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Nb; Nc-L; NV; RPL; WHi; BrMus.

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# REVISED CODE OF LAWS,

*W. Harris* OF

ILLINOIS,

CONTAINING THOSE OF A GENERAL AND PERMANENT NATURE PASSED BY THE SIXTH GENERAL ASSEMBLY, AT THEIR SESSION HELD AT VANDALIA, COMMENCING ON THE FIRST MONDAY OF DECEMBER, 1828; AND THOSE ENACTED PREVIOUS THERETO, AND ORDERED BY THE SAID GENERAL ASSEMBLY TO BE RE-PUBLISHED.

*Order by B. Vinyard's Book*

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PUBLISHED IN PURSUANCE OF LAW.

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SHAWNEETOWN, ILL.

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1829

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STATUTE LAWS  
OF THE  
**STATE OF ILLINOIS,**

REVISED AND PUBLISHED UNDER THE DIRECTION AND AUTHORITY OF THE GENERAL ASSEMBLY.

**APPROPRIATIONS.**

AN ACT MAKING APPROPRIATIONS FOR THE YEARS  
1829 AND 1830.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That the sum of four thousand state paper dollars, and two thousand specie dollars, is hereby set apart and appropriated as a contingent fund, to meet the contingent expenses of the state for the years one thousand eight hundred and twenty-nine, and one thousand eight hundred and thirty. The said contingent fund shall be subject to the order of the governor, for the payment of any expenses which may be necessary, and unforeseen by the Legislature, and for printing and distributing the laws and journals of the present General Assembly; a statement of which shall be laid before the next General Assembly, by the auditor, in his biennial report.

SEC. 2. There shall be paid to the speaker of the Senate, and of the House of Representatives, respectively, four dollars per day, for each day of the present session. To the members of the Senate, and House of Representatives, three dollars per day, for each day of the present session; and three dollars for every twenty miles travel, in going to, and returning from, the seat of government. To the secretary of the Senate, and principal clerk of the House of Representatives, respectively, five dollars per day, for each day of the present session. To the enrolling and engrossing clerks of the

IN FORCE 23d  
JANUARY,  
1829.

Contingent  
fund.

Subject to the  
order of the  
governor.

Statement to  
be laid before  
the next General  
Assembly.

Compensation to the  
speaker of the  
Senate, and of  
the House of  
Representatives.

To the members.  
To the officers.

Senate, and House of Representatives, respectively, four dollars per day. To the door-keepers of the Senate and House of Representatives, respectively, three dollars per day. And the said compensation, when due, to the officers and members of the Senate, as aforesaid, shall be certified by the secretary thereof, with the exception of his own compensation, which shall be certified by the speaker; and the compensation that may be due to the officers and members of the House of Representatives, shall be certified by the principal clerk thereof, and that of the clerk by the speaker; which said certificates, when made out, as aforesaid, shall be sufficient evidence to the auditor of each person's claim, respectively, who shall issue his warrant on the treasury for the amount such person shall be entitled to, as aforesaid, to be paid out of any moneys in the treasury, not otherwise appropriated. And the amount of money that has been drawn at the present session of the General Assembly, by the members and officers of this legislature, shall be charged to them by the auditor, at the same rate in the value of state paper, as is provided for by law, in cases of payments out of the treasury, hereafter to be made.

SEC. 3. The auditor of public accounts shall issue his warrant on the treasury, in favour of Isaac Morgan, for the sum of thirty-six dollars. And also, in favour of R. M. Young, Richard M. Young, Richard I. Hamilton, John Y. Sawyer, and Alexander F. Grant, the clerks employed by the joint committee on the revision of the statutes, the sum of one hundred state paper dollars each. To John D. Gorin the sum of thirty-five dollars for the use of his room for said committee. To the secretary of state, for clerk hire in copying and preparing the laws of the present session, and for a person to make marginal notes and an index to the same, four hundred state paper dollars. To Willis Hargrave, for money paid by him for advertising for leases and sales of metal, fourteen dollars and twenty-five cents. To William C. Jones, for surveying the situations for water-works in the Gallatin county saline reserve, twenty-four dollars. To Theophilus M. Nichols, for killing twelve wolves, the sum of twelve dollars, (the certificate of which has been lost.) To Justin Harlan the sum of three dollars per day, for his compensation in assisting the principal clerk in the discharge of his duties. To John B. E. Canal, for his services as assistant secretary to the Senate, three dollars per day. To William Carrigan and Alfred Cowles,

To be certified by the secretary of the Senate.

And the clerk of the House of Representatives.

Amount before drawn, to be charged at the rate provided for by law, in cases of payments hereafter to be made.

Appropriations to Isaac Morgan, R. M. Young, R. I. Hamilton, John Y. Sawyer, and A. F. Grant, J. D. Gorin,

Secretary of State,

Willis Hargrave,

W. C. Jones,

T. M. Nichols,

J. Harlan,

J. B. E. Canal,

W. Carrigan, A. Cowles,



APPROPRIATIONS.

four dollars each, per day, for each day they have been employed in assisting the engrossing and enrolling clerks of both Houses, at the present session. To James J. Black, Black, for stationary &c. for the use of the present General assembly, sixty-three dollars and forty-three and three-fourth cents, state paper dollars, and eighteen dollars in specie. To William Nichols, six dollars in state Wm. Nichols, paper, for administering the oaths of office to the members of the present General Assembly. To Benjamin B. P. Miller, P. Miller, twelve dollars and seventy two cents, state paper, for articles furnished the General Assembly.— To John Enochs, three dollars, for attending one day as J. Enochs, door-keeper to the Senate; and one dollar, state paper, for one bottle and ink furnished the Senate. To Thomas Redmond three dollars, for attending one day as door-keeper to the House of Representatives; and to Thom- T. Redmond, as Redmond four dollars, in state paper, for repairing the fire places, furnishing brick, &c., for the representatives' hall. To Robert Blackwell, for printing mes- R. Blackwell, sages, rules, reports, bills, &c., for the present General Assembly, the sum of one hundred and seventy-one dollars and sixty-three cents. To Thomas Ford the sum T. Ford, of three dollars per day, for acting as secretary to the council of revision, copying memorials, &c. The governor shall certify the number of days, upon which certify the auditor shall issue his warrant for the same. To Frederick Stull, for house rent for the sittings of the F. Stull, Supreme Court, eighteen dollars. To James Hall, The treasurer, treasurer, the sum of four hundred and seventy-five dollars, for clerk hire, for the years 1827 and 1828. To Robert K. Fleming, for printing bills &c. for the present R. K. Fleming, General Assembly, one hundred and fifty-four dollars and forty-five cents, state paper. To Benjamin P. Mil- B. P. Miller, ler two dollars and fifty cents, state paper, for articles furnished the General Assembly. To Sinn and Hankin Sinn and Hankin, thirteen dollars, state paper, for covering tables and desks, and other work done in the Senate Chamber and House of Representatives. To George Forquer, for G. Forquer, extra official duties, and for losses sustained by him in the purchase of stationary for the state, occasioned by the depreciation of state paper, two hundred dollars.— To the auditor of public accounts, for clerk hire for the The auditor, years 1827 and 1828, on account of an increase of duties, the sum of two hundred dollars, per annum; and The governor, also the sum of three hundred dollars, per annum, for judges, attorney general, clerk hire hereafter. And there shall be allowed to the and state's governor, the judges of the Supreme Court, the attorney attorneys,

## ATTACHMENTS.

general, and state's attorneys, severally, five per cent on the amount allowed by law for their services, for the years 1827 and 1828, as an indemnity for losses sustained by them, on account of the rate at which state paper has been paid out of the treasury. To the clerk of the House of Representatives, for furnishing a copy of the journals of said House for the press, two hundred and fifty state paper dollars. To the secretary of the Senate the sum of two hundred and fifty state paper dollars, for furnishing a copy of the journal of the Senate for the press. To the judges of the Supreme Court two hundred dollars each, for their services in revising the statutes, in conformity to the act of the Legislature, passed January 10, 1825.

Clerk of the House of Representatives,

Secretary of the Senate,

Judges of the S. Court.

Cashier of the Edwardsville branch bank.

SEC. 4. The cashier of the branch of the state bank at Edwardsville, is hereby authorized to retain, out of any moneys collected by him, the sum of one hundred and nine dollars, state paper, in full for house rent, and other incidental expenses of said bank, for the years 1827 and 1828.

[Approved, January 23, 1829.]



## ATTACHMENTS.

AN ACT TO AMEND AN ACT CONCERNING ATTACHMENTS,  
APPROVED, JANUARY 24, 1827.

IN FORCE  
JANUARY 16,  
1829.

Attachments may issue to several counties.

How served,  
and returned.

Lien.

Lien.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That where an attachment, either foreign or domestic, shall be issued out of any Circuit Court, in any county of this state, it shall be lawful for the plaintiff to cause an attachment to be issued to the sheriff of any other county of the state, where the debtor may have lands, tenements, or real estate; which attachment the sheriff, to whom the same may be directed, shall levy upon the lands, tenements, or real estate, of the debtor in such county, and shall make return of such writ to the Court issuing the same, in the same manner as though the suit had been commenced in the county where said lands are situate.

SEC. 2. All lands, tenements, or real estate, levied upon by attachment, shall be bound until the debt, upon which it issued, be paid.

SEC. 3. Judgment rendered upon attachment, shall create a lien upon all lands attached, as in other cases of judgments. In all cases of judgments upon attach-

ment, execution shall be first issued to the sheriff of the county wherein such judgment is rendered, and the sheriff shall proceed to sell all lands attached as aforesaid, in the same manner as is, or may be, provided for the sale of lands by the laws of this state. Should the lands in such county not be sufficient to pay the judgment, interests, and costs, then the plaintiff shall be entitled to an execution, directed to the sheriff of any other county, where lands of the debtor may have been attached, as aforesaid; and so on, from county to county, until the sales of the lands of the debtor, as aforesaid, shall pay and satisfy the judgment, interests, and costs, or until the whole of the lands attached shall be sold.

Execution first to the county where the judgment is rendered;

then to a foreign county.

SEC. 4. The clerk of the Court issuing such execution, as aforesaid, shall endorse upon each subsequent execution, the amount made by former sales, and the amount then due upon such execution.

Endorsement of amount made on former execution.

SEC. 5. The sheriff making such sales, as aforesaid, shall make, and execute to the purchaser, deeds for all lands, tenements, and real estate, sold by him, and shall acknowledge such deed before the clerk of the Circuit Court of the county where the lands are situate, and which deeds shall vest in the purchaser all the right, title, and interest, which the debtor had in such lands, tenements, or real estate.

Sheriff shall make deeds for lands sold.

SEC. 6. So much of the sixth section of the act, to which this is an amendment, as limits the amount for which an attachment may issue, is hereby repealed; and hereafter justices of the peace may issue an attachment on any sum under thirty dollars.

Part of former act repealed.

[Approved, January 16, 1829.]



BOUNDARY.

AN ACT ESTABLISHING THE LINE BETWEEN THE STATES OF ILLINOIS AND INDIANA.

IN FORCE, FEBRUARY 17, 1823.

WHEREAS, the general assembly of this state, at their second session, passed a law, entitled "an act providing for the running and marking the line dividing the states of Illinois and Indiana," approved, February 6, 1821, which made it the duty of the governor of this state, to appoint a commissioner on the part of the state,

to act with such commissioner as should be appointed by the governor of Indiana, for the purpose of adjusting, running and marking the line between the states aforesaid, from where a north line from Vincennes last leaves the north-west bank of the Wabash river; and whereas, it appears from the report of the said commissioners, communicated to this legislature by the governor of this state, that they have adjusted, run and marked said line: Therefore,

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the general assembly,* That the following be, and the same is hereby established, as the permanent line between the states of Illinois and Indiana, viz: commencing on the north, or north-west bank of the Wabash river, where a due north line from Vincennes, last crosses the said river, forty-six miles from Vincennes, at a mulberry post, forty links from the water's edge, from which a Sycamore tree, thirty-eight inches in diameter, bears north, seventy-one degrees west, twenty links, and a sycamore thirty inches in diameter, bears north eighty-four degrees east, thirty-nine links; thence north, commencing with a variation of six degrees and fifty minutes, changing the same frequently, as designated by the field notes, one hundred and fifty-nine miles and forty-six chains, to lake Michigan.

SEC. 2. That Guy W. Smith is hereby authorized and requested, to procure and have placed where the line dividing the states of Illinois and Indiana, last leaves the river Wabash, a hewn stone, of at least five feet in length and fifteen inches in diameter, and cause the following inscriptions to be made thereon, viz: on the west, "Illinois," on the east, "Indiana," and on the north, "159 miles and 46 chains to lake Michigan." And the auditor of public accounts is hereby required to issue his warrant on the treasurer, for any sum not exceeding one hundred dollars, upon the application of the said Guy W. Smith, for the purpose of defraying the expenses incurred in carrying into effect the provisions of this act.

[Approved, February 17, 1823.]

Line between  
Illinois and  
Indiana.

A stone to be  
placed where  
the said line  
leaves the  
Wabash river.

AN ACT TO ASCERTAIN AND SURVEY THE NORTHERN BOUNDARY  
 LINE OF THIS STATE. IN FORCE,  
 JANUARY 2,  
 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That it shall be the duty of the governor to appoint a commissioner on the part of this state, who, with such commissioner as may be appointed on the part of the United States, shall form a board to ascertain, survey and mark the northern boundary line of this state, as defined in the act of Congress, entitled "an act to enable the people of the Illinois territory to form a constitution and state government, passed the eighteenth of April, one thousand eight hundred and eighteen." And in case of the commissioner appointed under this act, failing from any cause to act, the governor shall appoint a commissioner to supply his place, until the object of the commission shall be accomplished.

Governor to appoint a commissioner  
 His duty,

SEC. 2. The said board of commissioners, shall have power to employ the necessary surveyors and labourers, and shall meet at such time and place, as may be agreed upon by the president of the United States and the governor of this state, and proceed to ascertain, survey and mark the said northern boundary line of this state, and report their proceedings to the president of the United States, and to the governor of this state; a copy of which, the governor shall lay before the General Assembly at the next session thereafter.

and power to employ surveyor, &c.  
 To report to the governor.

