. 20. *And be it further enacted*, That the commissioners of each and every county shall, within twenty days after levying the tax necessary for opening and repairing roads and highways, deliver to the supervisor of each district, in their respective townships, a duplicate of the said tax so levied, and each and every supervisor shall, within thirty days, proceed to collect the said sums so levied and assigned them by the freeholders as aforesaid. *Provided nevertheless*, That if any of the said inhabitants shall not have money to discharge the same, or shall prefer discharging it by labor, then, and in every such case, the said supervisor or supervisors, shall allow each man the customary price allowed in his township for labor, provided the same does not exceed seventy-five cents per day, for every day he shall perform a reasonable day's work, and the said supervisor shall appoint a time and place for such persons to attend with such tools as he may judge necessary, and shall also oversee the said hands, as in other cases provided in this act.

Commissioners to give the supervisors a duplicate of the road tax.

When to be discharged by labor.

SEC. 21. *And be it further enacted*, That in case of refusal or neglect to pay the aforesaid taxes, the said supervisors respectively, shall be, and they are hereby authorized, to collect all such taxes so allotted them to collect, by making distress in like manner, and under the same regulations as shall be provided for the collectors of the several counties. *Provided always*, That in all cases where such taxes on non resident's land, shall

Road taxes, how to be collected, &c.

Lands of non residents.

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remain unpaid, the supervisors shall return a list thereof to the sheriffs of their respective counties, who shall collect the same, in like manner, as is, or shall be provided in case of revenue; and all such monies, in any wise collected as a road tax, shall be applied by the supervisors of districts, to the opening and keeping in repair the roads in the respective townships, by hiring persons to labor thereon, allowing such rates of hire as shall be directed by the courts of quarter sessions in the respective counties.

Bridges when to be built, and expences how defrayed

SEC. 22. *And be it further enacted*, That the justices of the court of quarter sessions, or a majority of them, may cause any bridge or bridges to be built over any creek or rivulet within the county to which they belong, where they think such bridge of public utility, and too expensive to be borne by the district in which it lies, for which purposes the said justices shall, by themselves, or by such two of the justices of the said court, as they shall specially appoint, agree with workmen for the building or repairing such bridge or bridges; and the commissioners for the time being, shall order the money becoming due for the same, to be paid by the respective county treasurers accordingly.

Private cart ways how to be laid out and opened.

SEC. 23. *And be it further enacted*, That if any person or persons shall, for the convenience of themselves or neighbors, wish to have a cart road laid out, from, or to the plantation, or dwelling place of any person or persons, or to any public highway, or from one highway to intersect another, the person or persons applying for the same, shall advertise their intentions as by this law is required in case of highways, and shall petition the court of general quarter sessions of the peace of the proper county, who shall cause the same to be read in open court, and shall order and direct a view of the place where such road is required to

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Breadth.

be laid out, and return thereof shall be made in the same manner as before directed by this act, and if no objections be made thereto, the said justices shall further order and appoint what breadth the said road shall be, so as the same shall not exceed thirty-three feet.

How to be recorded.

SEC. 24. *And be it further enacted*, That every road or cart way, laid out in pursuance of this act, not exceeding thirty-three feet in breadth, being first paid for by the petitioner or petitioners for such road, shall be recorded, and from thence forward shall be allowed and declared to be a common road or cart way, as well for the use and convenience of the person or persons, at whose request the same was laid out, as for the use and convenience of all such as shall have occasion to travel the same, and shall be opened and maintained by

the persons petitioning therefor. *Provided nevertheless,* That if the said road shall be laid out through any person or persons improved land, then the same shall be valued, as in this act is directed, in case of persons objecting to public roads or highways, and on the value thereof being paid to the owner or owners of the land, by the person or persons at whose request the same was laid out, they shall have liberty to open the said road agreeable to the order of the court.

When such road shall be laid out thro improved land, how to proceed.

SEC. 25. *And be it further enacted,* That if any owner or owners of any land, through which such cart road may pass, shall be desirous of improving his, her or their lands, they shall be permitted to turn the same, provided the ground on which they propose turning it, is equally as good for a road, and shall not increase the distance more than one twentieth part thereof, or shall be permitted to hang swinging gates upon such cart road or roads, but shall, at all times, keep the said gates in good order and repair, under the penalty of one dollar

Persons wishing to improve the land thro' which such cart way passes, &c.

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for every offence, to be recovered before any justice of the peace in the county wherein the offence shall have been committed, by any person prosecuting for the same, one moiety thereof to the prosecutor, and the other moiety to be applied towards keeping of said road in repair.

SEC. 26. *And be it further enacted,* That it shall be the duty of each and every supervisor, within their respective districts, to erect and keep a post at the forks of every public road or highway, within their respective districts, containing an inscription in legible characters, directing the way and mentioning the most remarkable places on each road, respectively; and if any person shall demolish any such post, deface or alter any inscription thereon made, with an intention to destroy the utility of such design, he or she, so offending, shall, for every such offence, forfeit and pay to the supervisor of such road, respectively, the sum of ten dollars, to be recovered before any justice of the peace of the county wherein the offence shall have been committed, for the use of such district respectively.

Posts to be erected at the forks of public roads

Penalty for taking down or destroying advertisements.

SEC. 27. *And be it further enacted,* That if any person shall take down, obliterate or destroy any advertisement, or written notice, necessary to be put up under the direction of this act, he, she or they, so offending, shall, for every such offence, forfeit and pay the sum of ten dollars, to be recovered by indictment, before any court having cognizance thereof, to be held in the county wherein the offence shall have been committed, to the use of such county, respectively.

Persons obstructing the highway, how punished.

SEC. 28. *And be it further enacted,* That if any person shall obstruct any road laid out, or to be kept in repair, under the authority of this act, and shall suffer such obstruction to remain, to the hindrance of passengers, every person, so offending, shall, for every such offence, forfeit and pay a sum

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not exceeding one hundred dollars, nor less than one dollar, to be recovered by action of debt, quitam or indictment, before any court, having cognizance thereof, to be held in the county in which the offence shall have been committed, one half to the use of the county respectively, and the other half to whosoever will sue for the same; but when the prosecution shall first be commenced in behalf of the county, the whole shall accrue to its use.

Compensation to be allowed supervisors for their services.

SEC. 29. *And be it further enacted,* That every supervisor shall be entitled to receive the sum of one dollar for each and every twenty dollars he shall collect, and one dollar and twenty-five cents for superintending the hands, not less than ten on each day, who shall commute their assessments aforesaid by labor, and such further compensation for his trouble, as shall appear reasonable to the freeholders, who settle his accounts.

Persons committ'd to the supervisors by law, how to be dealt with, &c.

SEC. 30. *And be it further enacted,* That in all cases when persons shall be committed to the supervisor to labor, by authority of the laws of this territory, such supervisor may assign the proper portion of labor for such person to do and perform, or shall appoint a time and place for such person, so committed to attend and perform the labor as aforesaid, and such service, in either case, being performed, such supervisor shall give such person his discharge accordingly.

Former laws repealed.

SEC. 31. *And be it further enacted,* That the act for opening and regulating highways, passed at Cincinnati, in the county of Hamilton, the first day of August, in the year of our Lord one thousand, seven

hundred and ninety-two, by Winthrop Sargent, secretary, then vested with the power of governor, and John Cleves Symmes and Rufus Putnam, judges, and all other acts, or parts of acts, coming within the purview of this act, be,

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and the same are hereby repealed; and that this act shall be in force from and after the first day of January next.

When to
take effect.

EDWARD TIFFIN, *Speaker*

Of the House of Representatives.

H. VANDER BURGH,

President of the Council.

APPROVED—December 13th, 1799.

AR. ST. CLAIR.

CHAPTER XXXI.

An ACT levying a territorial tax on land.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That the court of general quarter sessions of each county within this territory, shall, at their first term after the first day of January, appoint a proper person or persons, (as the case may be) in each county to be a commissioner or commissioners, for the purpose hereinafter mentioned; each commissioner so appointed shall take the following oath or affirmation, before a justice of the peace of his county, before he begins to exercise the duties of his office, to wit; I, A. B. do solemnly swear or affirm (as the case may be) that as a commissioner for _____ county, I will to the best of my skill and judgment, diligently and faithfully execute the duties of the said office, without favor, affection or partiality, and that I will do equal right and justice according to the best of my knowledge in every case in which I

Commissioners
or listers of
land when and
how to be
appointed.

To take an
oath.

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shall act as a commissioner, so help me God. A certificate of which oath shall be delivered to the commissioner, and a copy thereof transmitted by said justice to the clerk of the quarter sessions of his county, to be by him filed in his office.

Certificate
thereof.

SEC. 2. *And be it further enacted*, That there shall be appointed for the county of Jefferson, three commissioners; for the county of Washington four; for the county of Ross three; for the county of Adams one; for the county of Hamilton three; for the county of Knox two; for the county of St. Clair one; for the county of Randolph one; for the county of Wayne three, and for each new county to be laid off one.

SEC. 3. *And be it further enacted*, That the court of general quarter sessions of each county, at the same terms that they appoint commissioners, shall lay off their county in which more than one commissioner is directed to be appointed, into districts, and allot to each commissioner his proper district. And it shall be the duty of each commissioner within twenty days after notice of his appointment, having taken the oath required by this act, to proceed through his district, and call on every land-holder therein, by this act subject to taxation, if he may be found at his usual place of residence, and take from such land-holder a written list of all the land he claims within this territory, specifying the quantity, quality and water course, and if within his knowledge, in what county each tract lies (if more than one) and whether he holds the same by patents granted or deeds, or other evidence of claim, noting the same distinctly; and when said commissioner has gone through his district, he shall, if there are any delinquents in the same, give notice, at least ten days before he makes his return, by advertising the same, that he will attend at some place within his district, near the centre of the inhabited part thereof, to receive the return of the said delinquents.

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SEC. 4. *And be it further enacted*, That each commissioner shall, after collecting the list of lands within his district, in manner and form before directed, make four alphabetical general lists therefrom, shewing in columns, according to the form hereunto annexed, the date when each list was received, which lists shall be disposed of in the following manner, to wit; each commissioner shall retain one of them in his own possession so long as he continues in office, and afterwards deliver it to his successor; all of the other lists, together with the original lists taken from individuals in his district, shall be returned

Number of
commissioners
for each
county.

Court of
quarter ses-
sions to lay
off the
counties
into districts,
&c.

Commissioners
duty.

Commissioners
to make out
four alpha-
betical lists
of lands

How to be
disposed of.

to the clerk of the court of general quarter sessions of his county, to be examined by him, and signed by said commissioner in his presence. One of the said lists shall be delivered by the clerk to the sheriff, or to the person authorised to collect the taxes, as his guide; another of the said lists shall be by the clerk transmitted to the auditor of the territory, to be by him kept for the purpose of enabling him to compare and settle with the sheriff or collector, and in case of any default of the sheriff or collector in making their collections and returns as directed by this act, the said list shall be produced and admitted as evidence by any court, on any suit or motion against the sheriff or collector, for the amount of taxes charged against him. All which lists it shall be the duty of the commissioner to have delivered to the clerk on or before the first day of July, and by the clerk forthwith transmitted to the territorial auditor.

To be admitted in evidence on suit against a collector.

Lists when to be completed and returned.

SEC. 5. *And be it further enacted*, That no tract of land that is listed agreeable to this act, shall be again entered, but shall stand charged to the person by whom, or for whom it was listed, unless the person entering the same shall have the alteration made as hereafter directed. The clerk of the court of general quarter sessions of each county

Lands when entered, how to stand charged.

Clerk of the peace to

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shall keep a book of transfers, and every person charged with any tract of land, who shall dispose of the same to any person, shall have the alteration made with the clerk aforesaid, and charged to the person or persons to whom transferred, noting the place of residence of such purchaser, and until such alteration is made, the person to whom it stands entered shall be charged with the taxes thereof, and the land shall be liable for the payment of the same. *Provided however*, That no alteration shall take place so as to exempt any person or persons from paying the taxes due upon the whole amount of the lands entered the same year in which it is listed. And every person removing from any state or territory, into this territory, shall give in upon oath to the clerk of the court of the general quarter sessions in the county where he resides, a list of his land as directed by this act; and in case of his or her failing or neglecting so to do within three months after such removal, he or she shall be subject to like fines and forfeitures, recoverable in like manner, as persons refusing or neglecting to deliver

keep a book of transfers.

How transferred when sold.

No transfers to exempt the lands from payment of taxes due thereon.

Persons moving into this territory how to enter their lands.

How lands shall be given into the commissioners, &c.

their list to a commissioner. Every clerk with whom any property is listed, or alteration made as heretofore directed, shall transmit to the auditor, and deliver to the sheriff or collector, on or before the first of July in every year, a certified list of all such alterations and entries of land made with him; and the auditor and sheriff, or collector shall govern themselves accordingly.

How lands shall be given into the commissioners, &c.

SEC. 6. *And be it further enacted*, That it shall be the duty of all owners and proprietors of lands within this territory, whether they claim the same by entry, patent, deed of conveyance, bond conditioned for the conveyance, or any other evidence of a claim, when applied to by a commissioner of the district in which they reside, to give in on oath or affirmation, which oath or affirmation the said commissioner is hereby autho-

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Persons failing to give in a list of their lands,

rised to administer, a list of all their lands within this territory, specifying in such list the number of acres in each tract, the water course on which it lies, and the county, if within his knowledge; and every person failing or neglecting to give in his land to a commissioner, agreeably to the requisitions of this act, shall be subject to a fine, not exceeding thirty dollars, and double tax for every year he, she or they shall refuse or neglect to give in said list of land; and any person that shall give or deliver to any commissioner a false or fraudulent list of land, with an intention to evade the payment of the taxes thereon, shall be subject to the same fines and penalties as a person failing or neglecting to give in a list of their land, to be recovered in any court having cognizance thereof, on the information of any person having a knowledge of the same, before the proper court of the county where the person resides, one half thereof to the use of the informant, and the other half to be paid into the territorial treasury.

or giving in a false list.