SEC. 3. The governor is hereby authorized and empowered to make a contract with said commissioner, for running said line, at any sum he may think reasonable and just, not exceeding five dollars per day, for his services, whilst necessarily engaged in running the same, besides such other compensation as he may think him reasonably entitled to, in going to and returning from the place of commencing the same. And after the work shall be completed, and certified to the governor, he shall certify to the auditor of public accounts, the amount to which said commissioner is entitled, who shall thereupon draw his warrant upon the treasurer, in favour of said commissioner, for the amount of his claim, and it shall be the duty of the treasurer, to pay the same out of any money in the treasury not otherwise appropriated. One half of the necessary expenses of said board, and of the surveyors and labourers, shall be paid from the treasury of this state, out of any money not

Contract with commissioner for his compensation  
 Expenses, how paid.

Auditor to draw his warrant.

otherwise appropriated; and the auditor shall draw his warrant upon the treasurer, in favour of said commissioner, when the time and place shall be agreed upon, between the president of the United States and the governor of this state, for the said commissioners to enter upon the duties imposed upon them by this act, for the sum of eight hundred dollars, for the purpose of defraying one half of the expenses of the board, surveyors and labourers: and if the same shall prove insufficient, the General Assembly to be held after the work shall be completed, shall make such further appropriation as they may deem just: if the appropriation aforesaid, shall be more than sufficient for the purposes aforesaid, the commissioner shall retain the same as a part of his compensation.

General Assembly to make further appropriations if necessary.

Balance, if any.

[Approved, January 2, 1829.]



## BRIDGES.

IN FORCE,  
MAY 1, 1829.

### AN ACT AUTHORIZING THE BUILDING OF CERTAIN BRIDGES.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly, That Allen Rudolph of White county, or his heirs, is hereby authorized to erect a toll bridge across the Little Wabash river, opposite the main street in the town of Carmi; and shall be authorized to place a toll gate at either end of said bridge, and receive the toll for passing the same, herein allowed, for the term of thirty years, upon his complying with the provisions of this act.*

SEC. 2. The said Allen Rudolph, or his heirs, shall commence the building of said bridge, within one year, and shall complete the same within two years from the passage of this act: *Provided*, that it shall not be so constructed, as to obstruct the navigation of said river, by flat boats or keel boats: *Provided further*, that the said Rudolph, or his heirs, shall, before he commences the building of the bridge aforesaid, execute and deliver to the county commissioners court of White county, a bond, with two or more good securities, to be approved of by said court, payable to the county of White, in such penalty as said court shall direct, conditioned, that

Toll bridge across the Little Wabash at Carmi.

To be completed within two years.

Bond to be executed.

he will erect and build said bridge, and keep the same in repair, according to the provisions of this act.

SEC. 3. The said Rudolph, or his heirs, shall at all times keep such bridge in good repair, and allow a speedy passage to all persons and their property, over it, upon the receipt of the toll: *Provided*, that the destruction of said bridge by fire, high water, or any other unavoidable accident, shall not work a forfeiture of the bond, but the said Rudolph shall immediately repair the same. Bridge to be kept in repair.

SEC. 4. The rates of toll for passing over said bridge: Tolls allowed.  
 for each four wheel carriage, with four or more horses or oxen, thirty-seven and a half cents; four wheel carriages, with two or more horses or oxen, twenty-five cents; dearborn waggon or gig, by one horse, twelve and a half cents; man and horse, six and a fourth cents; cart and horse or oxen, twelve and a half cents; each footman, three cents; loose horse, ox, or cow, two cents each; each hog, sheep, or goat, one cent: *Provided*, that every person crossing said bridge, shall be required to make change, in all cases where the toll shall amount to less than six and a fourth cents, or shall pay that sum.

SEC. 5. If the said Rudolph shall neglect or refuse to comply with the provisions of this act, within five months from the passage thereof, any other person shall be entitled to all the rights and benefits granted to the said Rudolph, and subject to all the conditions imposed upon him. To comply with the provisions of the act within five months.

SEC. 6. Any person who will comply with the requisitions of the foregoing sections shall be authorized to erect a toll bridge across the Skillet Fork, where the state road, leading from Vandalia to Carmi, crosses the same; and shall receive the same toll, have the right thereof secured to him and his heirs, for the same time, and shall be subject to the same conditions as are imposed upon the said Allen Rudolph, in all respects whatever. Any person complying with the requisitions of this act, may erect a toll bridge across the Skillet Fork. Tolls allowed

SEC. 7. The toll bridges hereby authorized to be erected, are hereby declared to be toll bridges within the meaning of the act "to provide for the establishment of ferries, toll bridges and turnpike roads," approved 12th February, 1827. And the persons who may erect the bridges, or either of them, shall be subject to all of the conditions imposed upon the owners or occupiers of toll bridges by that act: *Provided*, that the rights and privileges granted by this act, shall remain inviolate. This act to take effect on the first day of May next. *[Approved, January 20, 1829.]* Persons erecting said bridges, subject to conditions imposed by act 12th Feb. 1827. Proviso.

## CANALS.

IN FORCE, AN ACT TO PROVIDE FOR CONSTRUCTING THE ILLINOIS AND MICHIGAN CANAL.  
 JANUARY 22,  
 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That the governor shall biennially nominate, and, by and with the advice and consent of the Senate, appoint three commissioners, whose duty it shall be to consider, devise, and adopt, such measures as may be required to facilitate and effect the communication, by means of a canal and locks, between the navigable waters of the Illinois river and lake Michigan. And in case of the death, resignation, or refusal to act, during the recess of the Legislature, of either of said commissioners, the vacancy thereby occasioned shall be filled by the governor.

SEC. 2. The said commissioners shall choose one of their number to be president of the board, and shall appoint some suitable person, or persons, to be their secretary and treasurer, who shall be allowed, and paid quarter yearly, such compensation, out of the canal fund, as the said commissioners shall deem reasonable and just. And the president of the board shall have power to call a meeting of the commissioners, whenever, in his opinion, the public interest requires it; or a majority of the commissioners may request it. And the said board may adjourn, from time to time, to meet at any time or place they may deem most conducive to the public good.— And the said commissioners shall have power to employ such agents, engineers, surveyors, draftsmen, and other persons, as in their opinion may be necessary, to enable them to fulfil and discharge the duties imposed upon them by this act; and to pay them such compensation for their services as they may think them justly entitled to: *Provided*, that if the government of the United States furnishes an engineer, it shall be the duty of the said commissioners to accept of his services, for the purposes contemplated by this act.

SEC. 3. It shall be the duty of the said canal commissioners, before they enter upon the discharge of the duties imposed upon them by this act, to take an oath, well and faithfully to execute the duties of their office, and severally to enter into bond to the people of the state of Illinois, to be approved by the governor, with at least two good and sufficient securities, in the penal sum of twenty thousand dollars, faithfully to account for all moneys that may come into their hands, by virtue of their

Three commissioners shall be appointed.

Vacancies.

President of the board.  
 Secretary and treasurer.

Meetings, how called.  
 Adjournments.

Agents, engineers, &c.

U. S. engineer.

Commissioners shall take an oath, and give bond;



office; and they shall respectively receive as a compensation for their services, three dollars per day, for each day they may be necessarily engaged in discharging the duties imposed by this act, out of the canal fund, and the treasurer shall pay the same.

SEC. 4. The treasurer, before entering upon the discharge of the duties of his office, shall take an oath, well and faithfully to execute the duties of treasurer; and shall enter into bond, with two or more good and sufficient securities, to the canal commissioners, to be approved by them, conditioned for the faithful discharge of all the duties imposed on him by this act, or shall hereafter be imposed upon him by law, and to account faithfully for all sums of money and effects that may come to his hands, as treasurer. And it shall be the duty of the canal commissioners, whenever the money in the possession of the treasurer, or to be received by him, shall exceed the sum in which he shall have given bond, to require him to give additional bond, with additional security, sufficient to cover the amount received, or to be received, by said treasurer; and for failure to give such bond, or for any culpable neglect of duty, said commissioners may remove him from office, and may appoint another in his place.

their compensation.

Treasurer shall take an oath, and give bond;

additional security.

Removal of treasurer from office.

SEC. 5. It shall be the duty of the canal commissioners, as soon as practicable after the passage of this act, to cause those parts of the territory of this state which lie upon, or contiguous to, the probable course or range of said canal, to be explored and examined for the purpose of fixing and determining the most eligible and proper route for the same; and to cause all necessary surveys and levels to be taken, and accurate maps, field books, and drafts thereof to be made; and as soon thereafter as they may be able to command sufficient funds, and deem it expedient, shall commence the work, by opening a canal, and constructing locks, aqueducts, dams and embankments, to effect a navigable communication between lake Michigan and the Illinois river.

Duty of the commissioners to fix the route of the canal.

Surveys, and levels, maps, &c.

Work, when to commence.

SEC. 6. The canal commissioners shall select, or cause to be selected, as soon as practicable, in conjunction with such commissioner as shall be appointed by the commissioner of the general land office, under the direction of the president of the United States, the alternate sections of land granted to this state by the provisions of an act of Congress, entitled "An act to grant a quantity of land to the state of Illinois, for the purpose of aiding her in opening a canal to connect the wa-

Alternate sections, when selected.

ters of the Illinois river with those of lake Michigan; approved 2nd March, 1827. And if no commissioner shall be appointed on the part of the General government, the said commissioners, or either of them, shall proceed to make such selection; and shall, without delay, forward to the governor a duplicate copy of the list containing the numbers of each section by him or them selected, who shall forward a copy of the same to the commissioner of the general land office.

The governor  
&c. shall be  
furnished  
with a list.

Notice, and  
sale of land.

SEC. 7. As soon as said lands shall have been selected, and a duplicate list thereof furnished as aforesaid, it shall be the duty of said commissioners to give the necessary public notice, and proceed to sell the same, at any place, either in this state or elsewhere, as they may think best, in half quarter sections, quarter or fractional sections. The sale shall be conducted in the same manner, and the land sold upon the same terms and conditions, in all respects, as the lands of the United States are now sold. Any or either of said commissioners may superintend said sales, and the treasurer shall have the same power, and perform the same duties, in the disposal of said lands, that are exercised by the receivers of public moneys of the United States. And it shall be the duty of the said superintending commissioner, or

Certificate of  
purchase.

commissioners, to grant to the purchaser, or purchasers, a certificate of purchase, containing a description of the number of acres purchased, and the price for which the same was sold; duplicates of all which said commissioner, or commissioners, shall forward to the auditor of public accounts, who shall record the same. And the person holding such certificate, shall, upon presenting the same to the governor, receive a patent for the land described in the same, signed by the governor, and countersigned by the secretary of state, with the seal of the state annexed thereto. The said commissioners shall have power to lay off such parts of said donation into town lots, as they may think proper; and to sell the same at public sale, in the same manner as is provided in this act for the sale of other lands. No sale shall be made otherwise than for cash. No land shall be sold at private sale, until the same shall have been offered at public sale.

Duplicate for-  
warded to the  
auditor.

Patents.

Town lots.

Sales to be  
for money.

Treasurer to  
keep an office.

SEC. 8. The treasurer at all times (except the times of public sale) shall keep an office open at some point on the route of said canal, at which persons may enter any of the lands included within the said donation, at one dollar and twenty-five cents per acre, in cash, in the

same manner in which lands may be entered in any of the land offices of the United States. And at all such private sales the treasurer shall grant a certificate of purchase to the purchaser, containing a description of the quantity of land, and the price for which the same was sold; upon presenting which to the governor, the party shall be entitled to receive a patent for the same, as above provided. It shall be the further duty of the treasurer to make entries of all sales of lands made by him, in a book, or books, to be kept by him for that purpose, containing a faithful description of the quantity of acres, in each tract sold by him, and the price at which the same was sold, and shall make monthly returns thereof to the auditor of public accounts.

Certificate of purchase at private sale

Books, and entries therein

Monthly returns

SEC. 9. It shall be the duty of the commissioners (a majority of whom may act in all cases whatever) to draw upon the treasurer in favor of all persons to whom the board may become indebted; and said treasurer shall pay out no money except upon the order of said commissioners, or as is herein expressly provided for; and he shall take receipts therefor. Duplicates of all orders shall be kept by said commissioners, and it shall be the duty of said commissioners, and treasurer, to furnish duplicates of all orders and receipts, and a complete and detailed statement of the amount of sales and receipts, the quantity of land sold, the prices for which the same was sold, and of all their proceedings, to each called, or regular, session of the General Assembly, accompanied with such plans, remarks and observations, as they may be enabled to make, respecting the further progress and execution of said work.

Drafts on the treasurer

Payments thereof

And detailed statements to the General Assembly

SEC. 10. Said commissioners may sue and be sued, and defend in the name of "The Board of Commissioners of the Illinois and Michigan canal." And to enable said commissioners to accomplish the object herein contemplated, it shall be lawful for them to enter, and take of, and use, any lands, waters, and streams, necessary for the prosecution of the works intended by this act.

Commissioners may sue or be sued

Their power over private property

SEC. 11. The canal contemplated by this act, shall have the following dimensions, to-wit: At least forty feet in width at the summit water line, twenty eight feet wide at the bottom, and of sufficient depth to contain at least four feet water. And it shall be furnished with such locks, aqueducts, and dams, as may be required to insure a safe and convenient navigation for boats of at

Dimensions of the canal

Reasonable  
expenses, how  
paid

least seventy-five feet long, thirteen feet six inches wide, and drawing three feet of water. The reasonable expenses incurred by said commissioners, in carrying the provisions of this act into effect, shall be paid out of the funds arising from the sales of the aforesaid lands.

*Approved, January 22, 1829,*



CENSUS.

IN FORCE,  
JANUARY 13,  
1829.

AN ACT TO PROVIDE FOR THE TAKING OF THE CENSUS, OR  
ENUMERATION OF THE INHABITANTS OF THE STATE.

Person to be  
appointed to  
take the cen-  
sus

What persons  
shall be enu-  
merated,

and how they  
shall be dis-  
tinguished

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That the county commissioners' court of each county in this state, shall, at their June term, in the year of our Lord one thousand eight hundred and thirty, and at their June term, in every fifth year thereafter, appoint some competent person as commissioner, to take an enumeration of the inhabitants of such county, and also of such unorganized county or counties, or district of country, as may be attached thereto, omitting in such enumeration, Indians not taxed, and distinguishing free white persons from free persons of colour, and the French negroes and mulattoes held in bondage, from such as are indentured or registered, or born of indentured or registered parents; and also distinguishing the sexes in each of said classes, in separate and distinct columns; and also, by dividing the free white population, and setting down in separate and distinct columns, according to the form herein prescribed, such as are of ten years of age and under; over ten, and not exceeding twenty years; over twenty, and not exceeding thirty years; over thirty, and not exceeding forty years; over forty, and not exceeding fifty years; over fifty, and not exceeding sixty years; over sixty, and not exceeding seventy years; over seventy, and not exceeding eighty years; over eighty, and not exceeding ninety years, and all such as are exceeding ninety years; and also distinguishing, in a separate column, such free male white persons, between the ages of eighteen and forty-five years, as shall be subject to militia duty, either as officers or militia men. And it shall be the further duty of the commissioners, to be ap-

appointed as aforesaid, to ascertain, and set down with the enumeration as aforesaid, the number and description of all manufactories, mills, machines and distilleries, within their respective counties, and the counties and districts of country thereto attached, as aforesaid, specifying the different kinds thereof. And the said enumeration shall be made by an actual enquiry at each dwelling house, or from the head of each family, when the same can be conveniently done, or otherwise, from the best information that can be obtained, where there shall be no fixed place of residence, or the head of such family, or other person to be included in such enumeration, shall be absent from the county or state.

Manufactoryes and mills &c

Enumeration to be made by actual enquiry

SEC. 2. The enumeration shall commence on the first Monday in September, in the year of our Lord one thousand eight hundred and thirty, and on the first Monday in September, every fifth year thereafter, and shall close within three calender months thereafter. And each person or commissioner so appointed, before he enters upon the duties required to be performed by this act, shall take an oath (or affirmation) before some judge, or justice of the peace of the county, as follows: "I, A B, do solemnly swear (or affirm) that I will make a just and perfect enumeration and description of all persons resident within the county of \_\_\_\_\_ and state of Illinois, (and the county or counties, or district of country thereto attached, if any) and perform all other duties required of me, by the act entitled "an act to provide for the taking of the census, or enumeration of the inhabitants of the state of Illinois," according to the best of my knowledge and abilities: so help me God."

When to commence

Oath of commissioner

SEC. 3. The several commissioners appointed under this act, from time to time, shall, on or before the first Monday in December next, after such enumeration shall be taken, transmit to the clerk of the circuit court of the proper county, and to the office of the secretary of state, accurate returns of all such inhabitants as aforesaid, and of all such manufactories, mills, machines and distilleries, as aforesaid, and shall also make out and transmit to the adjutant general of this state, a certified statement of the number of all persons subject to militia duty as aforesaid; which returns, with the exception of that to be made to the adjutant general, shall be made and certified according to the following form, to wit: "I, A B, commissioner for taking the census, or enumeration of the inhabitants of the county of \_\_\_\_\_ (and the attached parts thereof, if any) do hereby certify, that

Returns, when to be made

Form thereof

the schedule hereto annexed, contains an accurate statement of the whole number of persons resident in the said county of——— (and the attached parts thereof, (if any) together with the number and kinds of manufactories, mills, machines and distilleries (if any) therein, so far as I have been able to ascertain the same. Witness my hand, this      day of      A. D. 18—

A B, Commissioner.”

*Census, or enumeration of the inhabitants of the county of——— (and the attached parts thereof, if any) for the year of our Lord one thousand eight hundred and*

|  |            |                            |
|--|------------|----------------------------|
| Of ten years, and under.   | 1st class  | Free white male persons.   |
| Over ten, and not exceeding twenty years.                            | 2d class   |                            |
| Over twenty and not exceeding thirty years.                          | 3d class   |                            |
| Over thirty, and not exceeding forty years.                          | 4th class  |                            |
| Over forty, and not exceeding fifty years.                           | 5th class  |                            |
| Over fifty and not exceeding sixty years.                            | 6th class  |                            |
| Over sixty, and not exceeding seventy years.                         | 7th class  |                            |
| Over seventy, and not exceeding eighty years.                        | 8th class  |                            |
| Over eighty, and not exceeding ninety years.                         | 9th class  |                            |
| Over ninety years.   | 10th class |                            |
| Of ten years, and under.   | 11th class | Free white female persons  |
| Over ten, and not exceeding twenty years.                            | 12th class |                            |
| Over twenty, and not exceeding thirty years.                         | 13th class |                            |
| Over thirty, and not exceeding forty years.                          | 14th class |                            |
| Over forty, and not exceeding fifty years.                           | 15th class |                            |
| Over fifty, and not exceeding sixty years.                           | 16th class |                            |
| Over sixty, and not exceeding seventy years.                         | 17th class |                            |
| Over seventy, and not exceeding eighty years.                        | 18th class |                            |
| Over eighty, and not exceeding ninety years.                         | 19th class |                            |
| Over ninety years.   | 20th class |                            |
| Free male persons of colour, of all ages.                            | 21st class | Negroes and mulattoes.     |
| Free female persons of colour, of all ages.                          | 22d class  |                            |
| Indentured or registered servants, and their children.               | 23d class  |                            |
| French negroes and mulattoes, held in bondage.                       | 24th class |                            |
| <b>GRAND TOTAL.</b>  |            | <b>Total.</b>              |
| Persons over 18, and under 45 years of age, subject to militia duty. |            | militia                    |
| Manufactories, Mills, Machines and Distilleries.                     |            | manu-<br>facto-<br>ries &c |

SEC. 4. It shall be the duty of each commissioner, when taking any enumeration, as aforesaid, to set down the number of all persons, under each appropriate head, or description, according to the foregoing classification; including, also, each person subject to militia duty, as aforesaid, under classes numbered two, three, four and five, according to their several ages, and likewise in one separate column, as aforesaid, and to sum up at the foot of each column the whole number of persons therein set down, and afterwards the whole number included in the classes numbered from one to twenty-four, and extend the aggregate at the foot of a separate column, as the grand total thereof.

Militiamen,  
how to be  
classed

Aggregates

SEC. 5. Each commissioner failing or neglecting to make proper returns, as aforesaid, or making a false return of the enumeration to the clerk of the Circuit Court of the county, to the secretary of state, and adjutant general, within the time limited by this act, shall forfeit the sum of three hundred dollars, recoverable in the Circuit Court of the county where such offence shall have been committed, by action of debt, information, or indictment, the one half thereof to the use of the informer, and the other half to the county. And for the more effectual discovery of said offences, the judges of the several Circuit Courts, in this state, at their next term to be held after the expiration of the time allowed for making the returns of the enumeration hereby directed, shall give this act in charge to the grand juries in their respective counties, and shall cause the returns of the commissioner to be laid before them, for their inspection.

Negligence of  
commissioner

How punish-  
ed

This act to be  
given in  
charge to the  
grand jury

SEC. 6. Each person, whose usual place of abode shall be in any family, on the said first Monday in September, in the year of our Lord one thousand eight hundred and thirty, and on the first Monday in September every fifth year thereafter, shall be returned with the members of such family; and the name of every person who shall be an inhabitant of any county, or the attached part thereof, without any fixed place of residence, shall be inserted in the county in which he, or she, shall be on the said first Monday of September; and every resident person, who shall be absent from the county, or state, at the time of taking any such enumeration, shall be set down as belonging to the place where he, or she, usually resides in this state.

Further direc-  
tions to the  
commissioner

SEC. 7. Each free person, over the age of sixteen years, whether heads of families, or not, belonging to any family, within any county, made or established in

Person bound to disclose facts to commissioner  
 Penalty for not doing so  
 Recovery thereof

this state, shall be and hereby is obliged to render to the commissioner, appointed in said county, if required, a true account, to the best of his or her knowledge, of every person belonging to such family, respectively, according to the several descriptions aforesaid, on pain of forfeiting twenty dollars, to be sued for and recovered, by action of debt, by such commissioner, for the use of the proper county: *Provided*, that in all cases where any such fine shall be assessed against any minor, or minors, the same shall be paid by his, her, or their parent or guardian; and in case of his or her refusal to pay the same, an attachment may be issued to enforce the payment thereof.

Compensation to commissioner

SEC. 8. Each of said commissioners shall receive at the rate of two dollars for every hundred persons returned, for the first two thousand; at the rate of one dollar and seventy-five cents for each hundred persons returned, over two, and not exceeding three thousand; at the rate of one dollar and fifty cents for the fourth thousand; at the rate of one dollar and twenty-five cents for the fifth thousand; and at the rate of one dollar for each hundred, over and above five thousand; to be paid out of the state treasury, out of any monies not otherwise appropriated.

Duty of the secretary of state, and adjutant general

SEC. 9. The secretary of state shall receive and file such returns in his office, and return the same to the speaker of the House of Representatives, on or before the second day of the next session after such enumeration is made; and the adjutant general shall file the returns to be made to him of the number of persons subject to militia duty, as aforesaid, in his office; and shall immediately thereafter make out a statement of the whole number of such persons, and report the same to the secretary of the war department of the United States. This act to take effect from and after its passage.

*Approved, January 13, 1829.*



## CONVEYANCES.

AN ACT AUTHORIZING COURTS OF CHANCERY TO DECREE CONVEYANCES IN CERTAIN CASES.

IN FORCE,  
DECEMBER  
27, 1824.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That where any person or persons, who have heretofore entered, or may hereafter enter, into any contract, bond, or memorandum, in writing, to make a deed or title to land in this state, for a valuable consideration, and shall depart this life, or have died heretofore, without having executed and delivered said deed, it shall and may be lawful for any Court having chancery jurisdiction, in the proper circuit in which such case shall arise, to make decree compelling the executors or administrators of such deceased person to execute and deliver such deed to the party having such equitable right, as aforesaid, to the same, or his heirs, according to the true intent and meaning of said contract, bond, or memorandum, of the deceased; and all such deeds shall be good and valid in law.

SEC. 2. That it shall not be lawful for any Court to make such decree as aforesaid, except upon the petition in writing of the person entitled to the benefit of the same, or his heirs, setting forth the said contract, bond, or memorandum, in writing, and fully describing the lands to be conveyed; nor until the person or persons so applying for such title, shall have given reasonable notice of the time and place of such application, to the executors, administrators, and heirs, of such person so deceased as aforesaid, and shall have fully paid, discharged, and fulfilled, the consideration of such contract, bond, or memorandum, in writing, according to the true intent, tenor, and effect thereof.

SEC. 3. That in all cases where any minor heirs shall be interested in such proceeding, as aforesaid, reasonable notice of such application shall be given to the guardian or guardians of such minors; and if there shall be no guardian, then the said court shall appoint a guardian or guardians, to litigate and act in such case.

SEC. 4. That the executors, administrators, or heirs, of any deceased person or persons, who shall have made such contract, bond, or memorandum, in writing, as aforesaid, in his or her life time, for the conveyance of land, for a valuable consideration, when such consideration has been paid and fulfilled as aforesaid, may, upon

application in writing, obtain such decree as aforesaid, upon giving notice to the party to whom such deed is intended to be made, and under the same conditions as is provided in this act.

SEC. 5. That in all cases where application shall be made as aforesaid, the Court shall have power to continue the same from term to term, to obtain such evidence as the nature of the case shall require; and no decree for the conveyance of land, upon application as aforesaid, shall be made, unless the said Courts shall be satisfied that decree can be made without injustice to any heir or creditor of the deceased, and that the same is just and equitable.

SEC. 6. That a complete record of such petition and proceedings thereon shall be made, and the Court shall decree payment of costs as shall appear right and equitable.

This act to take effect and be in force from and after the passage thereof.

[Approved, December 27, 1824.]



IN FORCE,  
JANUARY 22,  
1829.

AN ACT TO AMEND THE ACT CONCERNING THE CONVEYANCE OF  
REAL PROPERTY, APPROVED, JANUARY 31, 1827,  
AND FOR OTHER PURPOSES.

Before whom  
deeds may be  
acknowledged

Justices of the  
peace to be  
certified as  
such

Living out of  
the state

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That all deeds and conveyances, of lands lying within this state, may be acknowledged or proved before either of the following named officers, to-wit: any judge or justice of the Supreme or District Court of the United States; any commissioner to take acknowledgments of deeds; any judge or justice of the Supreme, Superior, or Circuit Court, of any of the United States, or their territories; any clerk of a Court of Record; mayor of a city; or notary public: but when such proof or acknowledgment is made before a clerk, mayor, or notary public, it shall be certified by such officer, under his seal of office.— Such proofs and acknowledgments may also be made before any justice of the peace; but if such justice of the peace resides out of this state, there shall be added to the deed a certificate of the proper clerk, setting forth

that the person before whom such proof or acknowledgment was made, was a justice of the peace at the time of making the same. If such justice of the peace reside within this state, the certificate of the clerk of the county commissioner's Court, of the proper county, under his seal of office, that the person taking such proof, or acknowledgment, was a justice of the peace at the time of taking the same, shall be deemed sufficient evidence of that fact. If such justice reside within the county, where the lands conveyed are situate, no such certificate shall be required. All deeds and conveyances which have been, or may be, acknowledged or proved in the manner prescribed in this section, shall be deemed as good and valid in law, as if the same had been acknowledged or proved in the manner prescribed in the ninth section of the act to which this is an amendment.

Within the state

Within the county

SEC. 2. Any conveyance, or assignment, of certificates of the purchase of land sold for taxes by the auditor of public accounts, may be acknowledged before said auditor, and such acknowledgment shall be deemed good and valid.

Assignment of auditor's certificate.

SEC. 3. All residents of this state who shall have acquired, or may hereafter acquire, title to any lands in this state, which lands are not situate in the county, or counties, in which he, she, or they, may reside, may record the same in the state recorder's office, and such record shall be as valid as though the same were recorded in the county, or counties, where the lands, conveyed thereby, are situated. The sixth section of the "act establishing a recorder's office, for the state," is hereby repealed.

Residents' deeds may be recorded in the state recorder's office

SEC. 4. All deeds and conveyances of land lying within this state, which may be executed in this state, after the first day of June next, shall be recorded within six months after the execution of such deeds and conveyances, respectively; and if not recorded within that time, they shall be adjudged void as against any subsequent purchaser, or mortgagee, for valuable consideration, unless such deed or conveyance shall be recorded before the recording of the deed or conveyance under which such subsequent purchaser, or mortgagee, shall claim.