SEC. 7. *And be it further enacted*, That the court of general quarter sessions in each county, shall make such allowance to the clerk for his services, under this act, as shall be just and reasonable; and shall allow to each of the commissioners the sum of one dollar and fifty cents for every day they shall make satisfactory proof to the court to have been actually engaged in the execution of this act; and the auditor of the territory is hereby directed, on the receipt of a certifi-

Clerks and commissioners of land how to be compensated.

cate from the court of the services of such clerk or commissioner, to issue his certificate to the territorial treasurer for the amount thereof.

SEC. 8. *And be it further enacted*, That there shall be paid within this territory, the following taxes for every hundred acres of land, and so in proportion for a greater or smaller quantity;

Lands, how classed and taxed.

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the land shall be divided into three classes according to the quality, that is to say, first, second and third rate, the first rate shall be taxed at eighty-five cents, second rate at sixty cents, and the third rate at twenty-five cents, per hundred acres, which said taxes shall be paid annually in the manner described by this act; and the following rule shall be observed in rating any tract of land, to wit; when a greater part of a tract shall be superior in point of quality to second rate land, it shall be denominated first rate, when a greater part of a tract shall be inferior to first rate and superior to third rate in point of quality, it shall be denominated second rate, and when the greater part of a tract of land shall be inferior to second rate, it shall be denominated third rate land, taking into view the surface of the earth as well as the quality of the soil. *Provided always*, That nothing herein contained shall be construed to subject to taxation any lands lying within the limits of the contract made by John Cleves Symmes and his associates with the board of treasury, and without the boundaries of their patent, until the same shall have been granted by the United States; and *Provided also*, That the unimproved lands in the Vincennes and Illinois country, shall not be listed at higher than second rate.

Rule to be observed in classing, &c.

Proviso respecting certain lands in Hamilton county.

and the Vincennes and Illinois country.

SEC. 9. *And be it further enacted*, That when any person thinks any tract or tracts of land belonging to him or her are placed in an improper class, or the land twice or improperly listed, it shall be lawful for such person upon application to the court of general quarter sessions of the peace of the county in which said land lies, and making due proof of the same, to have the matter rectified, and the proper class of such tract or tracts ascertained, or error corrected; and when any lands shall be classed in an improper class to what

When land are improperly classed, &c.

Y

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it ought to be in, on due proof thereof to the court of quarter sessions of the county in which the land lies, or in which it is listed, the said court shall have the same rectified and placed in its proper class,

Quarter sessions may new class.

which alteration shall be certified by the clerk of the sessions to the sheriff or collector, and the territorial auditor, and they shall be governed accordingly.

SEC. 10. *And be it further enacted*, That the territory shall have a perpetual lien on every tract of land and every part thereof, for the amount of all taxes, and ten per centum interest thereon, from the first day of September; and no alienation of lands belonging to any person, or neglect in entering or listing the same, shall affect the claim or lien of this territory, until the taxes and interest thereof due from such person are paid.

SEC. 11. *And be it further enacted*, That the territorial auditor, and the clerk of the peace of each county, respectively, shall keep a book for the purpose of entering lands of non residents, in manner and form herein after directed. All non residents shall enter their lands with the auditor, or with the clerk of the peace of the county in which the land lies, on or before the first day of July next, who shall administer an oath to the person delivering such list, or by any other means procure satisfactory information for the purpose of ascertaining the quality of such land, placing it in its proper class, under the name of the county in which it lies; and every non resident shall enter his or her land agreeably to the rules and regulations of this act, as in case of residents. All taxes on lands listed by the commissioners, and returned to the clerk as aforesaid, shall be paid with the interest thereon to the sheriff or collector as the case may be. And the taxes on all lands listed by the auditor (or by the clerk of the peace and certified to the auditor) with the interest that may be due

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thereon, shall be paid to the territorial treasurer, or to the sheriff or collector of the proper county, but the treasurer shall not receive from the non resident any taxes, unless such non resident pay the same before the first day of August annually; nor until such non resident shall produce to him a certificate from the auditor or the clerk of the peace, respectively, of the quality of the land, for which he or she is about to pay the tax, with the amount due thereon; which certificate shall be by the treasurer filed in his office. The auditor of the territory, and the clerks of the peace of the several counties, respectively, shall keep books of transfers; and every non resident, who has entered

Land bound
for payment
of taxes.

Auditor and
clerks of the
peace to keep
books wherein
to enter non
residents
lands.

To be entered
on or before
the first day
of July.

Taxes how
paid.

In what in-
stances the
treasurer may
receive taxes.

Auditor and
clerks to
keep books of
transfer.

his or her lands, in manner aforesaid, may, on transferring the same, or any part thereof to any other person or persons, have the alteration made with the auditor, or clerk of the peace, respectively, and charged to the person or persons to whom transferred; and such person shall be chargeable with the tax of such land or lands thereafter; and each person having such alteration made, shall pay to the auditor or clerk of the peace respectively, twenty-five cents to his own use. And it shall be the further duty of the auditor, in the month of August, yearly and every year, to transmit to the clerks of the peace of the several counties, respectively, a certified extract of all lands entered in his office, or alterations therein made, in the preceding year, noting thereon the tracts of land on which the taxes have been paid into the territorial treasury. *Provided always*, That it shall be the duty of the several clerks of the peace, upon receiving from the auditor a list of the non residents lands entered in his office to make diligent search and enquiry of the non residents lands lying in each of their respective counties, and after comparing the said auditorial list with the list of non residents lands entered in his office, shall proceed to list all the residue of the lands

Auditor to transmit lists of lands entered &c. to the several clerks, &c.

Clerks of the peace, how to proceed thereon.

To list the residue of non residents lands.

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belonging to non residents not before listed, noting the quantity and quality of the several tracts of land so by him discovered and not before entered, and such as he cannot with certainty ascertain the quality of, he shall enter as second rate; and shall make out and transmit one copy to the territorial auditor, and a second copy of such list the clerk shall deliver to the sheriff or collector of the proper county to govern him in collecting the taxes due thereon, as in other cases of non residents lands.

SEC. 12. *And be it further enacted*, That the sheriff or collector of each county, shall, from and after the first day of August, annually, collect and receive from all, and every person or persons chargeable therewith, the taxes imposed by this act, in his said county; and in case payment be not made or recovered, on or before the first day of October annually, the said sheriff or collector, as the case may be, shall have power to distrain the goods and chattels of the person or

When taxes shall be collected.

When distress shall be made.

Property dis-
trained, how
to be sold.

persons so indebted or failing, and if the owner thereof does not pay the taxes within twenty days after such distress, such sheriff or collector shall sell the same, or so much thereof as shall be sufficient to discharge the said taxes, and the charges of the said distress; and the sale thereof shall be for ready money, or auditor's warrants on the treasury of this territory, and shall return the overplus, if any there be, to the owner, *Provided always*, That when unreasonable seizures, or distress is made, the party grieved shall have an action against the sheriff or collector and shall recover full costs, when any damages are given. The sheriff or collector shall duly account for, and pay into the treasury of the territory, on or before the thirty-first day of December, annually, the full amount of all taxes imposed in his county, deducting therefrom such allowance as the law directs to be made, and the amount of interest which he may have received,

Unreasonable
distress ac-
tionable.

Accounts of
collectors
when to be
closed.

Allowance for
collection.

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together with six per centum for his commission thereon. And in case any sheriff or collector shall fail to account for, and pay into the treasury, as aforesaid, the amount of taxes to be collected by him, according to this act, every such delinquent sheriff or collector, and his securities, or either of them, shall be liable to a judgment against them, on motion to be made by the auditor, or other person for him, in any court of record within the county where such delinquent sheriff or collector resides, provided they have ten days notice of the day on which the motion is to be made, for the amount of the taxes due, and fifteen per centum damages, together with an interest of six per centum on the whole amount until paid, and the costs of the motion, including any expence that may have accrued in giving the said notice, for the use of the territory, and thereupon execution shall issue accordingly.

Collectors
when delin-
quent, &c.

SEC. 13. *And be it further enacted*, That the sheriff or collector, shall be authorised to sell so much of each tract of land charged with taxes, as will discharge the amount thereof, with costs (provided goods and chattels cannot be found thereon to the amount) and the sheriff or collector in that case, shall advertise the time and place of sale one month at the door of the court house, and also at four other public places in his county; and if the person claiming the land does not pay the amount, on or before the expiration of the time, the sheriff or col-

Lands when
and how to be
sold for the
payment of
taxes.

lector shall proceed to sell; after such sale, the sheriff or collector shall deliver to the purchaser a certificate of the quantity of land sold, describing therein the tract that was charged with the tax, and the end or side from which the quantity sold was taken, which shall always be laid off as nearly in a square as the situation will admit of. And the surveyor of the county on the receipt of such certificate, shall by himself or deputy, proceed to survey the quantity

Certificate to be made of the quantity sold.

How land sold for taxes shall be surveyed.

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sold as aforesaid, agreeably to the said certificate, and charge the purchaser with the expence of the same. The surveyor or his deputy, as the case may be, shall give notice to the former owner, if in the county, or his agent, if any he has therein, of the day on which the survey is to be made. And upon the plat and certificate of survey being presented to the sheriff, or collector, it shall be his duty to convey the same to the purchaser, by deed, in due form of law executed, which conveyance shall vest in the purchaser all the right, title and interest of the proprietor; and in consideration of law shall also vest the possession of the land in the purchaser. *Provided always,* That nothing herein contained shall extend, or be construed to extend to bar the right, or equity of redemption, which any infant, person non compos mentis, or in captivity may have in the land so sold, provided the taxes and charges thereon, with interest, and an equitable compensation for improvements thereon made, be tendered within one year after such disability be removed.

How to be conveyed.

Cases where in equity of redemption shall be allowed.

SEC. 14. *And be it further enacted,* That when any tract of land, or part thereof, is not sold upon being exposed, and the tax on the same not paid, it shall be the duty of the sheriff or collector to advertise and expose the same to sale in like manner, as to time and place, as aforesaid, at every court of quarter sessions, until the land be sold, or the tax be paid thereon; and no sheriff or collector, or their deputies shall directly, or indirectly, purchase any land that shall be exposed to sale for the payment of taxes.

When lands are not sold for want of buyers, &c.

Collectors may not purchase lands sold for taxes, &c.

SEC. 15. *And be it further enacted,* That the sheriff or collector of each county shall, before he receives the list above directed from the clerk of the quarter sessions, or makes any collection under this act, enter into bond with at least two suf-

Sheriff or collector to give bond.

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ficient securities in double the amount to be collected, payable to the territorial auditor for the use of the territory, conditioned for the due and faithful paying and accounting for all the taxes imposed by this act, and made his duty for collection, during his continuance in office; which bond shall be filed in the office of the clerk of his county. If upon execution being issued against any sheriff in the manner aforementioned, and it shall be returned that there was no effects, or not a sufficiency whereof to levy the whole of the said execution, the securities shall be liable to a judgment against them, on motion to be made by the territorial auditor, in any court of record within the territory, for the sum which shall appear to remain due on the said execution, together with the costs of the motion, as directed in case of a judgment against a sheriff, and the said bond shall not be void on the first recovery, but may be moved on from time to time until the whole sum of the penalty of such bond shall be recovered thereon. And on any motion to be made on such bond, an attested copy thereof shall be admitted in evidence. And if the sheriff of any county shall neglect or refuse to give such bond, a collector of the tax shall be appointed for that county by the court of quarter sessions, who shall continue in office for one year. And the said collector shall give bond, perform such duties, be entitled to such emoluments, subject to such penalties, and be liable to have such proceedings carried on against him and his securities, as is above directed in the case of a sheriff.

SEC. 16. *And be it further enacted*, That when any non resident fails to pay to the treasurer the tax and interest due on any tract of land, on or before the said month of August, annually, the auditor shall, at the same time when he transmits to the several clerks of the counties the amount of

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lands entered in his office, certify to the several sheriffs or collectors, as the case may be, such failure of payment, stating particularly the amount of the taxes due thereon; and also, at the same time, advertise the same in one of the gazettes of this territory, for four weeks successively; whereupon the sheriff or collector shall, forthwith after receiving such list, proceed to advertise on the court house door of his proper county, the said tracts of land on which the tax is due, stating the

Proceedings
against a
delinquent
collector, &c.

Sheriff neglect-
ing to give
bond, quarter
sessions to
appoint a
collector.

When non
residents ne-
glect to pay
their taxes,
how to pro-
ceed.

amount thereof, and that he shall proceed to make sale of the same to satisfy said taxes, unless the same shall be paid on or before the first Monday in November, or so much thereof as will pay the taxes and expences attending the sale; and the said sheriff or collector shall advertise the same in four different public places within the county, and if the amount of taxes is not paid on or before the time before mentioned, the sheriff or collector shall proceed to sell each tract, or so much thereof as will amount to the taxes and interest, with legal costs. And when any tract, or part thereof be sold, the sheriff or collector shall proceed in the same manner to have the same conveyed to the purchaser, as directed in case of residents; and it shall not be lawful for the sheriff or collector, or their deputies, directly, or indirectly, to purchase any land sold under this section.

Non residents lands sold for taxes how to be conveyed.

SEC. 17. *And be it further enacted,* That it shall be the duty of the territorial auditor to publish such extracts from this law, as relates to the lands of non residents, in one newspaper within this territory; and also in one newspaper at the seat of the general government, and at the city of Richmond, in Virginia, and the town of Boston, in Massachusetts, and the city of Hartford, in Connecticut, for the term of six weeks, to commence on the first week in February next, and the expences thereof shall be defrayed out of the territorial treasury.

The auditor to cause certain extracts from this law to be published.

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SEC. 18. *And be it further enacted,* That the form of the return to be made by the commissioners, and the form to be kept by the auditor, be as follows, to wit.

Form of returns of land, to be made by the commissioners.

Persons names.	Date of receiving.	Quantity.	Water course, and county.	By what title.	First rate.	Second rate.	Third rate.	Amount of tax.
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SEC. 19. *And be it further enacted,* That the auditor of public accounts shall be, and he is hereby authorised and empowered to apply for, and procure from the land office in the state of Kentucky, an abstract of all lands located between the Sciota, and little Miami rivers, with the names of the persons to whom entered; and it shall be

Auditor to procure certain abstracts of land.

the duty of the auditor, as soon as may be, after obtaining the said abstract, to transmit to the clerks of the peace of the proper county, a list of so much of the said lands as shall lie in their respective counties. The expence of procuring which abstract shall be paid out of the territorial treasury. And this act shall be in force for the space of one year next after the passing thereof, and

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from that time, until the end of the next session of the legislature, and no longer.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.