Deeds to be recorded within six months, or be void as against subsequent purchasers

This act to be in force, from and after its passage.

[Approved, January 22, 1829.]

## COUNTIES.

## AN ACT CREATING THE COUNTY OF MACOUPIN.

IN FORCE,  
JANUARY 17,  
1829.

|   |  |
|---|--|
| Boundaries  | <p>SEC. 1. <i>Be it enacted by the people of the state of Illinois, represented in the general assembly,</i> That all that tract of country within the boundaries, to-wit: beginning at the south west corner of township seven; north of range nine, west of the third principal meridian;— thence east, on the line dividing townships six and seven, to the south west corner of Montgomery county; thence due north to the southern boundary of Sangamon county; thence west on the southern boundary line of Sangamon and Morgan counties, to the range line dividing ranges nine and ten; thence south on said range line to the place of beginning; shall form and constitute a county, to be called Macoupin.</p>  |
| Name  | <p>SEC. 2. For the purpose of fixing the permanent seat of justice of said county, the following persons are</p>   |
| Commissioners appointed to locate the seat of justice | <p>appointed commissioners, to-wit: Seth Hodges, Joseph Borough, John Harris, Shadrach Riddick, and Ephraim Powers, who, or a majority of them, being first sworn before some justice of the peace, of this state, faithfully to take into consideration the convenience of the people, with an eye to the future population, and eligibility of the place, shall meet at the house of Joseph Borough, in said county of Macoupin, on the third Monday of March next, or within six days thereafter, and proceed to examine and determine on a place for the permanent seat of justice of said county: <i>Provided</i> the commissioners aforesaid shall locate the seat of justice on public land, they shall designate the same, and certify to the county commissioners of said county, as soon as they shall be qualified to office, the half quarter or quarter section of land so selected for said county seat; and it shall be the duty of the said county commissioners, as soon thereafter as they may be enabled, to enter the same in the land office of the district in which the same may be situated, and they shall immediately thereafter lay off the same, or any part thereof, into town lots, and sell the same on such terms and conditions as may be most advantageous to the interest of said county; and the proceeds of the sales shall be appropriated to the erection of a sufficient court-house and jail. But if the said commissioners, appointed to locate said seat of justice, should locate the same on the lands of any person, or persons, and such proprietor, or proprietors, should</p> |
| Their oath  |  |
| Where to meet and how to proceed                      |  |
| Donation  |  |

refuse or neglect to give to the county, for the purpose of erecting public buildings for the use of said county, a quantity of land not less than twenty acres, situated and lying in a square form, to be selected by said commissioners, then, and in that case, the said commissioners shall proceed to select some other situation, as convenient as may be to the place first selected: *Provided*, the owner, or owners, of the land, shall make a donation of the like quantity, and for the purposes abovementioned. And the said commissioners, after having made such location, shall designate the same, and certify as aforesaid, to the next county commissioner's court, to be held in and for said county; and it shall be the duty of said county commissioners to demand and receive a title in fee simple, for the use of said county, for the donation of land as above stated, and to lay out the same into town lots, and sell the same, and appropriate the proceeds thereof as before mentioned; which place, when so fixed upon, shall be the permanent seat of justice of said county: all of which proceedings shall be entered of record on the books of the county Court. Town laid off

SEC. 3. Until public buildings shall be erected for the purpose, the courts shall be held at the house of Joseph Borough, in said county, or at such other place as the county commissioners may appoint. Courts, where held

SEC. 4. An election shall be held at the house of Joseph Borough, in said county, on the second Monday of April next, for one sheriff, one coroner, and three county commissioners, for said county, who shall hold their offices until the next general election, and until their successors are qualified; which said election shall be conducted, in all respects, agreeably to the provisions of the law regulating elections: *Provided*, that the qualified voters present may select from among themselves, three qualified voters to act as judges of said election, who shall appoint two qualified voters to act as clerks. Elections.

SEC. 5. It shall be the duty of the clerk of the Circuit Court of said county, to give notice, in writing, at least ten days previous to said election, to be held on the second Monday of April next, and in case there shall be no clerk in said county, it shall be the duty of any justice of the peace, residing in said county, and commissioned a justice of the peace for the county of Greene, to give notice of the time and place of holding said election. Notice thereof

SEC. 6. The citizens of the said county of Macoupin are entitled, in all respects, to the same rights and privileges of citizens Privileges of citizens

leges as are allowed to other citizens of other counties of this state.

SEC. 7. The commissioners appointed to locate the seat of justice of said county, shall receive one dollar and fifty cents per day, for each day by them necessarily spent in discharging the duties imposed on them by this act, to be paid out of the county treasury of said county; and the said commissioners shall give to the said seat of justice some appropriate name.

SEC. 8. The inhabitants of said county shall vote in all elections, for members of the General Assembly, in the same manner as they were authorized to do, before the passage of this act.

[Approved, January 17, 1829.]



IN FORCE  
JANUARY 19,  
1829.

AN ACT TO ESTABLISH A NEW COUNTY TO BE CALLED THE  
COUNTY OF MACON.

Boundaries

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That all that tract of country lying within the following boundaries, to wit: beginning at the south-west corner of section numbered eighteen, in township numbered fourteen north, of range numbered one east, of the third principal meridian; thence due north with the said third principal meridian line to the north-west corner of township numbered twenty north, of range numbered one east; thence due east with the line between townships numbered twenty and twenty-one north, to the north-east corner of township numbered twenty north, of range numbered six east; thence due south with the line between ranges numbered six and seven east, to the south-east corner of section numbered thirteen, in township numbered fourteen north, of range numbered six east; and from thence due west, along through the middle of townships numbered fourteen north, to the place of beginning, shall constitute a county, to be called the county of Macon; and the seat of justice therein, when located, shall be called the town of Decatur.

Name of the  
county seat

Com'rs to lo-  
cate the seat  
of justice

SEC. 2. For the purpose of locating the seat of justice of the said county of Macon, the following named persons are appointed commissioners, to wit: John Fleming, Jesse Rhodes and Easton Whitton, whose duty it shall be to meet at the house of James Ward, in

said county, on the first Monday in the month of April next, or within ten days thereafter, and after being duly sworn, before some justice of the peace of this state, faithfully and impartially to discharge the duties imposed upon them by this act, shall proceed to determine upon a place for the location of the said seat of justice, having due regard to the situation of the settlements, the convenience of the people, and the future population of said county.

SEC. 3. The said commissioners are hereby authorized, to locate the said seat of justice on the land of any person or persons, who may be the fee simple owners thereof, if the proprietor or proprietors of such land shall donate and convey, with covenants of general warranty, to the county commissioners, for the use of said county, a quantity of land not less than twenty acres, in a square or oblong form, upon which to erect the public buildings; or otherwise, the said commissioners may, in their discretion, locate the said seat of justice on any of the public lands in said county, as may seem to be most advantageous to the future interests of said county.

SEC. 4. As soon as said service shall be performed, the said commissioners shall make a report of their proceedings, under their proper hands and seals, to the first county commissioner's court, to be held in and for said county, designating particularly the place selected, and a description of the same. And if a situation on the public lands shall be preferred, after examination, as aforesaid, the half quarter or quarter section of land upon which the same may be located, shall be stated in said report, and in that event, it shall be the duty of the said county commissioners, as soon thereafter as they may be enabled, to enter and purchase the same, at the proper land office, in their respective names, as county commissioners, for the use of the county of Macon; all of which said proceedings, the county commissioner's court shall cause to be entered at large on their books of record.

SEC. 5. As soon as a suitable site shall have been selected for the seat of justice, and a report made thereof, as aforesaid, it shall be the duty of the county commissioners to cause such donation, or tract of land, (if public land should be selected) or so much thereof as they may deem advisable, to be laid off into lots, and sold upon such terms and conditions as may be considered most advantageous to the interests of the county, and the proceeds of such sales shall be applied to the erec-

And proceeds thereof, how applied

tion of a court house and jail, and such other public works as may be necessary for the use of said county. And as often as any lots shall be sold as aforesaid, it shall be the further duty of said county commissioners, to make conveyances for the same to the purchasers thereof, in their own names, as commissioners for and on behalf of said county.

Deeds to be made

Courts, where held

SEC. 6. Until public buildings shall be erected for the purpose, the courts shall be held at the house of James Ward, in said county.

Elections

SEC. 7. An election shall be held at the house of James Ward, on the second Monday of April next, for one sheriff, one coroner and three county commissioners, for said county, who shall hold their offices, respectively, until the next general election, and until their successors are qualified; which said election shall be conducted in all respects, agreeably to the provisions of the law regulating elections: *Provided*, that the qualified voters present, may elect from among their number, three qualified voters to act as judges of said election, who shall appoint two qualified voters to act as clerks.

Notice thereof

SEC. 8. It shall be the duty of the clerk of the circuit court, who may be appointed for said county, to give public notice, at least fifteen days previous to said election, of the time and place when and where the same will be held, and the officers to be elected thereat, and in case there shall be no clerk, it shall be the duty of the recorder, or any justice of the peace residing within the limits of said county, to give notice of the time and place of holding the same, as aforesaid.

Compensation to com'rs

SEC. 9. The commissioners appointed to locate the seat of justice, as aforesaid, shall receive the sum of one dollar and fifty cents per day, for each day by them necessarily consumed, in discharging the duties imposed on them by this act, to be allowed by the county commissioners' court, and paid out of the treasury of said county.

How classed with other counties to vote

SEC. 10. Until the next apportionment for members of the General Assembly shall be made, said county of Macon shall vote with the counties of Fayette, Bond, Montgomery, Shelby and Tazewell; and the clerk of said county of Macon shall meet the clerks of the said counties of Bond, Montgomery, Shelby and Tazewell, at Vandalia, the seat of justice of Fayette county, to compare the number of votes given for senator and representatives to the General Assembly, and sign the necessary certificates of election, at Vandalia, and deliver the same to the person or persons entitled thereto.



SEC. 11. The said county of Macon shall be, and is hereby attached to the first judicial circuit.

This act to take effect from and after its passage.

[Approved; January 19, 1829.]

Attached to the first circuit



AN ACT MAKING PROVISION FOR RUNNING THE LINE BETWEEN RANDOLPH AND MONROE COUNTIES; AND AUTHORIZING COUNTY COMMISSIONERS TO DIRECT THE RUNNING AND MARKING OF ANY COUNTY LINES WITHIN THIS STATE.

IN FORCE, JANUARY, 20, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That the county surveyors of Randolph and Monroe counties, be, and they are hereby, required to run and mark the line between said counties, beginning at the south east corner of township four south, nine west, and thence south westwardly to the Mississippi, so as to include Alexander Mc'Nab's farm, in Monroe county.

County surveyors of Randolph and Monroe to run the line between said counties

SEC. 2. The said surveyors, as soon as convenient, shall run and mark said line, and make out two fair plats thereof, with field notes, and return one of each to the respective county commissioners' courts of said counties; and it shall be the duty of the said courts to cause the same to be entered on the records of said courts, and also to pay to their respective surveyors a reasonable compensation for their services, out of the county treasury.

Plats to be recorded

Compensation to surveyors

SEC. 3. The said commissioners are hereby authorized to employ chain carriers, and whatever assistants are necessary, in running said line between said counties; and the expense thereof shall be borne, equally, by said counties of Randolph and Monroe, and paid as aforesaid.

Authorized to employ chain carriers, &c.

SEC. 4. The county commissioners of any county within this state, whenever they may deem it necessary to run and mark any county line, are hereby authorized to direct the same to be run by the county surveyor of said county, in conjunction with the county surveyor of the adjoining county, whose duty it shall be to assist in running said line, upon receiving notice that the same is

County commissioners may direct county lines to be run when necessary

directed to be run. And the said surveyors may employ chain carriers, and such other assistants as may be necessary, and the expenses thereof shall be paid, equally, by the respective counties interested. The report of the surveyors shall be made and recorded in the same manner as is provided in the second section of this act.

Surveyors' report to be recorded

[Approved, January 20, 1829.]



IN FORCE,  
JAN. 22, 1829.

AN ACT DEFINING THE SOUTHERN BOUNDARY LINES OF WAYNE AND EDWARDS COUNTIES, AND ESTABLISHING THE BOUNDARY LINES OF TAZEWELL COUNTY.

Southern boundary of Wayne and Edwards counties established

SEC. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That the following shall be the southern boundary of the counties of Wayne and Edwards: Beginning at the south west corner of section eighteen, township three south, range five east, and running thence east along the middle line of township three, to the south east corner of section thirteen, township three south, range nine east, for the county of Wayne; and from thence east along said line to the *Bonpas* creek, or the *Wabash* river, as the case may be, for the county of Edwards.

Boundary lines of Tazewell county

SEC. 2. The following shall be the boundary of the county of *Tazewell*, to-wit: Beginning at the north east corner of township twenty, north of the base line, and three east of the third principal meridian line; thence north with said range line, to the north line of township twenty-eight north; thence west to the middle of the Illinois river; thence down said river to the north line of township twenty north of the base line, and west of the third principal meridian; thence east with said township line to the place of beginning.

[Approved, January 22, 1829.]

## COURTS.

AN ACT ESTABLISHING THE COURTS OF COUNTY COMMISSIONERS.

IN FORCE,  
MARCH 22,  
1819.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That there shall be established in each county of this state, a court of record, to be constituted of, and composed by, the county commissioners elected of the counties respectively, any two of whom shall constitute a quorum to do business.

SEC. 2. That there shall be four sessions of said court in each county, to be held in the court-house, or place of holding courts in each county, in each and every year; and said court shall have power to appoint a clerk to said courts; and at any time, for any cause to be stated on the record, to remove the said clerk from office.

SEC. 3. That the said Court shall have jurisdiction throughout the county, whereof the said county commissioners may be elected.

SEC. 4. That said Court in each county, shall have jurisdiction in all matters and things concerning the county revenue, and regulating and imposing the county tax, and shall have power to grant license for ferries and for taverns, and all other licenses and things that may bring in a county revenue; and shall have jurisdiction in all cases of public roads, canals, turnpike roads, and toll bridges, where the law does not prohibit the said jurisdiction of said courts; and shall have power and jurisdiction to issue all kinds of writs, warrants, process, and proceedings, by the clerk throughout the state, to the necessary execution of the power and jurisdiction with which this Court is or may be vested by law.