H. VANDER BURGH,
President of the Council.

APPROVED—December 19th, 1799.

AR. ST. CLAIR.

CHAPTER XXXII.

An ACT to regulate county levies.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That all houses in towns, town-lots, out-lots, and mansion-houses in the country, which shall be valued at two hundred dollars and upwards, and all able bodied single men, who shall not have taxable property to the amount of two hundred dollars, all water and wind-mills and ferries, all stud horses, and other horses, mares, mules and asses, three years old and upwards, all neat cattle three years old and upwards, and all bond-servants of the age of twenty-one years and upwards, within this territory, are hereby declared chargeable for defraying the county expences, in which they may respectively be found, to be taxed and collected, in such manner and proportion as hereinafter directed.

SEC. 2. *And be it further enacted,* That the commissioners or listers of land, in the several counties, within this territory, shall, and they are

This act to be
in force for
one ye—

Objects of
taxation to
defray county
expenses.

Commissioners
of land to take
lists

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hereby empowered and required, at the same period, in each year in which they are collecting lists of land taxable within their respective districts, under an act, entitled, "An act levying a territorial tax on land," to demand from each person, being chargeable with taxes by this law, a written list of all stud horses, and other horses, mares, mules and asses, of the age of three years old and upwards, noting the rate each stud horse covers one mare a season, and all neat cattle, of the age of three years and upwards, and shall make a return of all able bodied single men of the age of twenty-one and upwards, who have not taxable property to the amount of two hundred dollars, and all bond servants of the age of twenty-one years and upwards, which he, she, or they were owners or possessors of on the first day of May preceding the time of being called upon, which said list shall be signed by the person giving the same, and shall be by the listers, respectively, arranged in an alphabetical table, in manner following, to wit.

of all taxable
property.

Names of persons.	Number of bond servants.	Number of horses, &c. above three years old.	Number of neat cattle above three years old.	Number of stud horses.	Rate the season.
A. B.					

Form thereof.

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two fair and complete copies of which, each lister shall make out, one of which, together with the vouchers taken by him, as aforesaid, he shall deliver to the county commissioners, and the other copy he shall deliver to the clerk of the court of quarter sessions, forthwith, after taking the same.

SEC. 3. *And be it further enacted,* That if the owner, occupier or possessor of any of the aforesaid objects of taxation, or in his or her absence from the county, his or her overseer, agent or attorney, shall neglect or refuse to give the listers a list as aforesaid, the same being required by such lister, he, she or they so offending, shall forfeit and

Persons refus-
ing to give
lists of their
property, &c.

Listers required to make return to the commissioners of delinquents.

pay any sum not exceeding five dollars, to and for the use of the proper county where such person resides; and the said listers are, moreover required to return the names of all such persons to the commissioners of such county, who are hereby required to tax such person or persons as they may think right and just. And if any lister as aforesaid, shall

Making false returns

fail or neglect to make a true return of his own taxable property, or bond servants, or shall knowingly neglect or refuse to make a true return of all the taxable property and bond servants within his district, in manner aforesaid, shall for every such offence, forfeit and pay

Penalty.

any sum not exceeding one hundred dollars, to be recovered by action of debt, qui tam, or indictment, before any court having jurisdiction, one moiety to the person prosecuting, and the other moiety to the use of the county. *Provided always,* That if any owner, occupier, agent,

Persons unable from sickness, &c. to give in a list when required.

attorney, or overseer, shall happen by sickness, or any other unavoidable accident or circumstance, to omit delivering his or her list, as aforesaid, to the lister, at the time the same may be required, it shall be lawful for such person to send his or her list of property, as aforesaid, to the house, or usual place of abode of such lister, at any time before he makes his return to

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the county commissioners and clerk of the peace, which shall discharge such person from the penalty aforesaid.

Rate of taxation to be observed.

SEC. 4. *And be it further enacted,* That the following rate of taxation shall be observed by the commissioners in levying the county tax, to wit; on every horse, mare, mule, or ass, as aforesaid, a sum not exceeding fifty cents; on all neat cattle, as aforesaid, a sum not exceeding twelve and an half cents each; on every stud horse, not exceeding the rate for which he stands at the season; every bond servant, as aforesaid, a sum not exceeding one dollar, and every able bodied single man, of the age of twenty-one years and upwards, who shall not have taxable property to the amount of two hundred dollars, a sum not exceeding two dollars, nor less than fifty cents.

Appraisers of houses, &c. when and how to be appointed.

SEC. 5. *And be it further enacted,* That the court of quarter sessions, in each county, at the same time they make appointment of county commissioners, shall appoint two discreet freeholders in each township, who shall proceed to appraise and value each house in town, town-lot, out-lot, and mansion house in the county, of the value afore-

said; and also, shall appraise and value all water and wind mills situate on such tract of country as may be assigned to them respectively, by the court of quarter sessions, taking into view, the situation and improvements of the same. And the said freeholders after having fixed such valuation, shall proceed and make out two fair alphabetical lists thereof, stating the proprietors or occupiers of such houses, lots and mills, with a valuation of each annexed to the same, in form following, to wit;

Appraisers to make out two alphabetical lists.

Proprietors, owner, or occupiers names.	Houses.	Vacant lots.	Mills.	Valuation in dollars.
A. B.				

Form thereof.

one of which lists of valuation the said freeholders shall deliver to the county commissioners, and the other to the clerk of the quarter sessions, on or before the first day of July, annually; which lists shall be filed by the commissioners and clerk in their respective offices. And the said commissioners shall, at the same time when they lay the county tax, levy a sum, not exceeding fifty cents, on each hundred dollars, of such appraised value.

How disposed of, &c.

SEC. 6. *And be it further enacted*, That from and after the first day of March next, every person within this territory, being owner, occupier, or possessor of merchandize, other than the produce or manufacture of this territory, shall, previous to offering the same for sale, by himself or agent within the territory, or on any of the waters within, or bounding the same, pay into the treasury of the county, in which he or she resides, or offers such merchandize for sale, the sum of ten dollars, for each store or stand, in which he or she may vend any such merchandize; and the county treasurer on

Retailers of merchandize how taxed, &c.

Amount thereof.

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receipt thereof, shall give such person paying as aforesaid, a certificate in the words following, to wit;

On payment county treasurer to give a certificate.

Territory of the United States, }
north-west of the Ohio. }

Form.

County the day of

This certifies that A. B. is authorized to vend merchandize within this territory for one year, from the date hereof, the said A. B. having this day paid to me C. D. treasurer of said county of the sum of ten dollars, it being the annual tax imposed on retailers of merchandize, by a law of this territory.

C. D. treasurer of the county
of

Any person obtaining a certificate as aforesaid, shall be authorized to vend and sell merchandize by retail, in this territory, for one whole year, from the date of the same and no longer. And if any person or persons shall, after the said first day of March next, presume, by himself, or his agent, to vend or sell any kind of merchandise within this territory, or on any of the waters aforesaid, not the growth or manufacture of said territory, not having first obtained a certificate, as aforesaid, he, she or they so offending, shall, for every such offence, forfeit and pay a sum not exceeding eighteen dollars, to and for the use of the county in which the offence shall have been committed, to be recovered before any court proper to try the same. And the county treasurer is hereby required to keep a fair account of all monies received as aforesaid; and also, a regular account of the dates of all the certificates by him given to retailers or venders of merchandize under this law. And it shall be the further duty of the county treasurers, respectively, to lay the same before the commissioners, on or before the first day in July, annually.

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SEC. 7. *And be it further enacted,* That it shall be the duty of the court of quarter sessions, in each and every county, at their session next before the first day of July, annually, to fix and establish a reasonable tax or duty, upon each ferry within their respective counties, the said court in fixing said tax, to take into consideration the value and income of each of said ferries; *Provided,* That no one ferry shall be taxed in one year, more than ten dollars. And it shall be the duty of each clerk of the peace, on or before the first day of July,

Penalty on
persons re-
tailing mer-
chandize
without a
certificate.

County treas-
urer to keep
fair accounts
of money re-
ceived and
certificates
granted, and
to account,
&c.

Courts of
quarter ses-
sions to lay
a tax on
ferries.

Not to ex-
ceed ten dol-
lars in one
year.

annually, to make out and certify to the county commissioners, a list of ferries in his said county, and the rate of tax fixed by the quarter sessions, as aforesaid, and the county commissioners, when they lay the county levy, shall tax the owners or proprietors of such ferries, accordingly.

SEC. 8. *And be it further enacted,* That there shall be, in each and every county within this territory, a board of commissioners, composed of three able, respectable and discreet freeholders, living within said county, who shall be appointed in the following manner, to wit. The justices of the court of quarter sessions, in their respective counties, at the next term of said court after the first day of January, annually, shall nominate and appoint three commissioners, as aforesaid; the first commissioner named on the list of such appointments to serve for one year; the second commissioner named on such list to serve two years, and the third commissioner on such list named, to serve for three years from such appointment. And it shall be the duty of such justices, at the same term in every year, to nominate and appoint one new commissioner in each county, to supply the place of the commissioner going out of office, as aforesaid.

SEC. 9. *And be it further enacted,* That the board of commissioners shall, before they enter on

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the duties of their offices, respectively, take and subscribe the following oath of office, to wit; I, _____ commissioner of the county of

do solemnly swear (or affirm as the case may be) that I will well and truly audit all claims and demands, to me exhibited against said county, according to the best of my judgment and understanding, allowing all such claims and demands, as I shall conceive justly chargeable to said county, and none other; and that I will truly, and justly assess and levy all county taxes, according to the laws of this territory, in doing which, I will spare no person through fear, favor, affection or reward, or hope thereof, nor will I grieve any person for hatred, malice, or ill will, so help me God (or this I affirm under the pains and penalties of perjury;) which oath or affirmation shall be taken before any justice of the peace within the proper county, and subscribed by the said commissioner taking the same, and be, by the

County commissioners how to be appointed.

Their number

and term of service.

Vacancies, how supplied.

Commissioners to take an oath.

Form thereof.

Before whom taken and subscribed.

said justice filed in the office of the clerk of the peace for said county.

Board of
commissioners,
their annual
meeting, &c.

SEC. 10. *And be it further enacted,* That it shall be the duty of said board of commissioners, or a majority of them, to meet on the first Monday of July, annually, in the towns where the courts of quarter sessions are usually held, and then and there, and at such other times thereafter as a majority of said commissioners may appoint, shall proceed to audit and adjust all claims and demands against said county, allowing all just claims and demands which now are, or hereafter shall be chargeable upon the said counties, respectively. And if any person or persons shall conceive him or themselves aggrieved by the decision of the said commissioners, upon accounts or demands to them exhibited, it shall be lawful for such person or persons to appeal to the court of quarter ses-

Appeal to the
quarter ses-
sions allowed.

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sions, next to be holden in and for said county, and the determination of said court, shall be final and conclusive. And the decision of said court shall be certified to the commissioners, who shall govern themselves accordingly. *Provided always,* That notice of appeals from the decision of said board of commissioners, shall be lodged by the appellant in the office of said commissioners, within ten days after such decision, and before such appellant shall have received an order from said board on the county treasurer for any sum by them allowed, and not after. And in all such appeals, it shall be the duty of the said commissioners to certify their decision, and all papers relative thereto, to the court of quarter sessions, next to be held for said county, at which time the appeal shall be determined by said court. And the said commissioners shall not grant an order on the county treasurer, for any sum by them allowed and appealed from, 'till a decision is had thereon in the court appealed to, and the same decision certified by said court, to the said board of commissioners.

Notice of an
appeal when
and how to be
given, &c.

Duty of the
commissioners,
when an
appeal shall
be entered, &c.

Commissioners
to appoint
a secretary
to their board.
His duty.

SEC. 11. *And be it further enacted,* That the board of commissioners for each county, at their annual meeting in July, shall appoint one of their members to act as secretary to said board for one year thereafter, whose duty it shall be to keep the books, records and files of said board of commissioners, to make minutes and entries of their

proceedings, to draw lists and duplicates of taxation, to record all and singular the proceedings of said board, and to draw orders on the county treasurer for all such sums of money as shall have been audited and allowed by said board of commissioners, or by the said courts of quarter sessions upon appeals, as aforesaid, which orders, so drawn, shall be made payable at the treasury of said county, and shall be received by the collectors in payment

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of county taxes therein; and the said secretary shall receive a yearly compensation, not exceeding one hundred dollars, at the discretion of the other two commissioners, (provided always, that it shall be lawful for the said commissioners to appoint any other person to do the duties as clerk, who shall be allowed a compensation therefor, not exceeding one hundred dollars, at the discretion of the said commissioners) in full for his services as commissioner and secretary to said board, and no more, to be paid on an order drawn upon the treasurer, by the other two commissioners. And the said commissioners, other than the one who shall be appointed secretary to said board, shall receive one dollar and fifty cents per day, for each day they shall be necessarily employed in doing and performing such duties and services as are required of them by law, to be allowed by the court of quarter sessions for said county, upon due proof to said court produced, of such necessary service, which being allowed and certified by said court, to the secretary of such board, shall be to him a sufficient authority to draw on the treasury of said county therefor.

**Secretary,
how compensated,**

and paid.

Compensation to the commissioners,

how made, &c.

SEC. 12. *And be it further enacted,* That the several courts of quarter sessions shall have power, and they are hereby authorised, to make and enter into contracts, in the name and in behalf of their said counties, for building anew, or repairing county jails, court-houses, pillories, stocks and whipping-posts, and county bridges, when, and so often as the courts of quarter sessions may conceive the interest or convenience of said counties may require. And the better to carry any such contract into operation, the said courts, respectively, may appoint one or more persons to superintend such building or repairs, and to see that the same is done agreeable to the conditions of such contracts, and to make reasonable allowances to such

Courts of quarter sessions to contract for building jails, courthouses, &c. and repairing the same. When to appoint a person to superintend the same.

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Contracts therefor, how made, filed, & certified, &c.

person or persons for his or their services therein. The original contract so by the said courts to be made, for the purposes aforesaid, shall be filed in the office of the clerk of said court, and a copy of such contract, or contracts, with the conditions of the same, shall be made out and certified to the board of commissioners for said county, by the clerk of said sessions, on or before the annual meeting of such commissioners, and by the secretary of said board, filed in their office. And the said commissioners are hereby authorised and required to pass, audit and allow the accounts and demands arising under such contracts made by said court, the same being certified by three justices of said court, and to draw orders in favor of such creditors, in like manner other orders are by them drawn upon the treasurer of said county. *Provided always,* That no such contracts by the said court to be made, shall be of any force or authority to warrant the board of commissioners to allow or pass any accounts, or demands arising thereon, unless the person contracting with the said court, shall enter into bond, with one or more sufficient surety or sureties, to be approved of by the said court, in double the sum of said contract, payable to the treasurer of said county, or his successor in office, conditioned for the faithful performance of such contract; which bond, when executed, shall be lodged with the said treasurer, in trust for said county.

Commissioners to audit and pass accounts, &c.

No contract made by the court valid, unless bond given, &c.

County treasurer, his duty.

SEC. 13. *And be it further enacted,* That it shall be the duty of the treasurer of each and every county, within this territory, to enter in books, to be by them kept for that purpose, all monies received into the county treasury, from the collector or collectors of county taxes, retailers of merchandize, clerk of the sessions, for fines and forfeitures, tavern licenses, &c. and of all other monies, that shall, from time to time, be paid into the treasury,

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belonging to said county, and of all monies paid out, or drawn from the said treasury, upon the orders of the commissioners and secretary of said board, and the same account, fairly made out, to lay before the board of commissioners, at their annual meeting in July, and at such other times as required, together with a just account of all monies in

the treasury of said county, thereby to enable the said commissioners, truly to report to the quarter sessions, a statement of the finances of said counties, as hereinafter directed; and if any such treasurer shall neglect or refuse to make out and render such statements as herein required, such treasurer, so offending, shall forfeit and pay a sum not exceeding one hundred dollars to the use of the proper county; the same to be recovered by indictment in any court proper to try the same. *Provided always*, That the said county treasurers, respectively, shall be allowed, in settlement of their accounts with the board of commissioners, a credit of five per centum, on all money by them, respectively received into their treasuries, which shall be a full compensation to said treasurers for their services therein.

Neglecting his duty.

County treasurer, how compensated.

SEC. 14. *And be it further enacted*, That it shall be the duty of the board of commissioners, for each county, at their annual meeting in July, after having settled and ballanced the account of the county treasurer, and having audited and allowed such claims and demands against the county as are just and reasonable, to proceed to ascertain the probable expenses of the county, the aggregate amount of claims allowed, and also, such sum or sums of money as will be necessary to carry into effect, any contract that shall have been made by the court of quarter sessions for building or repairing any county jail, court house or bridges, as aforesaid, adding thereto the probable expenses of collection, and such other sum or sums of money as the said commissioners shall conceive needful to

County expenses, &c. to be liquidated by the board of commissioners at their annual meeting, &c.

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make good deficiencies in collections, insolvencies, delinquencies and other contingencies; and the said commissioners shall take into view, the money (if any there be) in the treasury, the probable amount that will be received from licenses to vend and retail merchandize, tavern licenses and taxes on ferries, as reported by the court of sessions and fines and forfeitures payable into the county treasury; after which, the said board of commissioners shall proceed to levy a tax upon the owners, proprietors or occupiers of all and singular, the objects of taxation, pointed out by this law, having due reference to the returns of the listers and freeholders aforesaid, and the rule of taxation, as pointed out in the fourth and fifth sections of this act, truly apportioning such

County taxes, how assessed and levied, &c.

tax, upon all objects, in said sections named, as to raise a sum of money sufficient to answer and satisfy all demands then existing against the said county, or which shall afterwards become due, by virtue of any contract or contracts, by the said courts of quarter sessions, in behalf of the county, as aforesaid, previously made and entered into, and to answer such other contingent county expenses, as the necessities of the said county may require.

SEC. 15. *And be it further enacted,* That it shall be the duty of the secretary of such board of commissioners, to make out a fair general list of such tax, at the rate and proportion agreed upon and settled by said board, in an alphabetical order, stating therein, the persons names and the several sums of money to them respectively taxed, including therein the tax on ferries, as settled by the said court, which bill of taxation, so made out and settled by said commissioners, it shall be the duty of the secretary of said board of commissioners, to lay before the court of quarter sessions, at their next term after the said annual meeting of said commissioners, for the approbation and allowance

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of said court of sessions; and if the said sum of money, contemplated by said tax to be raised shall be considered by said court, a just and proper sum, sufficient to answer the demands of said county, they shall approve the same, by signing their names thereto; but if said court shall think the said tax improperly laid, either by being too much or too little, the said court shall proceed to correct such list, by stating to the commissioners in what proportion the same shall be raised or lowered, having due regard that all alterations be uniform through the whole bill of taxation. The bill of tax being allowed by the said court, as aforesaid, the same shall be delivered back to the said secretary of said board of commissioners, who having made the alteration by the said court directed, shall forthwith make out a fair copy or copies therefrom for the county collector or collectors, lodging the original on the files in his office, and the said commissioners shall thereupon forthwith make out their warrant to such collector to collect the same.

Duty of the secretary of said board.

To lay before the quarter sessions the levy bill, &c.

Power of the court therein.

SEC. 16. *And be it further enacted*, That the courts of quarter sessions, respectively, are hereby authorised and empowered at the same sessions at which the secretary of the board of commissioners is by this law required, to attend the said court, with the list of taxation for their allowance, and at such other times as said court may think proper to order and command the said commissioners and treasurer to attend, and when necessary, to produce for the inspection of said court, their books, vouchers and statements, and all other papers relating to the duties of their respective offices, which the said court may conceive necessary for their information, and then and there, and at such other times as they shall then appoint, shall proceed to examine the doings of the said board of commissioners, and treasurer, and to correct whatever the said court may conceive wrong therein, and to make and pass orders thereon, for the

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government of said board of commissioners, and county treasurer, and at all times after an inspection, to deliver back to said board, and treasurer, all books, vouchers and other papers to said board and treasurer respectively belonging, together with a copy of all orders by said court made, in any wise relating to said board, or treasurer, to be by them carried into effect. And the said court of quarter sessions shall have power to punish by indictment and fine, all contempts to their orders legally made, and all corruptions, frauds, or malpractices, by the said commissioners, or treasurer done, or suffered, or by them caused to be done or suffered in the duties of their respective offices or trusts; and the same commissioners, or either of them, for the causes aforesaid to displace, and other person or persons to appoint in his or their room and stead. *Provided always*, That should any commissioner or treasurer conceive him or themselves aggrieved by the order or judgment of said court, it shall be lawful for such person or persons to appeal therefrom to the next general court, or circuit court, to be holden within, and for the said county, from which time of appeal, all proceedings relative to such appeal, shall be stayed in said court of quarter sessions, until the merits thereof shall be tried and determined in, and by the court appealed to, which shall be at the next term of such court, and the determination of the court appealed to, shall be final and conclusive.

Court of quarter sessions empowered to inspect the books of the commissioners and treasurer, &c.

Contempts of orders, &c. how punished, &c.

Appeal to the general court, allowed, &c

Commissioners
empowered to
appoint a
county col-
lector who
shall give
bond, &c

SEC. 17. *And be it further enacted,* That the board of commissioners of each county, shall, and they are hereby authorised and empowered, at the time of settling their county levy, as aforesaid, to appoint a collector of county taxes and levies, taking from the person so appointed, a bond, in the penalty of at least, double the sum to be collected, payable to the treasurer of the county to which he belongs, with two or more responsible

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Collector to
appoint depu-
ties.

sureties, and bound for the faithful collection, accounting for, and paying the several sums wherewith he shall be chargeable as collector of the county in manner directed by law. And every collector of county taxes and levies, so appointed, may appoint one or more deputies to assist him in his collection, for whose conduct he shall be answerable, which deputies shall have the same power as the collector himself; and such collector shall have the same remedy and mode of recovery against his deputies or either of them, and their securities, respectively, for any sums of money which, by virtue of this act, such collector may be subject to the payment of, on account of the transactions of any of his deputies as he himself is subject to by law.

How county
taxes shall
be collected
and paid, &c.

SEC. 18. *And be it further enacted,* That every collector, so appointed, shall collect and pay into the county treasury all sums for which he is accountable, within four months next after he is charged with the collection of the same, and shall be allowed such per centum as by the commissioners shall be deemed reasonable, on all sums by him collected; and shall, previous to entering on the duties of his office, take and subscribe, before any justice of the peace, the following oath, to wit; I, _____ do solemnly swear (or affirm as the case may be) that I will faithfully and impartially execute the office of a collector of _____ county, according to the best of my abilities; which oath shall be filed by said justice with the secretary of the board of commissioners of said county.

Fees of col-
lectors, &c.

To take
oath.

When distress
for taxes may
be made, &c.

SEC. 19. *And be it further enacted,* That if any person charged with county taxes or levies, by virtue of this act, shall neglect or refuse to pay the same to the collector, or his deputy, within three months next after the court of quarter sessions at

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which the county tax or levy is or shall be approved, the collector or his deputy shall have power to take the property of such delinquent (he first having demanded the same, and furnished such person with the sum of his or her tax, ten days before such distress made, or having left a copy of such tax, ten days as aforesaid, at the usual place of abode of such delinquent) and may proceed to sell the same to the highest bidder. *Provided always*, That ten days previous notice of such sale be given, by advertising the same at the most public place of the township where such delinquent resides; and *provided also*, That the delinquent may, at any time before the property distrained be sold, ask for, demand and receive the same on tendering his or her taxes then due, and the expences of keeping the property distrained. And in case the property taken sells for more than the taxes that are due, the collector shall pay the overplus (after deducting reasonable expences for keeping and taking care of such property) to the person from whom the same was taken. And the said collector shall keep a fair and regular account of all such sales, stating particularly what he detained for his trouble in keeping the property, &c. and lay the same before the board of commissioners, who shall examine the same, and if they find the collector has acted in any wise improper, they shall forthwith see justice done to the party injured.

**Notice of sale
how to be
given.**

**Collector to
keep regular
accounts of
sales, &c**

SEC. 20. *And be it further enacted*, That if any collector shall take, demand, or receive of any person, from whom taxes are due, more than his, her or their proper taxes, or shall, in any sale of property taken for taxes, act contrary to the true intent and meaning of this act, or shall neglect or refuse to render a just and true account of all such sales to the board of commissioners, he shall forfeit and pay any sum not exceeding one hundred dollars, to be recovered by action of

**Penalty for
demanding
more taxes
than due,**

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debt, qui tam, or by indictment, before any court having jurisdiction; the one half to the person suing for the same, the other half to the use of the county; and moreover be subject to the suit of the party injured for damages.

Collectors to settle their accounts annually with the commissioners.

manner thereof.

Collectors failing to make settlement how to proceed.

SEC. 21. *And be it further enacted,* That all county collectors shall settle and close their accounts annually with the board of commissioners, and shall in their settlement be credited with the receipts of the county treasurer by them produced, the allowance for collection, and by such deficiency arising from delinquencies and insolvencies as the board of commissioners shall have allowed. And if the board of commissioners shall find that the vouchers and allowances aforesaid shall amount to the sum due the county from the collector, they shall certify the same to such collector, who shall make a fair statement of such account, and lay the same before the next court of general quarter sessions; and if the court shall find, on examination, that such account is proper, they shall give such collector a full discharge for the year he has so settled up his accounts. But should any county collector fail or neglect to settle his accounts, in manner aforesaid, it shall be the duty of the county commissioners, on giving such delinquent collector and his security, their executors or administrators, ten days notice thereof in writing, delivered personally, or left at their usual place of abode, on motion to obtain a judgment against them, before any court having competent jurisdiction, for the amount due such county, with an interest of twelve per centum thereon from the time the same became due. *Provided always,* That if any such delinquent collector shall produce his account authenticated, as aforesaid, to the court to which he is notified, judgment shall not be taken for more than the balance due the county, with interest as aforesaid, and costs, in which shall be taxed any sum

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the court shall think a reasonable compensation for the trouble of the county commissioners, in giving such delinquent collector notice as aforesaid.

Vacancy in commissioners how filled.

SEC. 22. *And be it further enacted,* That if any vacancy shall at any time happen in the board of commissioners, the court of quarter sessions of the peace for the county shall have authority to appoint another commissioner or commissioners to fill the vacant office, who shall serve the remainder of the term the commissioner whose place he shall be appointed to fill would have served. And the board of commissioners, or a majority of them, shall at all times have authority to supply the place, by appointment, of any collector dead, displaced

Of a collector how supplied.

or removed from office, which new appointed collector shall have authority to complete the collection of taxes of his predecessor due and uncollected at the time of his appointment, and be entitled to receive for collection the same per centum for all monies he may collect.

SEC. 23. *And be it further enacted*, That it any justice of the peace, county commissioner, clerk of the peace, lister or freeholder shall neglect or refuse to do or perform any of the duties required of them or either of them by this act, he or they, so offending, shall forfeit and pay any sum not exceeding one hundred dollars, to be recovered before any court having jurisdiction, by action of debt, qui tam, or indictment; one moiety to the person suing for the same, the other to the use of the county.

Penalty on a justice, lister freeholder &c. for neglect of duty.

SEC. 24. *And be it further enacted*, That the board of commissioners shall, and they are hereby authorised to audit and allow such accounts and demands of the listers, freeholders, justices of the quarter sessions, and clerk of the peace, for their services, respectively, rendered under this law, as the said board of commissioners may judge right

The accounts of listers, freeholders, justices, &c. how to be audited and allowed.

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and just, and to draw orders on the treasury for the same, as in other cases under this law.