SEC. 5. That the said Court of each county shall have a judicial seal, and all warrants, writs, process, and proceedings, to be issued by said Court, shall be sealed with said seal, bearing date the time they issue, and be signed by the clerk of said Court.

SEC. 6. That each clerk so appointed by said Court, shall keep his office at the place of holding court for each county respectively; and each and every clerk before he enters on the duties of his office, shall take an oath to support the constitution of the United States, and of this state, and the oath of office, in open court, and enter the same on record, and give a bond with good securities, to the county commissioners, for the use of

any person or persons injured, or for the use of the county if injured, in the penal sum of one thousand dollars, conditioned for the faithful performance of the duties of his office.

SEC. 7. That in each and every county of this state, and in each and every county that may hereafter be made, the said Court of county commissioners shall commence and begin on the first Mondays of March, June, September, and December, in each and every year, and continue for six days, unless the business be sooner done, when said Court may rise: and should a quorum of county commissioners not meet at any stated meeting of the said Court, then the said Court shall be considered to be continued by law from day to day; if necessary, until four of the clock in the afternoon of the second day, and then if a quorum be not present for said Court, and business therein to stand continued to the next Court in course.

SEC. 8. That should it be necessary to have a called court on any urgent business, then any one of the county commissioners shall have power to call said court, on giving the other two commissioners five days previous notice, and the clerk, before said special term of said court. Said special court shall have the same power and authority, as when holding a stated court.

SEC. 9. That there shall be nothing contained or construed in this act, to give the said court any original or appellate jurisdiction in civil or criminal suits or actions, wherein the state is party, or any individual or individuals, bodies politic, or corporate, are parties; but said court shall have jurisdiction in all cases where the matter or thing brought before the said court, relates to the public concerns of the county, collectively; and all county business: and the said court shall have power to punish for contempts as other courts may do, and have all the power necessary to the right exercise of the jurisdiction with which said court is or may be vested according to law; and the clerks of said courts respectively, shall have the same fees, emoluments, and perquisites of office, as are given to the other clerks of courts of this state by law, for the like services, or as may be given therein by law.

SEC. 11. That the said court shall be called and styled "The County Commissioners' Court," of the county respectively, and the process shall be "in the name of the people of the state of Illinois," as in case of other process, and bear test in the name of the clerks respectively.

SEC. 12. That the said court of each county respectively, shall have power and jurisdiction to compel and enforce by writ or writs of attachment, or other process, the orders, decrees or judgments of said courts respectively, on all those named therein, and bear test in the name of the clerks respectively.

This act to be in force from its passage.

[Approved, March 22, 1819.]



AN ACT REQUIRING THE SEVERAL CLERKS OF THIS STATE TO  
KEEP THEIR RESPECTIVE OFFICES AT THE COUNTY SEAT. IN FORCE,  
JAN. 11, 1823.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That the several clerks of the different courts of this state shall be compelled, and they are hereby required, to keep their respective offices at the county seat of their respective counties, and not more than one quarter of a mile from the house of holding said courts; and a failure to comply with the requisitions of this act, shall vacate said clerkship, when it shall be the duty of the court to fill such vacancy.

[Approved, January 11, 1823.]



AN ACT PROVIDING FOR THE JUST COMPENSATION OF THE  
SHERIFF OF FAYETTE COUNTY FOR ATTENDING ON THE  
SUPREME COURT OF THE STATE OF ILLINOIS. IN FORCE,  
JAN. 23, 1826.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That the auditor of public accounts shall settle, upon just and equitable principles, the account of the sheriff of Fayette county, for any firewood or candles which he may have purchased, or may hereafter purchase, for the use of the supreme court of this state; and shall issue his warrant upon the treasury for the sum which he may find due to said sheriff. Auditor to settle with sheriff.

SEC. 2. That said sheriff shall hereafter be allowed

Compensation for attending on the supreme court. one dollar and twenty-five cents per day, or its equivalent in state paper, for his attendance upon the supreme court of this state.

[Approved January 23, 1826.]



IN FORCE,  
JUNE 1, 1829.

AN ACT TO AMEND "AN ACT CONCERNING COURTS OF LAW,"  
APPROVED, JANUARY 29, 1827.

Part of former act repealed. Where persons may be sued. And to what county process may issue. Several defendants.

SEC. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly,* That so much of the first section of the act, entitled "an act concerning practice in courts of law," approved, January 29, 1827, as authorizes the directing of original process to the sheriff, or coroner, of any other county than the one in which the suit is commenced, be, and the same is hereby repealed. And that hereafter it shall not be lawful for any plaintiff to sue a defendant out of the county where the latter resides, or may be found, except in cases where the debt, contract, or cause of action, accrued in the county of the plaintiff, or where the contract may have, specifically, been made payable; when it shall be lawful to sue in such county, and process may issue against the defendant to the sheriff of the county where he resides: *Provided,* that where there are several defendants living in different counties, the plaintiff may sue, either in the county where the cause of action arose, or in any county where one or more of said defendants may reside, and shall have like process against such as reside out of the county where the action shall be brought as above.

Previous rights or proceedings not affected.

SEC. 2. This act shall not affect any previous rights, practice, or proceedings. This act to take effect from and after the first day of June next.

[Approved, December 30, 1828.]

## COURTS.

AN ACT RELATING TO COURTS OF PROBATE.

IN FORCE,  
JUNE 1, 1829.

SEC. 1. *Be it enacted by the People of the State of Illinois represented in the General Assembly,* That there shall be established, in each county in this state, a court of record, to be styled "the court of probate," to be held at the several seats of justice of their respective counties, the jurisdiction whereof shall be co-extensive with the limits of the county in which the judges shall be respectively appointed.

Court of probate established.

To be held at the county seats.

SEC. 2. The General Assembly shall at its present session, elect by joint ballot some fit person, in each county in this state, where a vacancy may be in the office of judge of probate, to fill such office, and the respective judges so appointed, shall hold their offices during good behaviour. And the General Assembly shall in like manner fill all future vacancies in the said office of judge of probate. And the said judges of probate shall severally have such jurisdiction over the estates of testator and intestates, and such other matters, as they may be, or now are, invested with by law.

Judges to be elected.  
Term of service.

Future vacancies.

Jurisdiction.

SEC. 3. The said courts shall sit in their respective counties, throughout this state, on the first Monday in every month, and at such other times as extraordinary circumstances may require, and continue open until all the business, pending before them, shall be disposed of. The said courts shall each have a seal, and may issue all process necessary under the hand and seal of the judge, and all such process shall bear date when issued: the said judge shall record all his proceedings, at length, in a book, or books, by him for that purpose furnished: for all necessary books so furnished, the respective county commissioners' courts shall allow the said judge of probate a reasonable compensation, to be paid out of the county treasury.

Terms.

To have a seal.

Process.  
Record.

Allowance for necessary books.

SEC. 4. All matters of law and of fact shall be determined by said court, when properly before it; and in all cases, an appeal or writ of error, shall lie to the circuit court of the county, to be prosecuted in the same manner as appeals and writs of error are prosecuted from the decisions of the circuit courts: and writs of error and appeals shall also be on the same matters, from the decision of the circuit court to the supreme court of the state, as in other cases.

Trial.

Appeal.

Recess ap-  
pointments.

SEC. 5. When any judge of probate shall die, resign, refuse to qualify or be removed from office, or the office shall be otherwise vacated, during the recess of the General Assembly, the governor shall commission some fit person to fill such vacancy, and the person so commissioned shall continue in office until the end of the next session of the General Assembly thereafter.

Judge to take  
an oath.

SEC. 6. Each of said judges, before he enters upon the duties of his office, shall take an oath to support the constitution of the United States, and of this state, and an oath of office, to be administered by the clerk of the circuit court, or any justice of the peace in the county wherein he is appointed.

Fees

SEC. 7. The said judges of probate shall be entitled to such fees and compensation as now are, or hereafter shall be provided by law.

Acts repealed.

SEC. 8. The act, entitled an act establishing courts of probate, approved February 10, 1821; the act entitled an act to amend an act, entitled an act establishing courts of probate, approved February 12, 1823; and the act, entitled an act to amend an act, entitled an act establishing courts of probate, approved February 10, 1821, approved January 12, 1825; are severally hereby repealed: *Provided*, however, that no new election shall be had for judges of probate, where the office is now filled according to those acts, but they shall hold their offices in the same manner as if this act had not passed. This act to take effect on the first day of June next.

[Approved, January 2, 1829.]



IN FORCE,  
JAN. 8, 1829.

AN ACT ESTABLISHING A CIRCUIT COURT NORTH OF THE ILLI-  
NOIS RIVER.

Judge to be  
elected

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That there shall be elected, by joint ballot of both branches of the General Assembly, at the present session, one Circuit Judge, who shall preside in the Circuit to which he may be appointed, north of the Illinois River, and shall exercise such jurisdiction therein, as is, or may be, allowed to the Circuit Courts, generally in this state.



SEC. 2. The said Circuit Judge, when thus elected, shall be commissioned by the Governor, and shall hold his office during good behaviour, and shall be allowed, as a compensation for his services, a salary of seven hundred dollars, per annum, to be paid quarter yearly, out of any moneys in the treasury not otherwise appropriated.

His compensation

[Approved, January 8, 1829.]



AN ACT REGULATING THE SUPREME AND CIRCUIT COURTS.

IN FORCE,  
JULY 1, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That the Supreme Court of this state shall consist of one chief justice and three associate justices as prescribed by the constitution of this state.

Number of justices

SEC. 2. The said Supreme Court shall exercise appellate jurisdiction only (except as is hereinafter excepted) and shall have final and conclusive jurisdiction of all matters of appeal, error or complaints from the judgment or decrees of any of the Circuit Courts of this state and from such other inferior Courts as may hereafter be established by law in all matters of law and equity, wherein the rules of law, or principles of equity appear from the files, records or exhibits of any such Court to have been erroneously adjudged and determined. And the said Supreme Court is hereby empowered, authorized and enabled to take cognizance of all such causes as shall be brought before them, in manner aforesaid and shall be vested with all the power and authority necessary for carrying into complete execution all their judgments, decrees and determinations in the matters aforesaid according to the laws, customs and usages of this state and according to the rules and principles of the common law, and their judgments, decrees and determinations shall be final and conclusive on all the parties concerned.

Jurisdiction.

Incidental power

Judgments to be final

SEC. 3. The said Supreme Court may from time to time, institute such rules of practice, and prescribe such forms of process to be used, and for the keeping of the dockets, records and proceedings for the regulation of the said Court, as shall be deemed most conducive to the due administration of justice; and it shall be the duty of

Rules of Court

Clerk's office  
to be examin  
ed

the chief justice to examine the state of the clerk's office of the said Court annually and make report thereof to the next term of the Court, which shall be noted in the proceedings.

Oaths of the  
judges

SEC. 4. The chief justice and associate justices of the Supreme Court and the judges of the Circuit Courts, who may hereafter be appointed under the provisions of the constitution, previously to their entering upon the duties required of them by law, shall in addition to the oath to support the constitution of the United States and of this state take the following oath of office: "I, A B, chief justice (or associate justice as the case may be) of the Supreme Court (or judge of the Circuit Court as the case may be) do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, without sale or denial, promptly without delay, conformably to the laws, without, favor, affection or partiality to the best of my judgment and abilities," which oath or affirmation may be administered by any justice of the peace in this state, a certificate whereof shall be endorsed by the person administering the same, on the back of the commission of such judge, and another certificate thereof transmitted to and filed in the office of the secretary of state.

To be filed  
with the Sec-  
retary of  
State

One term a  
year

SEC. 5. There shall be one term of the Supreme Court holden annually at the seat of Government, which shall commence on the first Monday in December, and continue in session until the business before it shall be disposed of.

Quorum not  
attending first  
day

SEC. 6. If there shall not be a quorum of the justices of the said Supreme Court present, on the first day of any term, the Court shall stand adjourned from day to day, until a quorum shall attend.

Unfinished  
business to  
stand contin-  
ued

SEC. 7. If the said Supreme Court, or any of the Circuit Courts, directed to be held by this act, shall not sit in any term, or shall not continue to sit the whole term, or before the end of the term shall not have heard and determined all matters and causes, depending in said Courts, all matters and causes depending and undetermined, shall stand continued until the next succeeding term.

Discontin-  
uance by rea-  
son of the  
Court not sit-  
ting, cured

SEC. 8. If from any causes the Supreme Court shall not sit, on any day in a term, after it shall have opened, there shall be no discontinuance, but so soon as the cause is removed, the Court shall proceed to business until the end of the term, or until the business depending before it, shall be disposed of.

SEC. 9. No question of appeal, or of writ of error shall be decided without the concurrence of two justices at least; and the said Court shall in all cases state the case, and give their opinion in writing, which shall be filed with the other papers of the case. And the said Court shall appoint some person learned in the law to minute down, and make report of all the principal matters drawn out at length, with the opinion of the Court, in all such cases as may be tried before the said Court, and the said reporter shall have a right to use the original written opinion after it shall have been recorded by the clerk.

Two justices  
must concur  
Written  
opinions  
Reporter.

SEC. 10. All process which shall be issued from the said Supreme Court shall bear test in the name of the chief justice, be signed by the clerk, dated when issued, and sealed with the seal of the court; and all such process shall be made returnable according to law, or such rules and orders as may be prescribed by the Court.

Process how  
to bear test,  
and issued

SEC. 11. Any process which may be issued from the said Supreme Court, or any justice thereof, or the clerk, according to law, shall be executed by the officer or person to whom it shall be directed, in any county or place in this state, in the usual manner that process is or may be required to be executed and returned. The said Court shall have power to punish contempts offered by any person to it while sitting, and for disobeying any of its process, rules and orders, issued or made conformably to law.

Process how  
executed

Contempts &  
disobeying  
process

SEC. 12. The Supreme Court shall have original jurisdiction, in all causes, suits and motions against public debtors, sheriffs, clerks, and all collectors of the public revenue to the state, of every denomination whatsoever; and in all cases where it may have been, or may hereafter be the duty of any sheriff, clerk, collector, or receiver of public moneys for the state, or the late territory of Illinois, to make collections and settlements with the proper authority; if he or they have failed to do so, or shall hereafter have failed to do so, and there shall appear any defect in the bond given by said officer, or person, or other proceeding sufficient to exempt from liability, the security or securities of such officer, or person, or to defeat the ordinary proceedings against himself, the Court shall have power to compel such person, whether in or out of office, who has either collected public money or ought to have done so, to exhibit upon oath, a full and fair statement of all moneys by him collected, and a list of all persons, as far as it may be prac-

Original juris-  
diction of  
Supreme  
Court

Proceedings  
against public  
debtors

Securities of  
collectors

licable, to obtain the same, of whom such person had a right to collect, and who had failed to pay him accordingly; and the Court shall, upon hearing the whole case, without regard to form, have power to give such judgment, for such sum or sums of money, as such person ought to be liable to pay, according to the true spirit of the law and the principles of equity: *Provided*, that the person or persons, as aforesaid, shall have due and reasonable notice of the time of proceeding against him or them, as aforesaid; and it shall be the duty of the Attorney General to attend and prosecute the same.

SEC. 13. It shall be the duty of the clerk of the Supreme Court, to issue process in all cases where process ought to be issued from the said Court; and to keep and preserve complete records of all the decisions and proceedings of the said Court; he shall, before he enters upon the duties of his office, take the following oath or affirmation before one of the justices of the Supreme Court: "I, A B, being appointed clerk of the Supreme Court, do solemnly swear, (or affirm) that I will truly and faithfully enter on record all the orders, decrees, judgments and proceedings of the said Court, and that I will faithfully and impartially discharge and perform all the duties of my said office, according to the best of my abilities and understanding according to law;" and the said clerk shall keep his office at the seat of Government, and shall do and perform all such acts and things as are or may be enjoined on him, and be entitled to such compensation as is or may be provided by law. And he shall at the first term of said Court, after he shall be appointed, give bond to the governor of this state, and his successors in office, for the use of the people of the state, with one or more securities, to be approved by the said Court, in the sum of three thousand dollars, conditioned for the faithful discharge of his duties, and to deliver up the papers, books and records, appertaining to the same, whole, safe and undamaged, when lawfully required so to do, which bond so executed as aforesaid, shall be transmitted to the office of the Secretary of state, and filed therein.

SEC. 14. The chief justice and associate justices of the said Supreme Court, shall hold circuit courts, as is herein provided for by law; and when either of the said judges shall, by death, resignation, removal from office, or unavoidable absence, fail to attend and hold any of the circuit courts required of him by law, it shall be the duty of one of the other judges presiding in either of

Clerk to issue process

His duty

Oath of clerk

And bond

Condition thereof

Judges to hold circuit courts

Interchange of circuits

the other circuits, upon receiving information that such courts will not be holden, to attend in the said circuit, so situated, and hold courts therein, and exercise all the powers and jurisdiction, both in term time and vacation, that the judge assigned by law to such circuit could legally do, until the causes aforesaid, which authorize and require such judge to exercise such power and jurisdiction, in such circuit, shall be removed.

SEC. 15. When any of the said judges shall die, resign, or be removed from office, it shall be the duty of his successor in office, to preside in the circuit wherein such vacancy happens.

New judges to hold courts in the circuit of their predecessors

SEC. 16. If there shall be no judge attending in any county, on the first day of any term, the court shall stand adjourned from day to day until a judge shall attend, if that should happen before the hour of four o'clock in the afternoon of the second day; but if no judge shall have attended before that time, the court shall stand adjourned until the next succeeding term.

Judge not attending, court to stand adjourned

SEC. 17. It shall be the duty of the said judges respectively, to hold two terms annually, in each county in their respective circuits, in conformity to law: which courts shall be holden respectively at the times and places now, or hereafter to be prescribed by law; and the said courts shall be styled "Circuit Courts for the counties in which they may be held respectively."

Two terms annually

SEC. 18. The said circuit courts shall be holden at the respective court-houses of said counties, and the said judges respectively, in their respective circuits shall have jurisdiction over all matters and suits at common law and in chancery, arising in each of the counties in their respective circuits, where the debt or demand shall exceed twenty dollars.

At the court house in each county

Jurisdiction

SEC. 19. The said judges shall be conservators of the peace, and the said courts in term time, and the judges thereof in vacation, shall have power to award throughout the state, and returnable in the proper county, writs of injunction, *ne exeat*, *habeas corpus*, and all other writs and process, that may be necessary to the due execution of the powers with which they are or may be vested.

Judges made keepers of the peace

And may award writs of *ne exeat* &c

Incidental power

SEC. 20. The said courts shall respectively have power and authority to hear and determine all cases of treason and other felony, crimes and misdemeanors of whatever kind that may be committed within any county or place within their respective circuits, and that may be brought before them, by any rules and regulations provided by law.

Criminal jurisdiction

Causes to be  
tried where  
they origina-  
ted

SEC. 21. All suits brought in the said circuit courts shall be tried in the counties in which they originated, unless in cases that are or may be specially provided for by law.

Clerks to take  
an oath

SEC. 22. The clerks appointed by the said circuit courts, or by the judges thereof in each county, shall, before they enter upon the duties of their offices, respectively take an oath, to support the constitution of the United States, and of this state, and also the following oath of office, before one of the judges of the said circuit courts, or some justice of the peace in this state:

Oath.

"I, A B, being appointed clerk of the circuit court for \_\_\_\_\_ county, do solemnly swear, (or affirm) that I will truly and faithfully enter, and record all the orders, decrees, judgments and proceedings of the said court, and that I will faithfully and impartially discharge and perform all the duties of my said office, according to the best of my abilities and understanding according to law." A certificate whereof, with the appointment, shall be entered on the records of the court at the first term of the court, after the same shall be done.

Duty of clerks

SEC. 23. The clerks of the respective circuit courts, shall issue process in all cases originating in their respective counties; they shall make, keep and preserve complete records of all the proceedings and determinations of the courts of which they are clerks, except as is provided in the 23d section of the "Act concerning the practice in courts of law," approved, January 29, 1827. They shall keep their offices at the county seats of their respective counties; and do and perform in the county, all the duties which may be enjoined upon them by law; and they shall be entitled to such fees and compensation for their services, as are or shall be allowed by law; and if any clerk of a circuit court, shall neglect or refuse to perform any of the duties enjoined upon him by law, or shall in any manner be guilty of malfeasance in office, he shall be removed from office by the court upon proper complaint being made to the said court or judge, and the said complaint being proved true to the satisfaction of the said court or judge: *Provided*, that the said clerk shall nevertheless, have the right of appeal to the Supreme Court, under the like conditions, as are or may be prescribed by law for other cases.

Complete  
record

Clk may be  
removed

But may ap-  
peal

SEC. 24. The clerk of each Circuit Court shall, at the first term of the said court, held in his county, after he shall be appointed, enter into bond to the governor of the state, and to his successors in office, for the use

Shall give  
bond

of the people of the state of Illinois, with one or more securities, to be approved of by the court, in the sum of two thousand dollars, conditioned for the faithful performance of the duties of his office, and to deliver up the papers, books, records and proceedings appertaining thereto, whole, safe and undefaced, when lawfully required so to do, which bond, so executed, shall be transmitted to the office of the secretary of state, and filed therein.

Condition thereof

Where filed

SEC. 25. It shall be the duty of every clerk of the Circuit Court, hereafter to be appointed to succeed another, to demand of his predecessor, or the person in whose possession they may be, all the books, papers and proceedings appertaining to the Circuit Court of which he shall be appointed clerk: and the said predecessor, or person in whose possession the same may be, shall, on such application and demand, deliver them up to the person so appointed; and should any person, herein required to give up the books, papers and proceedings as aforesaid, refuse so to do, on such application and demand, the proper Circuit Court, shall have power to use such compulsory process, and take such measures, as may be necessary to coerce the delivery as aforesaid, according to the true intent and meaning hereof.

Delivery of papers, &c.

May be coerced

SEC. 26. The judges shall annually examine into the condition of the office of every clerk of the Circuit Court, in their respective circuits, and make such order thereon, as circumstances may require.

Clerk's office shall be examined

SEC. 27. Whenever any person shall be in the custody of the sheriff of any county, charged with any capital offence, or any other offence not bailable by law, it shall be the duty of such sheriff, provided such person shall desire a trial, to give information thereof, in writing, to the judge presiding in the circuit, or in case of his absence or disability, to either of the said judges who may be required to preside in such circuit, during such absence or disability; whose duty it shall be, to issue a precept under his hand and seal, to the sheriff of such county, to summon twenty-three grand jurors, and thirty-six petit jurors, to attend at the seat of justice of said county, on a day therein mentioned, which shall not be less than fifteen, nor more than thirty days from the date of such precept.

Special terms to try criminals

SEC. 28. It shall be the duty of the sheriff, on receiving the precept aforesaid, to give notice by advertisement, set up at the seat of justice of his county, at least ten days before the return of such precept, of the

Notice thereof

time of holding a special term of the Circuit Court, in pursuance of this act; and it shall be the duty of the circuit judge either personally or in writing, to notify the attorney prosecuting for the state, in such county, of the time and place of holding court in pursuance of this act; but the want of such advertisement by the sheriff, or notice by the judge, shall not be construed to invalidate the authority of the court, or to render its proceedings void or erroneous; but in case of such omission, the precept aforesaid shall be considered as legal notice of the time and place of holding such court; and the sheriff, for omitting to advertise in manner aforesaid, may be fined at the discretion of the court, in a sum not exceeding five hundred dollars: *Provided*, that there shall be no such special term of the Circuit Court, where a regular term of said court will be held within forty days of the time of receiving such notice as aforesaid, by the judges from the sheriff, but in all such cases, the person shall wait until the regular term for his trial.

Omission to  
advertise

SEC. 29. The said Circuit Court, when met in pursuance of this act, shall have authority to adjourn to any day which may be adjudged reasonable and expedient, for the fair and impartial trial of any such person, who may be indicted before it, and in case the requisite number of grand and petit jurors shall not attend at the time and place specified in such precept, or the number of petit jurors be reduced by challenge below the number of twelve, the court may order the sheriff to complete the pannel of the grand or petit jury from the by-standers, or award a *venire de novo* for a grand or petit jury as the case may require.

Power to ad-  
journ

Talesmen

Process how  
executed

SEC. 30. Any process which may be issued by any of the clerks of the said Circuit Courts, or any judge thereof, in pursuance of law, shall be executed by the officer or person to whom the same shall be directed, in any county or place in this state, in the same manner that process usually is, or may be required to be executed and returned; and the said Circuit Courts shall respectively have power to punish all contempts offered by any person or persons to them, while sitting as such, at any regular or special term as aforesaid; and for disobeying any of its process, rules or orders, issued or made, conformably to law. Hereafter, the salaries of the chief justice and each of the associate justices of the Supreme Court, shall be one thousand dollars per annum.

Contempts  
and disobey-  
ing orders, &c

Salaries

Subpœnas  
issued to any  
county

SEC. 31. The clerks of the several Circuit Courts shall have power to issue subpœnas for witnesses, to any county in this state.



SEC. 32. The acts entitled "an act regulating and defining the duties of the justices of the Supreme Court," approved, March 31, 1819: The act entitled "an act changing the terms of the Circuit Courts, and altering the circuits," approved, February 14, 1821: The act entitled "an act to regulate the terms of the Circuit Courts, and for other purposes," approved, February 17, 1823: The "act constituting and regulating the Supreme and Circuit Courts of this state," approved, December 29, 1824: The act entitled "an act supplemental to an act entitled an act regulating and establishing the Supreme and Circuit Courts of this state," approved, January 17, 1825: The act entitled "an act changing the terms therein named, and regulating the practice in certain cases," approved, January 26, 1826, are severally hereby repealed.

Nothing in this act shall be so construed, as to require the clerks either of the Supreme or any of the Circuit Courts in this state, to be re-appointed, or qualified as this act directs, but the same shall continue in office as they now are.

New clerks need not be appointed

This act takes effect on the first day of July next.

[Approved, January 19, 1829.]



AN ACT TO PROVIDE FOR A SUITABLE PLACE FOR HOLDING THE SUPREME COURT.

IN FORCE  
JANUARY 22,  
1829.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That the South East room, on the lower floor of the banking house, be, and the same is hereby appropriated and set apart for the exclusive purpose of holding the supreme court of this state: and, hereafter, the state treasurer shall keep his office in the front room, on the lower floor of said building.

S. E. room of the banking house

SEC. 2. The auditor of public accounts is hereby required to draw his warrant upon the treasury for the sum of fifty state paper dollars, in favour of James M. Duncan whose duty it is hereby made, to expend the same, or so much thereof as may be necessary, to repair said room for the purpose aforesaid. This act is to take effect from and after its passage.

Clerk to have the same repaired

[Approved, January 22, 1829.]

IN FORCE,  
JAN. 23, 1829.

AN ACT SUPPLEMENTAL TO THE ACT, ENTITLED "AN ACT  
REGULATING THE SUPREME AND CIRCUIT COURTS,"  
APPROVED, JANUARY 19, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That the Chief justice of the supreme court, and the associate justices thereof, and the circuit judge appointed at the present session, shall hold the circuit courts in this state, at the times, and in the manner, herein after provided, and shall be governed by the same rules, regulations, and restrictions, that are now applicable to the said courts respectively.

Who shall hold the circuit courts

Counties of the first circuit

Of the 2d circuit

Of the 3d circuit

Of the 4th circuit

Of the 5th circuit

Lockwood in the 1st circuit  
Smith in the 2nd

Brown in the 3d  
Wilson in the 4th

Young in the 5th

Their successors to take their place.

Circuit judge to take an oath.

Form thereof

SEC. 2. The counties of Pike, Calhoun, Greene, Macoupin, Morgan, Sangamon, Macon, and Tazewell, shall constitute the first judicial circuit: the counties of Madison, St. Clair, Monroe, Randolph, Washington, Clinton, Bond, Fayette, Montgomery, and Shelby, shall constitute the second judicial circuit: the counties of Gallatin, Hamilton, Jefferson, Marion, Franklin, Perry, Jackson, Union, Alexander, Johnson, and Pope, shall constitute the third judicial circuit: the counties of White, Edwards, Wabash, Lawrence, Crawford, Clark, Edgar, Vermilion, Clay, and Wayne, shall constitute the fourth judicial Circuit: and the counties of Joe Daviess, Peoria, Fulton, Schuyler, and Adams, shall constitute the fifth judicial circuit.