SEC. 25. *And be it further enacted*, That an act entitled, "A law for raising county rates and levies," and an act, entitled, "A law for the purpose of including all unsettled and unimproved tracts or parcels of land, and subjecting them to taxation" adopted from an act of the state of Kentucky, and published at Cincinnati, the first day of May, one thousand seven hundred and ninety-eight, by Winthrop Sargent, acting as governor, and John Cleves Symmes, Joseph Gilman, and Return Jonathan Meigs, junior, judges, and all other acts, and parts of acts, coming within the purview of this law, be, and the same are hereby repealed. *Provided always*, That all taxes laid under the authority of said laws, or either of them, and which are, or shall be unpaid at the taking effect of this law, the same may, and shall be collected under the authority of said laws, in the same manner, and

What laws repealed.

Proviso.

under the same regulations as though this law had never been made. This act shall commence and be in force from and after the first day of March next.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.

H. VANDER BURGH,
President of the Council.

APPROVED—December 19th, 1799.

AR. ST. CLAIR.

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CHAPTER XXXIII.

An ACT allowing and regulating prison bounds.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That the several courts of general quarter sessions of the peace within this territory, as soon as may be after the passing of this law, shall proceed to lay off and assign, by metes and bounds, around or adjoining each county jail, a certain and determinate space of land, to be termed prison bounds; *Provided*, That such prison bounds, in no instance, extend in any direction from said jail more than two hundred yards; which prison bounds, when fixed and assigned, shall be recorded amongst the public records of said court, a copy of which shall be delivered to the jailor, to be by him fixed up in some conspicuous place in the debtors room, for the government of such of them as shall be entitled to the benefit of such prison bounds.

SEC. 2. *And be it further enacted*, That any person imprisoned for debt, either upon mesne process or on execution, shall be permitted and allowed the privilege and benefit of the prison bounds, in the day time; but in no instance to pass over or without said limits. *Provided*, That such prisoner, before he or she shall be entitled to such privilege, shall give bond, with sufficient surety or sureties, living within the county, to the creditor or creditors in double the sum for which such prisoner stands committed, conditioned that, from the executing such bond,

When to
take effect.

Quarter ses-
sions to lay
off prison
bounds.

Not to exceed
200 yards from
said jail.

Persons en-
titled to the
benefit of
prison bounds.

To give bond
with surety,
&c.

he or she will continue a true prisoner, in the custody of the jailor or prison keeper, and within the limits of said prison bounds, until discharged by law, without committing any manner of escape. And in order to

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prevent any oppression, under pretence of the surety or sureties being insufficient, two disinterested justices of the peace for said county shall be called to approve of the surety or sureties, and the same being approved of by them, shall be deemed sufficient; and if the creditor or creditors shall refuse to take and accept the bond, the same shall be lodged with the sheriff, to be by him kept until the creditor or creditors shall demand the same; and upon putting such bond in suit, when the condition shall be broken, judgment shall be entered up for the penalty, and no relief in chancery shall be allowed therein.

When sureties shall be objected to as insufficient, &c.

When the bond shall be lodged with the sheriff.

SEC. 3. *And be it further enacted*, That if any action or suit shall be brought or instituted against any sheriff or jailer for any manner of escape, committed by any prisoner allowed the benefit and privilege of prison bounds, having first given bond, as by this law required, such sheriff or jailor shall have the liberty of pleading the general issue, and giving this act in evidence.

Sheriff, &c. when prosecuted for escapes.

EDWARD TIFFIN, *Speaker*

Of the House of Representatives.

H. VANDER BURGH,

President of the Council.

APPROVED—December 19th, 1799.

AR. ST. CLAIR.

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CHAPTER XXXIV.

An ACT for the appointment of county treasurers.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That there shall be appointed by the governor, in each and every county within this territory, a county treasurer, who shall keep his office at the seat of justice of his county, and before he enters on the duties of his office he shall give

The governor to appoint county treasurers

To give bond.

a bond with two sufficient sureties to the governor and his successors in office, for the use of the territory, in the sum of three thousand dollars, conditioned for the punctual discharge of the respective duties of his office, which shall be filed in the office of the clerk of the quarter sessions.

When a vacancy shall happen.

SEC. 2. *And be it further enacted*, That in case of the death or resignation of the county treasurer, his removal from office, or removal out of the county, it shall be lawful for the court of quarter sessions to appoint another treasurer for such county, to supply the place of such as shall die, resign or be removed, as aforesaid; and the justices of the said court shall forthwith signify such appointment to the governor for his approbation, or further appointment; and the treasurer so appointed, shall do and perform all the duties of a treasurer until the governor shall commission him, or another in his stead.

When a treasurer refuses to deliver up his books, &c.

SEC. 3. *And be it further enacted*, That when any county treasurer shall resign, or be removed from office, he shall deliver up to the succeeding treasurer all the books, accounts, and papers belonging to the county, whole, entire and undefaced, and pay over all monies remaining in his hands; and where any treasurer shall die, the ex-

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cutors and administrators of such decedant, shall deliver, in like manner, all the books, papers and monies, as aforesaid. This act shall take effect and be in force from and after the passing thereof.

EDWARD TIFFIN, *Speaker*

Of the House of Representatives.

H. VANDER BURGH,

President of the Council.

APPROVED—December 19th, 1799.

AR. ST. CLAIR.

CHAPTER XXXV.

An ACT for allowing compensation to the members of the legislative council and house of representatives, of the territory of the United States, north-west of the river Ohio, and to the officers of both houses.

WHEREAS it is right and equitable that a reasonable compensation be made the members and officers of the general assembly, for their time spent, and expences incurred during the present, and every succeeding session; therefore, Preamble.

SEC. 1. *BE it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same,* That each and every member of the legislative council and house of representatives shall be entitled to, and receive for each and every day's attendance on the business of legislation, the sum of three dollars, and shall, moreover, be allowed, at the commencement and ending of every session, Allowance per day to the members of the legislature.

Cc

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three dollars for every fifteen miles of the estimated distance, by the most usual road, from his place of residence to the seat of the assembly.

SEC. 10. *And be it further enacted,* That there shall be allowed to the secretary of the council the sum of three dollars per day, for his services in attending to the business of the council, and the additional sum of three dollars per day for clerk hire and incidental expences; and to the clerk of the house of representatives the sum of three dollars per day, for his services, and the additional sum of four dollars per day for clerk hire and incidental expences; to the sergeant at arms for both houses two dollars per day; and to the door-keeper of each house one dollar and fifty cents per day, during the session. To the secretary of the council, clerk of the house, &c.

SEC. 3. *And be it further enacted,* That the compensation which shall be due to the members and officers of the council shall be certified by the president thereof; and that which shall be due the members and officers of the house of representatives shall be certified by the speaker, which certificates shall be to the auditor sufficient evidence of claim, and he shall thereupon issue certificates to the several members and other officers thereof, payable at the treasury of this territory, as in other cases. Accounts, &c. how to be certified and paid.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.

H. VANDER BURGH,
President of the Council.

APPROVED—December 19th, 1799.

AR. ST. CLAIR.

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CHAPTER XXXVI.

An ACT to regulate the enclosing and cultivating of common fields.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That those who are or shall be proprietors or owners of land, in any field that is now occupied, used, declared, or that shall hereafter be occupied, used and declared to be a common field, may meet together, by themselves or agents, annually, on the first Monday in March, or on such other day as they shall appoint, at some convenient place, by them appointed, for the purpose of making such rules and regulations as to them shall seem meet for the well ordering of the affairs of such field, with respect to fencing and cultivation, and all other things necessary for the well managing the same, for the common interest of such proprietors; in which meeting the proprietors of such fields shall have full power, by their major vote, to be computed by interest, to order all such affairs and make such regulations as they shall deem proper and expedient, for the purpose aforesaid. *Provided always,* That any person who is a proprietor in any common field may, at any time hereafter, separate his, her or their land from such common field, by fencing the same, subject only to making and keeping in repair fences in like manner as persons having enclosures adjoining the common field, as by this law directed.

SEC. 2. *And be it further enacted,* That, the better to enable them to carry on and manage the affairs of such fields, they are hereby authorised and empowered to elect a chairman, clerk and treasurer, who shall be sworn to the faithful discharge of their duties, respectively; and the clerk

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shall enter and record all the acts, votes and resolutions of the said proprietors, relating to the management of the said common fields, and shall continue in his office until another shall be chosen and qualified to serve in his room; and that the election of chairman, clerk and treasurer shall be annually, or otherwise as shall be determined by the

Proprietors of
common fields.

Their annual
meeting.

When a prop-
rietor wishes
to cultivate
his land.
seperately.

May elect a
chairman,
clerk and
treasurer.

Term of
service.

said proprietors, or a majority of them, in their lawful meetings assembled.

SEC. 3. *And be it further enacted*, That, for the better management of their common fields, they shall choose a committee of three persons, which shall be stiled the field committee, who shall be sworn to a faithful discharge of their duties. The said committee may call a meeting of the proprietors of such field when they shall judge it needful, by giving warning to such of them as live in the town or village, verbally, where such fields lie, and to the agents (if any) of non-resident proprietors, ten days previous to the time of such meeting, or by warning such proprietors in such other manner as they shall, in their lawful meetings, agree upon.

Field committee to be chosen;

authorized to call meetings,

SEC. 4. *And be it further enacted*, That the proprietors of common fields are hereby authorised and empowered, at their lawful meetings, to grant and levy taxes on themselves, when they shall judge it needful, according to their several interests in such fields, for the defraying the charges that may arise in setting out and designating the proportion of, or altering the fence of such fields, in making gates and bridges, or for any other public or common charge, relating to such fields; and to appoint assessors and collectors for the making, apportioning and collecting such taxes, which collectors shall have the same power and authority, in every respect, as the collectors of county taxes; which taxes, when collected, shall be paid into the hands of the treasurer, and shall be appro-

and levy taxes.

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priated, by a majority of the proprietors, for the common benefit.

SEC. 5. *And be it further enacted*, That the field committee shall point out and designate the place where, and the proportion which each proprietor shall erect of such common fence; and every proprietor in such common field shall duly erect and maintain his, her or their proportion of such common fence, according to the direction of such committee; *Provided*, such committee shall not require any such fence to be erected at a greater expence, or of better materials than is directed by a law of this territory, entitled "An act establishing and regulating enclosures," and shall attend all orders and comply with all regulations of the major part of the proprietors of such common

Their further duty.

field for the improvement thereof, for the common benefit, under the penalties of such fines and forfeitures as shall be lawfully annexed to the breach or neglect of such orders or regulations.

SEC 6. *And be it further enacted*, That any person or persons, having his, her or their part or proportion of common fence designated by the said field committee, shall have liberty, in order to make or repair the same, of passing over any persons lot or land, whatsoever, whenever it shall be necessary for the purpose aforesaid; and when it shall so happen that the line of fence, ordered as aforesaid, for the enclosing or securing any common field, shall run in upon, or intersect the fence of any person making a particular enclosure adjoining the common field, the one half of the dividing fence between such particular enclosure and the common field, as aforesaid, shall be made and maintained by the proprietors of such common field, and the other half by the owner of such particular enclosure; and if any person or persons, whose land shall adjoin any such common field, shall neglect to keep in repair and maintain

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his, her or their part of such fence, after being requested thereto by the field committee, in writing under their hands, for the space of ten days, it shall be lawful for the said committee to repair the said fence, at the proper charge of the delinquent, which expence, after being estimated by two reputable freeholders of the town or village wherein such fields are situated, may be recovered by action of debt, before any court having competent jurisdiction, together with costs.

SEC. 7. *And be it further enacted*, That if any person or persons, whose lands shall adjoin such common field, shall lay open the same without giving two months notice thereof in writing, lodged with the clerk of such common field, such person or persons shall be liable to pay all damages that may accrue to the proprietors, or to any of them, of such common field, to be recovered in any action of damages, before any court having competent jurisdiction.

SEC. 8. *And be it further enacted*, That all accounts for any services rendered any person, acting under appointments of, or by the direction of the major part of the proprietors of common fields, shall be paid out of the common treasury of such proprietors, after being

Proprietors
in making
their fence
may pass over
other persons
land

Persons whose
land adjoins
com

mon fields
failing to
make their
fence, &c.

When any per-
son shall open
land adjoining
to give notice.

How accounts
are to be
liquidated and
paid.

audited by the field committee, except the accounts of such field committee, which last mentioned accounts shall be audited by a special committee; and that all orders on the treasurer shall be signed by the chairman and attested by the clerk; and that the collectors shall, for all or any monies by them paid to the treasurer, demand duplicate receipts, one of which shall be held by the said collectors, and the other lodged with the clerk. The treasurer shall also demand duplicate receipts for all monies paid by him, on orders on the treasurer, one of which receipts shall be holden by the treasurer, and the other lodged with the clerk.

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SEC. 9. *And be it further enacted*, That the proprietors of common fields shall have power, by their major votes, in lawful meetings assembled, to order all such fines and forfeitures, on either or any of themselves, as to them shall seem reasonable, for carrying into effect any of their rules and regulations, for the common benefit of the said proprietors. *Provided nevertheless*, The penalty does not exceed the sum of five dollars, and that the person or persons thinking himself or themselves to be unreasonably or oppressively fined, shall have the right of appeal from the judgment of said proprietors to the next court of common pleas, holden for said county; *Provided*, That notice of such appeal shall be given within ten days after the judgment be given by the said proprietors.

May levy
fines on
themselves,

not to exceed
five dollars.

May appeal.

SEC. 10. *And be it further enacted*, That the said common field shall be enclosed with a good and sufficient fence, according to law, on or before the first day of May in each and every year, or such other day as the said proprietors may appoint; and that no cattle, horses, or other animals shall be suffered to be put into such fields, for the purpose of depasturing therein, between the first day of May and the fifteenth day of November in each and every year, or on such other day and time as the proprietors may agree upon, under the penalty of paying such fine as shall be ordered by the said proprietors, in lawful meeting assembled. This act to take effect and be in force from and after the passing thereof.

Time that
fences must be
put and kept
up.

When to take
effect.

EDWARD TIFFIN, *Speaker*

Of the House of Representatives.

H. VANDER BURGH,

President of the Council.

APPROVED—December 19th, 1799.

AR. ST. CLAIR.

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CHAPTER XXXVII.

An ACT regulating the fees of the constables in the several counties within this territory.