SEC. 3. Samuel D. Lockwood shall perform circuit duties in the first judicial circuit: Theophilus W. Smith shall perform circuit duties in the second judicial circuit: Thomas C. Browne shall perform circuit duties in the third judicial circuit: William Wilson shall perform circuit duties in the fourth judicial circuit: and Richard M. Young shall perform circuit duties in the fifth judicial circuit: and when either of said judges shall be succeeded in office, it shall be the duty of his successor in office to preside and hold the courts in the circuit of the judge, or justice, so succeeded.

SEC. 4. The said circuit judge shall, before he enters upon the duties of his office, take an oath to support the constitution of the United States, and of this state, and the following oath of office, to wit: "I, A. B. judge of the fifth judicial circuit of the state of Illinois, do solemnly swear, that I will administer justice, without respect to persons, and do equal right to the poor and to the rich, without sale, denial, favor, affection, or partiality, conformably to the laws, to the best of my judg-

ment and abilities." Which said oath may be administered by any justice of the peace in this state, a certificate whereof shall be endorsed on the commission of said judge, and a duplicate thereof transmitted to, and filed in the office of the secretary of state; and all rules and regulations prescribed in the act, to which this is a supplement, relative to the circuit courts generally in this state, shall be deemed and taken as applicable to the circuit courts directed to be held in the fifth Judicial circuit.

By whom administered

Former act to apply to the 5th circuit

SEC. 5. The chief justice, and the associate justices of the supreme court, and the judge of the fifth judicial circuit, may interchange, and hold each other's circuit courts, as often as they may agree to do the same, and may award writs of *habeas corpus*, *ne exeat*, *certiorari*, and *injunction*, and may grant orders to stay proceedings, which said writs and orders shall run, and have force, in each other's circuits; and such acts, writs, and orders, shall have the same effect, and be obeyed in the same manner, as if the said acts, orders, and writs, were done, granted, and issued, by the proper justice, or judge of the circuit.

Interchange of circuits

Powers of the judges in such cases

SEC. 6. Should the chief justice, or either of the associate justices, or the said circuit judge, fail to attend in any county, in their respective circuits, on the day appointed for commencing the term of the circuit court therein, as required by law, the court shall stand adjourned until the next day, and should the judge not attend by four o'clock in the afternoon of the second day of the term, the court shall stand adjourned until the next succeeding term of the court, and all suits, writs, process, indictments, recognizances, and other proceedings, shall stand continued over until next term of the court, as effectually as if the same had been continued by the order of the court.

Judge not attending court shall stand adjourned

Chancery terms

SEC. 7. The chief justice, and the associate justices, and the said circuit judge, in their respective circuits, may, at any regular term thereof, appoint a time for holding a chancery term of the court, to be entered of record, if, in the opinion of the judge making such order, the business of the court shall require it; and all judgments, orders, decrees, and proceedings, made at such special term, shall have the same validity as if made at the regular term appointed by law.

Change of venue on account of interest in the judge

SEC. 8. If any judge of the circuit court shall be interested in any suit, or proceeding, in his circuit, it shall be his duty to cause all the papers relating to such suit, or proceeding, and a transcript of the record, if ne-

cessary, to be transmitted to the most convenient county in the next adjoining circuit, as in case of a change of venue; and the judge of the circuit, to which such cause shall be transferred, shall proceed thereon, in all respects, as if the same had been originally instituted in his circuit.

Supreme  
court when  
held

SEC. 9. There shall be one term of the supreme court of this state held, annually, at the seat of government, on the first Monday in December, and shall continue from day to day, Sundays excepted, until all the business, therein pending, shall be determined and disposed of.

Two Terms of  
the circuit  
courts

SEC. 10. There shall be two terms of the circuit court held, annually, in each of the counties now or hereafter to be organized in this state, at the court house thereof, or place provided for holding court, which terms shall commence at the respective times hereinafter specified, and continue to be held, from day to day, Sundays excepted, until all the business pending shall be disposed of, unless it shall be sooner necessary to close the term,

Times of hold  
ing circuit  
courts

to enable the judge to attend in the next county to hold court; which said terms shall be commenced and held at the respective times following, to wit: In the county of Pike on the first Mondays in April, and the fourth Mondays in August; in the county of Calhoun, on the Fridays after the first Mondays in April, and the fourth Mondays in August; in the county of Greene, on the second Mondays in April, and first Mondays after the fourth Mondays in August; in the county of Macoupin, on the first Fridays after the second Mondays in April, and the first Fridays succeeding the first Mondays after the fourth Mondays in August; in the county of Morgan, on the third Mondays in April, and the second Mondays after the fourth Mondays in August; in the county of Sangamon, on the fourth Mondays in April, and on the third Mondays after the fourth Mondays in August; in the county of Tazewell, on the first Mondays after the fourth Mondays in April, and on the fourth Mondays after the fourth Mondays in August; in the county of Macon, on the first Thursdays succeeding the first Mondays after the fourth Mondays in April and August; in the county of St. Clair, on the first Mondays in March and August; in the county of Monroe, on the second Mondays in March and August; in the county of Randolph, on the third Mondays of March and August; in the county of Washington, on the fourth Mondays in March and August; in the county of Clinton, on the

1st circuit

2nd circuit

next Wednesdays after the fourth Mondays in March and August; in the county of Bond, on the first Mondays in April and September; in the county of Montgomery, on the next Wednesdays after the first Mondays in April and September; in the county of Shelby, on the second Mondays in April and September; in the county of Fayette, on the next Thursdays after the second Mondays in April and September; in the county of Madison, on the second Mondays in June, and third Mondays in October; in the county of Hamilton, on the <sup>3d circuit</sup> third Mondays in March and September; in the county of Jefferson, on the fourth Mondays of March and September; in the county of Marion, on the Thursdays after the fourth Mondays in March and September; in the county of Franklin, on the first Mondays in April and October; in the county of Perry, on the Fridays after the first Mondays in April and October; in the county of Jackson, on the second Mondays in April and October; in the county of Union, on the third Mondays in April and October; in the county of Alexander, on the fourth Mondays in April and October; in the county of Johnson, on the first Thursdays after the fourth Mondays in April and October; in the county of Pope, on the first Mondays in May and November; in the county of Gallatin, on the second Mondays in May and November; in the county of White, on the first Mondays in April and <sup>4th circuit</sup> September; in the county of Edwards, on the second Mondays in April and September; in the county of Wabash, on the Thursdays after the second Mondays in April and September; in the county of Lawrence on the third Mondays in April and September; in the county of Crawford, on the Thursdays after the third Mondays in April and September; in the county of Clark, on the fourth Mondays in April and September; in the county of Edgar on the Thursdays after the fourth Mondays in April and September; in the county of Vermilion, on the Mondays after the fourth Mondays in April and September; in the county of Wayne, on the second Mondays in May and October; in the county of Clay, on the Thursdays after the second Mondays in May and October; in the county of Joe Daviess, on the <sup>5th circuit</sup> second Mondays in May, and first Mondays in November; in the county of Peoria, on the first Mondays in June, and second Mondays in October; in the county of Fulton, on the Thursdays after the first Mondays in June, and the second Mondays in October; in the county of Schuyler, on the second Mondays in June, and third

Mondays in October; in the county of Adams, on the Thursdays after the second Mondays in June, and third Mondays in October; and in the counties which may hereafter be organized on the military tract, at such times as the Judge of the fifth judicial circuit may appoint.

Process how  
to bear test  
And be issued  
and returned

SEC. 11. All process which shall be issued from the said circuit courts, shall bear test in the name of the judges thereof, and be signed by the clerks respectively, and dated on the days on which they issue, and be made returnable according to law; and all process, issuing from the said circuit courts, shall be sealed with the judicial seal which shall be provided for that purpose; but in case there shall not be a judicial seal, the clerk shall affix his private seal until a public one shall be provided,

Change of  
terms not to  
affect pro-  
ceedings

SEC. 12. All recognizances and other obligations, suits, actions, and motions, indictments, and other proceedings, and all writs and process of every kind, and description, which have been taken, commenced, found, or issued, in pursuance of the laws now in force, shall be set for argument, or trial, or shall be deemed and taken as returnable to each circuit court, respectively, as directed to be held by this act, and may be proceeded on, as though no change had taken place.

Acts repealed

SEC. 13. The act, entitled "an act to amend an act, constituting and regulating the supreme and circuit courts of this state," (approved, December 29, 1824) approved, January 12, 1827; the act, entitled "an act supplemental to an act, entitled 'an act to amend an act constituting and regulating the supreme and circuit courts of this state,' (approved December 29, 1824) approved January 12, 1827; the act, entitled "an act changing the terms of the supreme and circuit courts of this state, and for other purposes," approved February 17, 1827; the fourth and fifth sections of the act, entitled "an act establishing Joe Daviess county," approved February 17, 1827; and so much of the act, to which this is supplemental, as provides that the same shall take effect on the first day of July next; are hereby severally repealed.

Special terms  
in Joe Daviess  
county

SEC. 14. The judge of the fifth judicial circuit in this state, is hereby authorized and required, when it shall be necessary to hold special terms of the circuit court in the county of Joe Daviess, in addition to such as are provided for in the foregoing provisions of this act: He shall cause an entry to be made on the records of the circuit court of said county, of the time when a

special term of said court shall be held, a copy of which entry shall be published, for three weeks successively, in some public newspaper printed at Galena; and the said court, at any special term thereof, shall have the same powers and jurisdiction in all cases, civil and criminal, as at a stated term. Suits may originate, writs issued, served and returned, and the causes may be tried at such special terms, in the same manner as in cases brought to a regular term of said court: and the same number of petit jurors shall be summoned to attend such special terms, as are now required at a regular term of said court. This act, together with the act to which this is a supplement, shall take effect, and be in force, from and after the passage hereof.

Notice thereof to be published

[Approved, January 23, 1829.]



COURT HOUSES AND JAILS.

AN ACT AUTHORIZING AND REQUIRING THE COUNTY COMMISSIONERS' COURTS TO CAUSE COURT HOUSES AND JAILS TO BE ERECTED, IN EACH AND EVERY COUNTY IN THIS STATE. IN FORCE, JUNE 1, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That it shall be the duty of the county commissioners' courts, in their respective counties, to prepare or cause to be erected, when, in the opinion of said court, the means of the county are such as to justify it; and where they have not heretofore done so, strong and substantial jails, so that prisoners may be confined therein with safety: and the said commissioners are hereby expressly charged with the faithful execution of this law, and they shall make report thereof, respectively, to the Circuit Court, at the next term in the county, after the same shall have been done, and said report shall be entered upon the records of the said Circuit Court.

Jails to be erected

Co. com'rs charged with the execution of this law

To report to the Circuit Court

SEC. 2. It shall also be the duty of the said county commissioners, in each county, to cause to be erected, when, in the opinion of said court, the means of the county are such as to justify it, a suitable court house in each of their respective counties; and they shall have power to enter into contracts, from time to time, with any person or persons, in behalf of the county, for the

Court house

erection of such court houses, or finishing any court house already begun, at any regular term of their court, or at any special term they may appoint.

Lots to be purchased

SEC. 3. The county commissioners' courts in each county, shall have power to contract, and procure for the use of their respective counties, whenever it shall become necessary, any lot or lots of land, whereon to erect such county buildings, and obtain deeds of conveyance to such counties, and to sell and convey the same, when it shall become necessary, to any purchaser or purchasers, in the manner prescribed by law.

Or sold

Acts repealed

SEC. 4. The act entitled "an act authorizing and requiring the county commissioners to cause jails to be erected in each and every county within the state," approved, March 24, 1819, is hereby repealed:—

Previous rights not impaired

*Provided*, that no right previously acquired, shall be impaired by the passage of this act.

This act to take effect on the first day of June next.

[*Approved, January 5, 1829.*]



## ELECTIONS.

### AN ACT REGULATING ELECTIONS.

IN FORCE,  
JUNE 1, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That all general and special elections for governor, lieutenant governor, representative to congress, senators and representatives to the General Assembly, and county officers, shall be conducted in the manner hereinafter prescribed.

Precincts to be laid out not exceeding eight

SEC. 2. The county commissioners' courts in this state shall divide their respective counties into as many election precincts as they may think expedient, not exceeding eight, including the county seat or place of holding courts, which shall always be one; and shall designate the house or place in each precinct, and in the precinct including the County Seat, the house or houses, place or places, at which elections are to be holden; and the precincts and places of holding elections, so established, shall so remain until changed by the county commissioners' court: And all general and special elections shall be held at the places so designated, until changed as afore-

Place of election in each to be designated



said: *Provided* always, that it shall be the duty of the county commissioners' court, at any time, to change any place of holding elections, upon the petition of a majority of voters residing within the precinct: *Provided* further, that the county commissioners shall, if they deem it necessary, organize two sets of judges and clerks of election, in the precinct including the county seat.

And may be changed

Two sets of judges and clerks at county seat

SEC. 3. The said county commissioners' courts shall, respectively, at the last stated term preceding any election, appoint three capable and discreet persons, possessing the qualifications of electors, to act as judges of the election, in each election precinct; and the clerk of the said court shall make out and deliver to the sheriff of the county, immediately after the appointment of said judges, a notice thereof in writing, directed to the judges so appointed; and it shall be the duty of the said sheriff, within twenty days after the receipt of said notice, to serve said notice upon each of the said judges of election. The said judges of the election shall choose two persons, having similar qualifications with themselves, to act as clerks of the election. The said judges of the election shall be and continue judges of all elections of civil officers, to be held within their precinct, until other judges shall be appointed, as herein before directed; and the said clerks of election may continue to act as such during the pleasure of the judges of the election. And the county commissioners' courts shall from time to time, fill all vacancies which may take place in the office of judge of the election, in any election precinct within their respective counties.