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That the fees and compensation of constables throughout this territory, from and after the passing this act, shall be as follows, to wit.

Constables
fees in civil
cases;

For serving a summons or warrant, on each person therein named—*twenty-five cents.*

For travelling in going to serve the aforesaid process, *four cents per mile*, within his township; and when two or more are named in such process, milage shall be allowed to the place of actual service the most remote to the place where such process is returnable.

For the copy of a summons left at the place of abode—*ten cents.*

Serving a subpœna, for each person named therein, and milage as above—*ten cents*; but no milage unless he travels out of his township, and then, at the expense of the party who takes out such subpœna, *four cents per mile*, from the place of actual service to the place of the return.

Making return of each summons or warrant—*five cents.*

Bail bond—*twenty-five cents.*

Levying execution on body or goods—*twenty-five cents.*

Commitment to prison—*twenty-five cents*; and *four cents per mile* from the place of abode to the jail.

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Sale of goods, in either case, when the amount does not exceed six dollars—*twenty-five cents.*

On all sums above six dollars—*five per centum.*

Returning the same—*ten cents.*

CONSTABLES' FEES IN CRIMINAL CASES.

Serving a *capias*, on each person named, with milage as in civil cases **In criminal cases.**
—*fifty cents*.

Serving a *subpœna*, on each one named therein, with milage as above
—*twenty cents*.

Attending an examination of a person or persons charged with a
crime—*twenty cents*.

If more than one—*five cents each*.

Commitment of each person—*twenty-five cents*.

Milage from the place of examination to the county jail—*five cents*
per mile.

SEC. 2. *And be it further enacted*, That if any constable shall ask, **Penalty on demanding higher fees.**
demand or receive any more or greater fees than is above mentioned,
he or they, so offending, shall forfeit and pay any sum not exceeding
eighteen dollars for every such offence, to be recovered before any
court having jurisdiction, the one half to the person suing for the
same, and the other half for the use of the proper county.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.

H. VANDER BURGH,
President of the Council.

APPROVED—December 19th, 1799.

AR. ST. CLAIR.

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An ACT to encourage the killing of wolves.

CHAPTER XXXVIII.

WHEREAS the raising of sheep ought to be encouraged in this **Preamble.**
territory by every possible means, and as the destruction of
wolves would greatly tend to the accomplishment of so desirable an
object;

Premium
allowed for
killing wolves.

SEC. BE it therefore enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That every person within this territory, of the age of ten years, and upwards, who shall kill any wolf, within six miles of any settlement in any county within this territory, shall receive fifty cents for every wolf he shall kill, not exceeding six months old, to be adjudged of by the justice before whom the head shall be taken; and for every wolf of the age of six months and upwards, one dollar and twenty-five cents.

Persons claim-
ing the
premium to
take the head
to a justice
and make oath.

SEC. 2. *And be it further enacted*, That every person, claiming such reward, shall produce the head or heads (if more than one) with the ears entire, to a justice of the peace of the county where such wolf was killed, who shall administer to such person the following oath, viz, I, _____ do solemnly swear (or affirm as the case may be) that the head (or heads, as the case may be) now produced by me, is the head of a wild wolf, taken and killed by me in the county of _____ within six miles of some one of the settlements within the same, to the best of my knowledge, and that I have not, wittingly or willingly, spared the life of any bitch wolf, in my power to kill, with a design of encreasing the breed, so help me God. And every justice, before he administers the foregoing oath, shall first read it aloud to the

Justice, his
duty, &c.

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How the re-
ward shall be
paid.

person wishing to receive the same, and also the fourth section of this law, and every justice before whom such heads shall be produced, is hereby empowered and required to administer the aforesaid oath, and thereupon grant to the killer a certificate, reciting his name, the number of heads, and whether they be over or under the age of six months, the time and place they were killed; which certificate being produced to the commissioners laying the county levy, such commissioners shall provide for the payment of the same, and give an order on the treasurer, in favor of such wolf killer, for the amount of the reward due him; which orders shall be receivable at all times in payment of county rates and levies.

Justices to
cause the ears
to be cut off.

SEC. 3. *And be it further enacted*, That any justice having wolves' heads brought before him shall have the ears cut off in his presence.

SEC. 4. *And be it further enacted*, That if any person or persons shall receive any reward, contrary to the true intent and meaning of this act, the person or persons so offending, shall forfeit and pay any sum not exceeding fifty dollars, to be recovered by action of debt, qui tam, or by indictment for the use of the county, before any court having jurisdiction. This act shall take effect and be in force from and after the first day of May next.

Penalty for accepting the reward, not being entitled thereto.

Time this act takes effect.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
 H. VANDER BURGH,
President of the Council.

APPROVED—December 19th, 1799.
 AR. ST. CLAIR.

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CHAPTER XXXIX.

An ACT for the punishment of arson.

SEC. 1. **B**E *it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same*, That if any person or persons shall wilfully and maliciously burn, or cause to be burned, or shall wilfully and knowingly aid or assist in burning or causing to be burned, any dwelling-house store-house, barn, stable, or other building adjoining thereto, or if any person or persons shall wilfully attempt to burn, by setting fire to any dwelling-house, store-house, barn, stable, or other building adjoining thereto, every person, so offending, shall, on conviction thereof, suffer death.

What offences deemed arson.

Punishment death.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
 H. VANDER BURGH,
President of the Council.

APPROVED—December 19th, 1799.
 AR. ST. CLAIR.

CHAPTER XL.

An ACT to alter the boundary line between the counties of Jefferson and Washington.

Preamble.

WHEREAS the legislature has received information that it will tend to the convenience of some of the inhabitants of the aforesaid counties to have the division line altered; therefore,

SEC. 1. BE *it enacted by the Legislative Council and House of Representatives in General Assembly, and*

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it is hereby enacted by the authority of the same, That the line dividing said counties shall be as follows, to wit; beginning on the Ohio river at the southern boundary of the fourth township in the third range of those seven ranges of townships, that were surveyed in conformity to the ordinance of congress of the twentieth of May, one thousand, seven hundred and eighty-five, and with said southern boundary of said township west to the south-west corner of the seventh township in the sixth range; thence north along the western boundary of the said range to the termination thereof, continued a north line until it strikes the southern boundary line of the Connecticut reserve.

EDWARD TIFFIN, *Speaker*

Of the House of Representatives.

H. VANDER BURGH,

President of the Council.

APPROVED—December 19, 1799.

AR. ST. CLAIR.

CHAPTER XLI.

An ACT for allowing compensation to the attorney-general of the territory, and to the persons prosecuting the pleas, in behalf of the territory, in the several counties.

SEC. 1. BE *it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That there shall be allowed to the attorney-general of the territory, and to the persons who shall*

Line of division between the counties of Washington and Jefferson.

Compensation allowed the attorney general and his deputies

prosecute the pleas in the respective counties within the territory, the yearly compen-

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sation hereinafter mentioned, to wit; to the attorney-general the sum of four hundred dollars; to each of the persons appointed and commissioned by the attorney-general to prosecute the pleas in behalf of the territory, in the counties of Randolph, St. Clair and Knox, the sum of fifty dollars; in the counties of Adams, Washington and Jefferson, the sum of sixty dollars; in the counties of Wayne and Ross, the sum of one hundred and twenty dollars, and in the county of Hamilton the sum of one hundred dollars; and there shall be allowed to the person prosecuting in each and every county that shall be hereafter established the sum of fifty dollars; which compensation shall commence from and after the passing of this act; and the compensation to the attorney-general shall be paid quarterly, at the treasury of the territory, on the certificate of the auditor of public accounts; and the compensation to each of the persons appointed and commissioned, as aforesaid, shall be paid half yearly at the treasuries of the respective counties, on the order of the county commissioners. *Provided always*, That the attorney-general may prosecute in the county in which he resides, without appointing a deputy, and shall receive the compensation allowed for the prosecutor of such county; and *Provided also*, That the compensation to the prosecutors in the counties to be hereafter established shall not commence prior to the dates of their respective appointments.

In what manner to be paid.

Proviso, allowing the attorney-general to prosecute in the county where he resides, &c.

SEC. 2. *And be it further enacted*, That the fees, costs and charges arising on all bills prepared and prosecuted by the attorney-general, shall be paid into the territorial treasury; and the fees, costs and charges arising on all bills preferred and prosecuted by the persons commissioned, as aforesaid, shall be paid into the treasuries of the respective counties by the persons receiving the same,

Costs on criminal prosecutions allowed the attorney-general &c. by law, how to be collected

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within the space of thirty days next after the same shall have been collected. And it shall be the duty of the attorney-general, and of the persons prosecuting under him, respectively, to draw up the bills

and to what use appropriated.

of costs as allowed by law in all cases of conviction, and to issue, or cause to be issued, the process necessary for collecting the same.

Parts of
certain laws
repealed.

SEC. 3. *And be it further enacted*, That so much of the act, entitled "A law establishing courts of judicature," adopted from the Pennsylvania code, and published at Cincinnati, the sixteenth day of June, one thousand, seven hundred and ninety-five, by Arthur St. Clair, governor, and John Cleves Symmes and George Turner, judges in and over said territory, in the thirteenth section of said law, as respects the allowances of expences to the attorney-general while attending the circuit and general courts, for travelling and other expences therein mentioned, and so much of the act, entitled, "A law in addition to a law, entitled a law ascertaining the fees of the several officers and persons therein named," published at Cincinnati, the first day of May, one thousand, seven hundred and ninety-eight, by Winthrop Sargent, acting as governor, and John Cleves Symmes, Joseph Gilman, and Return Jonathan Meigs, jun. judges, as respects the allowances to be made to the deputies of the attorney-general, by the county commissioners and assessors, for services rendered the county, and not otherwise provided for by law, be, and the same are hereby repealed.

EDWARD TIFFIN, *Speaker*

Of the House of Representatives.

H. VANDER BURGH,

President of the Council.

APPROVED—December 19th, 1799.

AR. ST. CLAIR.

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CHAPTER XLII.

An ACT to authorize the inhabitants of the fractional township, in which the town of Marietta is situated, to lay and require a rent or tax from the occupiers of the fractional section, numbered twenty-nine, for the year one thousand, eight hundred.

Preamble.

SEC. 1. **W**HEREAS within the fractional township, number two, in the eighth range of townships, the town of Marietta, in the county of Washington, has in part been built on the section, number twenty-nine, which has been appropriated for relig-

ious purposes; and whereas the legislature of this territory have passed no general laws defining the mode by which such appropriated lands are to be applied to the object of such appropriation; therefore, for to enable the inhabitants of the said township, for the year one thousand, eight hundred, to receive the benefits that may arise from the grant, *Be it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same,* That the freeholders, of full age, inhabiting of the township aforesaid, are hereby authorized and empowered to assemble on the first Monday of May, next ensuing the passing hereof, at the courthouse in said Marietta, and then and there, or at such time or times as they shall or may adjourn to, by a vote of the majority of such inhabitants, so assembled, to lay such an assessment or tax, for the year one thousand, eight hundred, on the holders or occupiers of the said section, as rent for the same, in such proportion as they shall think reasonable; *Provided,* That no town lot be taxed higher than five dollars for the year.

The freeholders of Marietta township authorized to levy a tax, &c.

SEC. 2. *And be it further enacted,* That the inhabitants, as aforesaid, shall have authority to appoint such committees, trustees, collector or collectors, to carry the object of this act into effect,

May appoint committees, trustees-

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as they shall think fit. The collector, so to be appointed, shall have the same power to make distress and sale, in case of refusal or neglect of payment of the tax, or assessment, as aforesaid, as the collector of the county levy has by law.

tees collectors, &c.

SEC. 3. *And be it further enacted,* That the money so to be raised, after paying the collector for the collection, shall be appropriated for religious purposes. This act to commence the first day of January next, and to continue and be in force for and during one year, and no longer.

The money how to be appropriated. When to take effect.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.

H. VANDER BURGH,
President of the Council.

APPROVED—December 19th, 1799.

AR. ST. CLAIR.

CHAPTER XLIII.

An ACT supplementary to the act entitled "A law for the relief of the poor."

SEC. 1. **B**E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same, That it shall be the duty of the overseers of the poor, in each and every township, yearly and every year, to cause all poor persons, who have or shall become a public charge, to be farmed out at public vendue, or out-cry, to wit; on the first Monday in May, yearly and every

Ee

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year, at some public place in each township in the several counties of this territory, respectively, to the person or persons who shall appear to be the lowest bidder or bidders, having given ten days previous notice of such sale in at least three of the most public places in their respective townships; which notices shall set forth the name and age, as near as may be, of each person to be farmed out, as aforesaid.

SEC. 2. *And be it further enacted,* That the overseers of the poor shall make a return to the commissioners of the county, of the sum or sums of money for which the poor of their respective townships were sold, within fifteen days after every such sale shall have been made; and it shall be the duty of the said commissioners to levy, and cause to be collected and paid into the county treasury, in the same manner as other county rates are levied and collected, a sum of money equal to the amount of the several sums for which the poor of the several townships shall have been sold.

SEC. 3. *And be it further enacted,* That the farmers of the poor shall be entitled to receive from the county treasury, half yearly, on the order of the commissioners, aforesaid, on the certificate of the overseers of the poor, stating the sum due, the compensation which shall have been stipulated, as aforesaid, in full satisfaction for their trouble, and for all expences in keeping and supporting the poor, for the term of one year, as aforesaid; and if any person or persons shall become legally a town charge, after the poor of the township shall

Paupers
when and
how to be
farmed out.

Overseers of
each township
to make return
to the county
commissioners,
&c.

Farmers of the
poor in what
manner to be
paid, &c.

have been sold, as aforesaid, it shall be the duty of the overseers to proceed in manner aforesaid, to dispose of such poor person or persons for the remainder of the year, giving the same notice of such farming out.

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SEC. 4. *And be it further enacted*, That it shall be lawful for the farmers of the poor to keep all poor persons under their charge at moderate labor; and it shall be the duty of the overseers, on any complaint made to them, by or on behalf of the poor, to examine into the ground of such complaint, and if, in their opinion, the poor have not been sufficiently provided with the common necessaries of life, or have been in any other respect illy treated by the farmers, aforesaid, it shall be lawful for the overseers to withhold any part of the compensation, aforesaid, not exceeding the one half thereof.

Poor persons may be kept at moderate labor &c.

When paupers are illy treated, &c. how to proceed.

SEC. 5. *And be it further enacted*, That so much of the act entitled "A law for the relief of the poor," as is altered by the provisions herein contained, shall be, and the same is hereby repealed.

What law repealed.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
 H. VANDER BURGH,
President of the Council.

APPROVED—December 19th, 1799.
 AR. ST. CLAIR.

CHAPTER XLIV.

An ACT appropriating monies for the payment of the debts due from this territory, and making appropriations for the ensuing year.

SEC. 1. **B***E it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby enacted by the authority of the same*, That five thousand dollars shall be appropriated for contingent expences; and that all

Appropriations of a fund to an-

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the monies that shall be received into the territorial treasury, except as above appropriated for contingent expences, shall be a general fund

swer contingent expences.

for the payment of all monies allowed by law, which shall not be directed to be paid out of contingent expences.

Specific appropriations to be paid out of the contingent fund.

SEC. 2. *And be it further enacted*, That there shall be allowed and paid to Joseph Carpenter, printer of this territory, the amount of his account agreeable to contract, for printing for the legislature during their present session, and for printing the journals and the laws of this territory, a sum not exceeding two thousand dollars; and also the additional sum of fifty cents per copy allowed him by the house of representatives for said printing, to be paid out of the contingent expences.

To the territorial treasurer, a sum not exceeding fifty dollars, for stationary for his office, to be paid out of the contingent expences.

To the auditor of public accounts, a sum not exceeding one hundred dollars, for stationary for the use of his office, to be paid out of the contingent expences; also to the auditor, seventy five dollars, or so much thereof as may be necessary to get certain abstracts of the revenue act published in the Philadelphia, Boston, Richmond and Hartford gazettes, and also in this territory; and also, to the auditor, a further sum not exceeding three hundred dollars, or so much thereof as may be necessary for defraying the expence of obtaining copies of the entries or surveys of land, in case of transfer of land, situate in a tract of country between the little Miami and Sciota rivers, as is recorded in the respective offices of Messrs. Anderson and Tyrrel, and kept in the state of Kentucky, to be paid out of the contingent expences; which accounts shall be liquidated and settled by the legislative council and house of representatives, or by such per-

How liquidated.

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Residue of the contingent fund subject to the governor's orders.

sons as they may appoint for that purpose. The residue of the monies appropriated for contingent expences, or so much thereof as may be necessary, shall be subject to the payment of monies on the order of the governor, for expresses and other incidents which may be necessary and cannot be foreseen by the legislature, a statement of which shall be laid before the legislature at their next sessions.

SEC. 3. *And be it further enacted*, That there shall be allowed and paid out of the general fund to the following persons, the following sums of money, to wit.

Specific appropriations out of the general fund

To his excellency the governor, for services extraordinary, during the session of the legislature and organizing the general assembly, five hundred dollars.

To the territorial treasurer, four hundred dollars.

To the auditor of public accounts, four hundred and fifty dollars.

To John Small, esquire for making the plates and superintending the striking of certificates to be audited, forty dollars.

To the attorney general, four hundred dollars.

To Arthur St. Clair, esquire, for house rent, two hundred dollars, to the end of the present session of the legislature.

To the members of the legislative council and house of representatives, their several allowances, established by law, not exceeding twelve thousand dollars.

To William Maxwell, the amount of his account for printing, one hundred and sixty four dollars and sixty four cents.

To Edmund Freeman, for such part of his ac-

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count as is allowed by the legislature for printing, twenty-three dollars.

To Hezekiah Flint, his account for repairs done to the representatives' chamber, six dollars and sixteen and an half cents.

To Abraham Carey, his account for furnishing fuel for the legislature, a sum not exceeding twenty-five dollars.

To the committee of ways and means, for stationary furnished for the house of representatives, a sum not exceeding fifty dollars.

To James Smith, private secretary to the governor, fifty dollars.

To Solomon Sibley, for superintending the printing of the laws of this territory, a sum not exceeding three hundred dollars.

To a clerk or clerks to be employed by Solomon Sibley, in copying the laws for the press, a sum not exceeding one hundred and fifty dollars.

To John Devor, assignee of Samuel Peoples, the amount of his account, one hundred and seventy-nine dollars and seventy-five cents.

To Charles F. Chobert de Joncaire, for expences as a member of the house of representatives for the county of Wayne, in travelling to and from Cincinnati at the time the members of the house of representa-

tives met to put in nomination the members of the legislative council, one hundred and twenty-nine dollars.

To the commissioners or listers of land and the clerks of the peace, for their services under the act entitled "An act levying a territorial tax on land," a sum not exceeding two thousand dollars.

To Isaac Van Nuys, for striking bills to be au-

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dited, a sum not exceeding one hundred and sixty-five dollars, to be paid agreeable to the number of bills, at two dollars and fifty cents per hundred.

For the payment of interest, one thousand dollars.

**Further ap-
propriations**

SEC. 4. *And be it further enacted*, That two hundred and fifty dollars, out of the general fund, shall be, and the same is hereby appropriated to satisfy and discharge the orders drawn by the judges of the general court on the territorial treasurer, agreeable to law, and not heretofore discharged

And there shall be appropriated a sum not exceeding thirty dollars, to defray the interest arising on a sum of money borrowed to defray, in part, the expences of the house of representatives at their late sessions.

And there shall be appropriated a sum not exceeding five hundred dollars, to satisfy and discharge the several allowances made by law for the brigade inspectors and adjutant general.

And there shall be allowed and paid to Daniel Connor and company, the sum of fourteen dollars and fifteen cents, for stationary, &c. furnished the legislative council.

To Isaac Anderson, for andirons, the sum of three dollars and twelve and an half cents.

To Andrew and Culbertson Parks, the sum of fourteen dollars and eighty-eight cents, for tables furnished for the council chamber.

To William C. Schenck, the sum of seven dollars, for stationary purchased for the legislative council.

To John Daily, the sum of four dollars and fifty cents, for wood and services furnished the

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house of representatives, when assembled to put in nomination the members who compose the legislative council, which sums of money shall be discharged out of the general fund.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.

H. VANDER BURGH,
President of the Council.

APPROVED—December 19th, 1799.

AR. ST. CLAIR.

CHAPTER XLV.

An ACT repealing certain laws, and parts of laws.

SEC. 1. **B**E *it enacted by the Legislative Council and House of Representatives in General Assembly, and it is hereby* **Laws that are repealed.**
enacted by the authority of the same, That the acts and parts of acts hereinafter mentioned, shall be, and the same are hereby repealed, to wit: the act entitled "A law for the trial and punishment of larceny under a dollar and an half;" also the act entitled "A law for the recovery of fines and forfeitures, and directing how the same are to be estreated;" also the act entitled "A law for the partition of lands;" also the act entitled "An act to confer on certain associations of citizens of this territory, the power and immunities of corporations, or bodies politic in law;" also the act entitled "A law for establishing a land office;" also so much of the act entitled "A law for the better regulation of prisons," as is contained in the first, second and third sections thereof; also so much of the act entitled "A law establishing courts of judicature," as is contained in the thirteenth section thereof;

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also so much of the fourth section of the act entitled "A law allowing foreign attachments," as requires notice thereof to be advertised in one of the newspapers at the seat of the United States government.

And whereas in the opinion of the general assembly, the act

entitled "A law for the limitation of actions," and the legislative resolutions, contained in an appendix to the laws of the territory are unconstitutional; therefore,

SEC. 2. *Be it further enacted*, That the said act entitled "A law for the limitation of actions," and the resolutions aforesaid shall be, and the same are hereby repealed.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.

H. VANDER BURGH,
President of the Council.

APPROVED—December 19th, 1799.

AR. ST. CLAIR.

Ff

TERRITORY OF THE UNITED STATES, NORTH- }
 WEST OF THE RIVER OHIO. }

Cincinnati, May 7th, 1800

THIS certifies that, by special appointment of the general assembly of the territory of the United States, north-west of the river Ohio, I have carefully compared with the original enrolled bills, a copy of Messrs. CARPENTER & FINDLAY's edition of the laws of this territory, Vol. I. printed by them the current year, and find the said printed laws correct, and to agree with the original rolls.

SOLOMON SIBLEY.

TERRITORY OF THE UNITED STATES, NORTH- }
 WEST OF THE RIVER OHIO. }

I CERTIFY, that, pursuant to a resolution of the general assembly of the territory of the United States, north-west of the river Ohio, of the 3d of December, inst. SOLOMON SIBLEY, esquire, was this day duly appointed to superintend the printing of the laws of the said territory.

JOHN REILY, *Clerk of the*
House of Representatives

REPRESENTATIVES' CHAMBER, }
December 5th, 1799. }

APPENDIX.

RESOLUTIONS, &c.

No. I.

To choose a person to superintend the printing of the laws, &c.

RESOLVED, *By the Legislative Council and House of Representatives in General Assembly*, That the legislative council and house of representatives will, on the fifth day of December, instant, meet in the representatives' chamber, and then and there choose a person to superintend the printing of the laws of this territory; and also choose a committee to revise the territorial laws that have been adopted by the governor and judges of the territory, and to report to the legislature on the expediency of re-printing the same.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
 H. VANDER BURGH,
President of the Council.

CONCURRED—December 3d, 1799.

AR. ST. CLAIR.

No. II.

RESOLVED, *By the Legislative Council and House of Representatives in General Assembly*, That John Small, esquire, be appointed to superintend

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the striking of auditor's certificates, and be authorized to employ a person to assist him in that business.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
 H. VANDER BURGH,
President of the Council.

CONCURRED—December 12th, 1799.

AR. ST. CLAIR.

No. III.

WHEREAS in the county of Washington, within this territory, **Preamble.**
the townships No. eight and nine in the fourteenth range, have been appropriated and set apart for the purpose of endowing an university; and whereas the application of the same to the purpose aforesaid has been entrusted to the legislature of this territory; therefore, to enable the said legislature the better to determine the situation whereon to establish the said university,

BE it resolved by the Legislative Council and House of Representatives in General Assembly, That Rufus Putnam, Benjamin Ives Gilman and Jonathan Stone, esquires, be requested to lay off, in the most suitable place within the townships aforesaid, a town plat, which shall contain a square for the colleges; also, lots suitable for house-lots and gardens, for a president, professors, tutors, &c. bordering on, or encircled by spacious commons, and such a number of town lots adjoining the said commons and out lots as they shall think will be

Committee to lay off a town within the college townships in the county of Washington &c.

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for the advantage of the university, who are to make a return of the said town plat and out lots, describing their situation within the said townships, to this legislature at their next session, who shall receive such compensation for their services as the legislature shall and may direct and allow.

EDWARD TIFFIN, *Speaker*

Of the House of Representatives.

H. VANDER BURGH,

President of the Council.

APPROVED—December 18th, 1799.

AR. ST. CLAIR.

No. IV.

RESOLVED, *By the Legislative Council and House of Representatives in General Assembly,* That four hundred copies of the laws of this territory, with the constitution of the United States, the law respecting fugitives, and the ordinance of congress for the government of this territory, annexed thereto, be printed at the charge of the territory.

Four hundred copies of the laws to be printed.

How and in
what manner
distributed.

Resolved also, That as soon as the said four hundred copies are printed, that the auditor of public accounts do immediately forward to the prothonotaries of every county the following numbers, to be distributed to the civil officers therein, to wit; to the county of Jefferson, twenty-four copies; to the county of Washington, thirty-three copies; to the county of Ross, forty copies; to the county of Adams, twenty-five copies; to the county of Hamilton, thirty copies; to the county of Wayne, twenty-five copies; to the county of Knox, fifteen copies; to the county of Randolph,

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fifteen copies; to the county of St. Clair, fifteen copies, and to every new county that may hereafter be laid off, so many copies as the governor may think necessary to be distributed out of the surplus.

Resolved also, That thirty-six copies be furnished for the use of the officers of the territory, to be distributed in the following manner, to wit; to the governor, four copies; to the attorney-general, one copy; each member of the council and house of representatives, one copy; each judge of the general court, one copy; clerk of the general court, one copy; auditor of the territory, one copy; treasurer of the territory, one copy; secretary of the territory, one copy.

Resolved also, That the governor distribute to each regiment of militia in the territory, as many copies of the militia law as he may deem necessary.

EDWARD TIFFIN, *Speaker*
Of the House of Representatives.
H. VANDER BURGH,
President of the Council.

CONCURRED—December 19th, 1799.

AR. ST. CLAIR.

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AN ORDINANCE

For the GOVERNMENT of the TERRITORY of the UNITED STATES,
NORTH-WEST of the RIVER OHIO.

BE IT ORDAINED by the United States, in Congress assembled, That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of congress, make it expedient.

Be it ordained, by the authority aforesaid, That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child in equal parts; the descendants of a deceased child or grand child, to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate, shall have, in equal parts among them, their deceased parents' share; and there shall, in no case, be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate her third part of the real estate for life, and one third part of the personal estate; and this law relative to descents and dower shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be divided or bequeathed by wills in writing, signed and sealed by him or her, in whom the estate may be (being of full age) and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed and deli-

N. W. territory to be one district, subject however to be divided.

How the estates of intestates shall descend.

Dower saved.

Disposition of estates by will,

and of real estates by deeds—

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vered by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates,

Wills to be proved, and deeds recorded.

How personal property may be transferred, &c.

courts and registers shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Governor for what term commissioned; his qualifications.

Be it ordained, by the authority aforesaid, That there shall be appointed, from time to time, by congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by congress; he shall reside in the district, and have a freehold estate therein in one thousand acres of land, while in the exercise of his office. There shall be appointed, from time to time, by congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district and the proceedings of the governor in his executive department, and transmit authentic copies of such acts and proceedings every six months, to the secretary of congress. There shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behaviour.

Secretary, for what term commissioned; his qualification and duties.

Three territorial judges to be appointed.

Their power and qualification.

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The gov. & judges to adopt & publish the laws and report them.

The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original states, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to congress from time to time, which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

Powers of the governor.

The governor for the time being shall be commander in chief of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers in each county or township as he shall find necessary for the preservation of the peace and good order in the same. After the general assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall during the continuance of this temporary government, be appointed by the governor.

Farther powers of the governor.

Powers and duties of magistrates—how to be regulated & defined.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

Laws adopted or made, their force.

Governor to lay out counties and townships where Indian titles are extinguished.

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So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships to represent them in the general assembly; *Provided*, That for every five hundred free male inhabitants, there shall be one representative, and so on progressively with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five, after which the number and proportion of representatives shall be regulated by the legislature; *Provided*, That no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years, and in either case shall likewise hold in his own right, in fee simple, two hundred acres of land within the same; *Provided also*, That a freehold in fifty acres of land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold, and two

Five thousand free males may elect representatives to a general assembly. In what proportion.

Qualifications of representatives.

Proviso, for further qualifications.

years residence in the district, shall be necessary to qualify a man as an elector of a representative.

Term of service. The representative thus elected shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve for the residue of the term.

General assembly, how composed, The general assembly, or legislature, shall consist of the governor, legislative council and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by congress; any three of whom to be a quorum. And the mem-

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How convened. bers of the council shall be nominated and appointed in the following manner, to wit; As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to congress; five of whom congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid for each vacancy, and return their names to congress; one of whom congress shall appoint and commission for the residue of the term.

A council to be appointed, &c. and vacancies supplied. And every five years, four months at least before the expiration of the time of service of the members of council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to congress; five of whom congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill or legislative act whatever shall be of any force without his assent. The governor shall have

The governor, legislative council, and house of representatives to make laws.

Governor's assent required to all laws.

power to convene, prorogue and dissolve the general assembly, when in his opinion it shall be expedient.

The governor, judges, legislative council, secretary and such other officers as congress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office; the governor be-

Oaths of fidelity to be taken by officers of government.

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fore the president of congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled, in one room, shall have authority, by joint ballot, to elect a delegate to congress, who shall have a seat in congress, with a right of debating, but not of voting during this temporary government.

Council & house of representatives to elect a delegate to congress &c.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions and governments, which forever hereafter shall be formed in the said territory; to provide also for the establishment of states, and permanent government therein, and for their admission to a share in the federal councils, on an equal footing with the original states, at as early periods as may be consistent with the general interest;

Preamble towards the basis of a future government.

It is hereby ordained and declared, by the authority aforesaid, That the following articles shall be considered as articles of compact between the original states, and the people and states in the said territory, and forever remain unalterable, unless by common consent; to wit.

Clause declaratory of the following articles of compact.

ARTICLE I.

No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.

For religious liberty.

ARTICLE II.

The inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to

Securing the benefit of hab. cor. trial by jury &c. &c.

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the course of the common law. All persons shall beailable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land; and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever interfere with, or affect private contracts or engagements, bona fide, and without fraud previously formed.

ARTICLE III.

Religion, morality and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall for ever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars, authorized by congress; but laws, founded in justice and humanity, shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

ARTICLE IV.

The said territory, and the states which may be formed therein, shall for ever remain a part of this confederacy of the United States of America, subject to the articles of confederation, and to such alterations therein as shall be constitutionally made;

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and to all the acts and ordinances of the United States in congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts contracted or to be contracted, and a proportional part of the expenses of

Fines to be moderate; no cruel or unusual punishments to be inflicted, &c.

No ex post facto laws to be made.

Education to be encouraged, and good faith to the Indians observed.

The territory and states to be formed therein, to remain a part of the union.

Subject to a proportion of the federal debt.

government, to be apportioned on them by congress, according to the same common rule and measure by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion, shall be laid and levied by the authority and direction of the legislatures of the district or districts or new states, as in the original states, within the time agreed upon by the United States in congress assembled. The legislatures of those districts or new states, shall never interfere with the primary disposal of the soil by the United States in congress assembled, nor with any regulations congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory, as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost, or duty therefor.

Not to interfere with the primary disposal of the soil by the U. States. U. States lands not to be taxed; nor those of non-residents higher than others. Waters declared common highways.

ARTICLE V.

There shall be formed in the said territory, not less than three, nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit. The western state in the said territory shall be bounded by the Mississippi, the Ohio and Wabash rivers; a direct line drawn from the Wa-

Not less than 3 nor more than 5 states to be formed. Their boundaries.

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bash and Post Vincents due north to the territorial line between the United States and Canada; and by the said territorial line to the lake of the Woods and Mississippi. The middle state shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the great Miami, to the said territorial line, and by the said territorial line. The eastern state shall be bounded by the last mentioned direct

Reserving to congress power to lay off one or two states more.

When sixty thousand inhabitants in a state, it shall be admitted into the union.
Proviso.

line, the Ohio, Pennsylvania, and the said territorial line. *Provided, however, and it is further understood and declared,* That the boundaries of these three states shall be subject so far to be altered, that if congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of lake Michigan. And whenever any of the said states, shall have sixty thousand free inhabitants therein, such state shall be admitted, by its delegates, into the congress of the United States, on an equal footing with the original states, in all respects whatever; and shall be at liberty to form a permanent constitution and state government. *Provided,* The constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than sixty thousand.

ARTICLE VI.

No slavery.

There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in punishment of crimes, whereof the party shall have been duly convicted. *Provided always,* That any person escaping into the same, from whom labor

Offenders escaping in-

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to other states may be reclaimed.

or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

Resolutions of the 23d April, 1784, repealed.

Be it ordained by the authority aforesaid, That the resolutions of the twenty-third of April, one thousand, seven hundred and eighty-four, relative to the subject of this ordinance be, and the same are hereby repealed, and declared null and void.

DONE by the United States, in congress assembled, the thirteenth day of July, in the year of our Lord, one thousand, seven hundred and eighty-seven, and of their sovereignty and independence the twelfth.

WILLM. GRAYSON, *Chairman.*

CHARLES THOMSON, *Secretary.*

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CONSTITUTION
OF THE
UNITED STATES.

WE, the PEOPLE of the United States, in order to form a more PERFECT UNION, establish JUSTICE, insure DOMESTIC TRANQUILITY, provide for the COMMON DEFENCE, promote the GENERAL WELFARE, and secure the BLESSINGS of LIBERTY to OURSELVES and our POSTERITY, DO ORDAIN and ESTABLISH THIS CONSTITUTION, for the UNITED STATES of AMERICA.

ARTICLE I.

SEC. 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

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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 chuse three; Massachusetts eight; Rhode-Island and Providence Plantation 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 chuse 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.

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The senate shall chuse 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 places of choosing senators.

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

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 authorised to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

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

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as

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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 arrest during their attendance at the session of their respective houses, and in going to or returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

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 reconsider it. If, after such reconsideration, 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 reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all

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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 repassed 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 an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.

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

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

To establish post offices and post roads;

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

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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 the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards and other needful buildings:—And

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or 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

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imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

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

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

No tax or duty shall be laid on articles exported from any state. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from one state, be obliged to enter, clear or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of 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

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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.

SEC. 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, than the house of representatives shall immediately chuse by ballot one of them for president; and if no person have a majority, than from the five highest on the list the said house shall in like manner chuse the president. But in chusing 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,

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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 chuse from them, by ballot, the vice-president.

The congress may determine the time of chusing 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 accord-

ingly, 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 encreased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enters 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

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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 informa-

tion 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.

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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 ordain and establish. The judges, both of the supreme and inferior court, 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 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 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.

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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 juris-

diction 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

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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.

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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.

<i>New-Hampshire,</i>	{	John Langdon, Nicholas Gilman.
<i>Massachusetts,</i>	{	Nathaniel Gorham, Rufus King.
<i>Connecticut,</i>	{	William Samuel Johnston. Roger Sherman.
<i>New-York,</i>	{	Alexander Hamilton.
<i>New-Jersey,</i>	{	William Livingston, David Brearly, William Paterson, Jonathan Dayton.

Pennsylvania, { Benjamin Franklin,
Thomas Mifflin,
Robert Morris,
George Clymer,
Thomas Fitzsimons,
Jared Ingorsol,
James Wilson,
Gouverneur Morris.

Delaware, { George Reed.
Gunning Bedford, junior,
John Dickinson,
Richard Basset,
Jacob Broom.

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Maryland, { James M'Henry,
Daniel of St. Thomas Jenifer,
Daniel Carroll.

Virginia, { John Blair,
James Madison, junior.

North-Carolina, { William Blount,
Richard Dobbs Spaight,
Hugh Williamson,

South-Carolina, { John Rutledge,
Charles Cotesworth Pinckney,
Charles Pinckney,
Pierce Butler.

Georgia, { William Few,
Abraham Baldwin.

Attest, William Jackson, *Secretary.*

CONGRESS of the UNITED STATES,

BEGUN AND HELD AT THE CITY OF NEW-YORK, ON WEDNESDAY,
THE FOURTH OF MARCH, ONE THOUSAND, SEVEN HUNDRED
AND EIGHTY-NINE.

The conventions of a number of states, having, at the time of their adopting the constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added; and, as extending the ground of public confidence in the government, will best insure the beneficent ends of its institution,

RESOLVED by the senate and house of representatives of of the United States of America, in congress assembled, two thirds of both houses concurring, That the following articles be proposed to the legislatures of the several states, as amendments to the constitution of the United States, all or any of which articles, when ratified by three fourths of the said legislatures, to be valid to all intents and purposes, as part of the said constitution, viz.

Article in addition to, and amendment of, the constitution of the United States of America, proposed by congress, and ratified by the legislature of the several states, pursuant to the fifth article of the original constitution.

ARTICLE I.

After the first enumeration required by the first article of the constitution, there shall be one representative for every thirty thousand until the number shall amount to one hundred; after which the proportion shall be so regulated by congress, that there shall be not less than one hundred representatives, nor less than one representative for every forty thousand persons, until the number of representatives shall amount to two hundred; after which the proportion shall be so regulated by congress, that there shall be not less than two hundred representatives, nor more than one representative for every fifty thousand persons.

ARTICLE II.

No law varying the compensation for the services of the senators and representatives, shall take effect until an election of representatives shall have intervened.

ARTICLE III.

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

ARTICLE IV.

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.

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ARTICLE V.

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 manner to be prescribed by law.

ARTICLE VI.

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

ARTICLE VII.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty or

property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VIII.

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

ARTICLE IX.

In suits at common law, where the value in controversy

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

ARTICLE X.

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

ARTICLE XI.

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

ARTICLE XII.

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.

FREDERICK AUGUSTUS MUHLENBERG,

Speaker of the House of Representatives.

JOHN ADAMS, *Vice-President of the United States,*
and *President of the Senate.*

Attest. { JOHN BECKLEY, *Clerk of the House of Representatives.*
SAMUEL A. OTIS, *Secretary of the Senate.*

NOTE—The ten last articles of amendments have been adopted by three-fourths of the legislatures of the several states in the union, and are become a part of the constitution of the United States. The two first articles have not been adopted.

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AN ACT

Respecting FUGITIVES from JUSTICE, and PERSONS escaping from the SERVICE of their MASTERS.

SEC. 1. **B**E it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the executive authority of any state in the union, or of either of the territories north-west or south of the river Ohio, shall demand any person a fugitive from justice, of the executive authority of any such state or territory to which such person shall have fled, and shall moreover produce the copy of an indictment found, or an affidavit made before a magistrate of any state or territory as aforesaid, charging the person so demanded, with having committed treason, felony or other crime, certified as authentic by the governor or chief magistrate of the state or territory from whence the person so charged fled, it shall be the duty of the executive authority of the state or territory to which such person shall have fled, to cause him or her to be arrested and secured, and notice of the arrest to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall appear. But if no such agent shall appear within six months from the time of the arrest, the prisoner may be discharged. And all costs or expenses incurred in the apprehending, securing, and transmitting such fugitive to the state or territory making such demand, shall be paid by such state or territory.

SEC. 2. *And be it further enacted,* That any agent appointed as aforesaid, who shall receive the fugitive into his custody, shall be empowered to transport him or her to the state or territory from which he or she shall have fled. And if any per-

Fugitives
from justice
how to be
apprehended
and secured.

Penalty on
persons res-
cuing them

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son or persons shall by force set at liberty, or rescue the fugitive from such agent while transporting, as aforesaid, the person or persons so offending shall, on conviction, be fined not exceeding five hundred dollars, and be imprisoned not exceeding one year.

SEC. 3. *And be it also enacted*, That when a person held to labor in any of the United States, or in either of the territories on the north-west or south of the river Ohio, under the laws thereof, shall escape into any other of the said states or territory, the person to whom such labor or service may be due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labor, and to take him or her before any judge of the circuit or districts courts of the United States residing or being within the state, or before any magistrate of a county, city or town corporate, wherein such seizure or arrest shall be made, and upon proof to the satisfaction of such judge or magistrate, either by oral testimony or affidavit, taken before and certified by a magistrate of any such state or territory, that the person so seized or arrested, doth, under the laws of the state or territory from which he or she fled, owe service or labor to the person claiming him or her, it shall be the duty of such judge or magistrate, to give a certificate thereof to such claimant, his agent or attorney, which shall be sufficient warrant for removing the said fugitive from labor, to the state or territory from which he or she fled.

Proceedings to be had on escape of persons held to labor.

SEC. 4. *And be it further enacted*, That any person who shall knowingly and willingly obstruct or hinder such claimant, his agent or attorney in so seizing or arresting such fugitive from labor, or shall rescue such fugitive from such claimant, his agent or attorney when so arrested pursuant to the authority herein given or declared; or shall harbor

Penalty on obstructing claimants of fugitives from labor.

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or conceal such person after notice that he or she was a fugitive from labor, as aforesaid, shall for either of the said offences, forfeit and pay the sum of five hundred dollars. Which penalty may be recovered by and for the benefit of such claimant, by action of debt, in

any court proper to try the same; saving moreover to the person claiming such labor or service, his right of action for or on account of the said injuries or either of them.

JONATHAN TRUMBULL, *Speaker
of the House of Representatives.*

JOHN ADAMS, *Vice-President of the United
States, and President of the Senate.*

APPROVED, February twelfth, 1793.

GEORGE WASHINGTON,
President of the United States.

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