Judges of election to be appointed

Who shall be notified thereof

Judges to choose clerks

Vacancies

SEC. 4. The clerks of the several county commissioners' courts shall, at least thirty days previous to any general election, and at least twenty days previous to any special election, make out and deliver to the sheriff of his county, three written notices thereof for each precinct, said notices to be, as nearly as circumstances will admit, as follows, to wit: "Notice is hereby given, that on Monday, the            day of            next, at the house of            in            precinct, in the county of            an election will be held for governor, one lieutenant governor, one representative to the Congress of the United States, one senator, three representatives in the General Assembly of this State, one sheriff, one coroner, three county commissioners, &c.; (as the case may require) which election will be opened at eight o'clock in the morning, and will continue open until six o'clock in the afternoon of the same day. Dated at            this

Three notices for each precinct

Form thereof

day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_

A. B. clerk of the county commiss'rs' court of \_\_\_\_\_ county."

Sheriff to post them up

And the said sheriff, to whom such notices shall be delivered as aforesaid, shall post up in three of the most public places in each precinct, the three notices referring to such precinct, at least fifteen days before the time of holding any general election, and at least eight days before the time of holding any special election.

Judge refusing

SEC. 5. If any person appointed to act as a judge of the election as aforesaid, shall neglect or refuse to be sworn or affirmed to act in such capacity, the place of

Justice of the peace to act

such person shall be filled by any justice of the peace, residing within the precinct, to be nominated by the other judge or judges of the election, and if there be no other justice present to act as judge, the other judge or judges of the election shall nominate one or more capable and discreet elector or electors, residing within the precinct, to fill such vacancy or vacancies; and if there be no judge of the election present to fill such vacancy or vacancies by nomination, then such vacancy or vacancies shall be filled by the votes of such qualified electors, residing within the precinct, as may then be present at the place of election; and the justice or justices, person or persons, so elected or nominated to fill such vacancy, or vacancies, shall be, and are hereby vested with the same power as if appointed by the county commissioners' court.

No judge attending, voters may elect

Oath of judges and clerks

SEC. 6. Previous to any votes being taken, the judges and clerks of the election shall severally take an oath, or affirmation, in the following form, to wit: "I, A. B. do solemnly swear, (or affirm, as the case may be) that I will perform the duties of judge, (or clerk, as the case may be) according to law and the best of my ability; that I will studiously endeavour to prevent fraud, deceit, and abuse, in conducting the same."

By whom administered

SEC. 7. In case there shall be no judge or justice of the peace present at the opening of the election, or in case such judge or justice shall be appointed a judge or clerk of the election, it shall be lawful for the judges of the election, and they are hereby empowered to administer the oaths or affirmations to each other, and to the clerks of the election; and the person administering such oaths or affirmations, shall cause an entry thereof

Entry thereof to be made

to be made and subscribed by him, and prefixed to the poll-books.

SEC. 8. At all elections to be held under this act, the polls shall be opened at the hour of eight in the morning, and continue open until six o'clock in the afternoon of the same day, at which time the poll shall be closed: *Provided*, however, that if no judge shall attend at the hour of eight in the morning, and it shall be necessary for the electors present to appoint judges to conduct the election, as herein before prescribed, the election may in that case, commence at any hour before the time for closing the poll shall arrive, as the case may require; *and provided also*, that the judges of the election may, if they shall deem it necessary, for the purpose of receiving the votes of all the electors wishing to vote, postpone the closing of the polls until twelve o'clock at night. And upon opening the poll, one of the clerks under the direction of the judges, shall make proclamation of the same, and thirty minutes before the closing of the poll, proclamation shall be made in like manner that the poll will be closed in half an hour.

Poll when opened and closed

In case judges not attending

Closing poll may be postponed

Proclamation to be made

SEC. 9. The clerks of the election shall furnish the necessary poll-books and stationary in conducting the same.

Stationary

SEC. 10. The manner of voting shall be by the elector's approaching the bar, in the election room, at any time when the poll is open, and addressing the judges of the election in his proper person, and with an audible voice, to be heard by the judges and clerks of the election, to mention by name the persons he intends to vote for to fill the different offices which are to be filled at the said election, and the clerks shall enter his name and vote accordingly, and he shall then withdraw: *Provided*, that a voter may vote by presenting an open ticket to the judges, containing the names of the persons for whom he votes, and the offices; and the said judges shall read the same to the voter, and the clerks, with the assent of the voter, set the same down in their books, as in other cases.

Manner of voting

Viva voce

SEC. 11. It shall be lawful for any elector to vote for governor, lieutenant governor, and electors of president and vice president of the United States, at any place of holding an election within this State; for representative to congress, at any place of holding an election within the congressional district in which such elector resides; for senator and representatives to the General Assembly at any place of holding an election within the senatorial or representative district in which he resides; for sheriff, coroner, and county commissioners, at any place of holding an election in the county in which he resides: But

May vote for gov. &c. at any place

Rep. in con. in the district

For senator & rep. in general assembly

Sheriff & co. com.

|  |  |
|--|--|
| Jus. peace & constables<br>Voting more than once | for justices of the peace and constables, he shall not vote out of the district in which he resides. And if any elector shall vote more than once at any election held under the authority of this act, he shall be fined in the sum of  |
| How punished                                     | one hundred dollars, to be recovered by indictment before any court of competent jurisdiction, and the whole of such fine shall be appropriated to the use of the county, in which the offence may have been committed.  |
| Challenges                                       | <p>SEC. 12. When any person shall present himself to give his vote, and either of the judges shall suspect that such person does not possess the requisite qualifications of an elector, or if his vote shall be challenged by any elector who has previously given his vote at such election, the judges of the election shall tender to such person an oath or affirmation in the following form: "I, A B, do solemnly swear, (or affirm, as the case may be) that I am a resident of the county of _____ in the state of Illinois; that I have resided in this state for the period of six months, immediately preceding this election; that I have to the best of my knowledge and belief, attained to the age of twenty one years; and that I have not voted at this election." And if the person so offering his vote, shall take such oath or affirmation, his vote shall be received, unless it shall be proved by evidence satisfactory to a majority of the judges, that the said oath or affirmation is false: And if such person refuses to take such oath, or affirmation, his vote shall be rejected. And if any person shall take the said oath or affirmation, knowing it to be false, he shall be deemed guilty of wilful and corrupt perjury, and shall on conviction, suffer such punishment, as is now, or shall hereafter be prescribed by law, for persons guilty of perjury. And if any person shall vote at any election, who is not a qualified voter, he shall forfeit and pay any sum not exceeding fifty dollars, nor less than twenty five, to be recovered in the same manner as other penalties under this act are: <i>Provided</i>, however, that if such person shall have been considered by the judges of the election a legal voter, then such person shall not be so fined.</p> |
| Oath and qualifications of voter                 |  |
| Vote to be admitted                              |  |
| Or rejected                                      |  |
| False oath how punished                          |  |
| Unqualified persons voting how punished          |  |
| Proviso  |  |
| Constables to attend                             | <p>SEC. 13. For the preservation of order, as well as the security of the judges and clerks of the election from insult and abuse, it shall be the duty of any constable, or constables, residing within the precinct, who shall be designated for the purpose by the judges of the election, to attend at all elections within such precinct; and should no constable attend at such election, the judges of election are hereby authorized and empow-</p>  |
| Special constable                                |  |

ered to appoint one or more special constables to assist in preserving order, during the election: and the judges are hereby empowered to impose a fine, not exceeding twenty dollars, on any person or persons, who shall conduct in a disorderly and riotous manner, and persist in such conduct, after having been warned of its consequences; and on refusal to pay the same, to commit him or them to the common jail of the county, for any time not exceeding twenty days, or until the fine shall be paid; and the constable to whom the order shall be directed, and the jailor of the county, are hereby required to execute such order, and receive such person, or persons, so committed, as though it had been issued or delivered by a magistrate in due form of law.

Power of judges to fine

And imprison

SEC. 14. When the votes shall have been examined and counted, the clerk shall set down in their poll books, the name of every person voted for, written at full length, the office for which such person received such vote or votes, and the number he did receive, the number being expressed in words at full length, such entry to be made, as nearly as circumstances will admit, in the following form, to-wit: "At an election held at the house of \_\_\_\_\_ in \_\_\_\_\_ precinct, in the county of \_\_\_\_\_ and state of Illinois, on the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_ the following named persons received the number of votes annexed to their respective names, for the following described offices, to-wit:

Poll book  
What it shall contain

Form

A B had fifty-three votes for Governor.  
 C D had fifty-one votes for Governor.  
 E F had sixty-two votes for Lieutenant-Governor.  
 G H had sixty votes for Lieutenant-Governor.  
 I K had eighty votes for Representative to Congress.  
 L M had seventy-three votes for Senator.  
 N O had sixty-five votes for Representative.  
 P Q had fifty-nine votes for Representative.  
 R S had fifty-seven votes for Sheriff.  
 T U had twenty-two votes for Coroner.  
 V W had thirty votes for County Commissioner,  
 and in the same manner for any other persons, or officers, voted for.

Certified by us,  
 A B, }  
 C D, } Judges of the Election.  
 E F, }

Attest: G H, }  
 I J, } Clerks of the Election.

One poll book to be returned to the clerk of Commissioners' court By the judge or clerk.

The other lodged with the judges

Failure of judge or clerk to deliver

How punished

The judges of the election shall then enclose and seal one of the poll books, under cover, directed to the clerk of the county commissioners' court of the county in which such election is held, and the packet thus sealed shall be conveyed by one of the judges or clerks of the election, to be determined by lot, if they cannot otherwise agree, and delivered to the said clerk of the county commissioners' court, at his office, within four days from the close of the polls; and the other poll book shall be deposited with one of the judges of the election, to be determined as aforesaid; and the poll book shall be subject to the inspection of any elector who may wish to examine it. And if any judge or clerk of an election, after having been deputed by the judges of the election, at which he shall have served as judge or clerk, to carry the poll book of such election to the clerk of the county commissioners' court of the county, shall fail or neglect to deliver such poll book to the said clerk, within the time prescribed by law, safe, with the seal unbroken, he shall for every such offence forfeit and pay the sum of five hundred dollars, for the use of the county, to be recovered in the name of the commissioners of the county, by an action of debt in the Circuit Court.

Clerk to open the poll

And make abstracts

And certificates of election

Two or more counties in one district

SEC. 15. On the seventh day after the close of the election, or sooner if all the returns be received, the clerk of the county commissioners' court, taking to his assistance two justices of the peace of his county, shall proceed to open the said returns, and make abstract of the votes in the following manner: the abstract of the votes for governor and lieutenant governor shall be on one sheet, and the abstract of votes for representatives to congress shall be on another sheet, and the abstract of votes for senator and representatives to the general assembly shall be on another sheet, and the abstract of votes for county officers shall be on another sheet; and it shall be the duty of the said clerk of the county commissioners' court, immediately to make out a certificate of election to each of the persons having the highest number of votes for senator and representatives to the General Assembly, and county officers, respectively, and to deliver such certificate to the person entitled to it, on his making application for that purpose to the clerk at his office: *Provided*, however, that where two or more counties are united in one senatorial or representative district, the clerk of the county commissioners' court of the county last established, shall within twelve days after the day of the election, attend at the office of the

clerk of the county commissioners' court, of the senior county, and there in conjunction with the clerk or clerks of the senior county or counties, shall compare the votes given in the several counties composing such senatorial or representative district; and said clerks shall immediately make out a certificate of the election of the person or persons having the highest number of votes in such counties for senator or representative to the General Assembly: which certificate shall be delivered to the person entitled to it, on his application to the clerk of the county commissioners' court of the senior county, at his office: *Provided*, also, that in the district composed of the counties of Johnson, Union, and Alexander, the several clerks shall meet at the seat of justice of Union county; in the district composed of the counties of Bond, Fayette, Montgomery, Shelby, and Tazewell, the several clerks shall meet at the seat of justice of Fayette county; in the district composed of the counties of Pike, Fulton, Peoria, Schuyler, Adams, and Joe Daviess, the several clerks shall meet at the seat of justice of Schuyler county; to compare the returns of votes given within such districts, for senators or representatives, or for either; and in every senatorial or representative district, containing four or more counties, the several clerks shall meet, on the fifteenth day after the election, for the purpose of comparing the returns of said votes. And it shall be the duty of the clerk of the county commissioners' court, in each county, on the receipt of the election returns of any general or special election, to make out his certificate, stating therein the compensation to which the judges and clerks of each election may be entitled, for their services, and lay the same before the next commissioners' court of the county; and the said court shall order the compensation aforesaid to be paid out of the county treasury.

Johnson, Union and Alexander

Bond, Fayette, &c.

Pike, Fulton, &c.

Clerks to meet within fifteen days

Compensation to judges and clerks

SEC. 16. If the requisite number of senators, or representatives, or county officers, shall not be elected, by reason of any two or more persons having an equal and the highest number of votes for one and the same office, the clerk, or clerks, whose duty it is to compare the polls, shall give notice to the several persons so having the highest, and an equal number of votes to attend at the office of the proper clerk, at a time to be appointed by the said clerk or clerks, who shall then and there proceed publicly to decide by lot which of the persons, so having an equal number of votes, shall be declared duly elected; and the said clerk, or clerks, shall make out

Persons having the highest and equal number of votes to decide by lot.

and deliver to the person, thus declared duly elected, a certificate of his election as herein before provided.

SEC. 17. The clerk of the county commissioners' court, immediately after making out abstracts of votes given in his county, shall make a copy of each of said abstracts, and transmit it by mail to the office of the secretary of state; the abstract of votes for governor and lieutenant-governor, being addressed to the speaker of the House of Representatives, and enclosed with the other abstracts to the secretary's office as aforesaid; and it shall be the duty of the secretary of state, at the opening of the succeeding session of the General Assembly, to deliver all such abstracts of votes for governor and lieutenant-governor, or for either of them, to the speaker of the House of Representatives. The secretary of state, auditor, treasurer and attorney general, or any two of them, in the presence of the governor, shall proceed, within fifty days after the election, and sooner, if all the returns be received, to canvass the votes given for representatives to congress; and the governor shall grant a certificate of election to the person or persons, having the highest number of votes, and shall also issue a proclamation, declaring the election of such person or persons. In case there shall be no choice, by reason of any two or more persons having an equal number of votes, the election shall be determined by lot, under the direction of the governor, in the manner prescribed in the sixteenth section of this act.

SEC. 18. If the returns of the election of any county in this state shall not be received at the office of the secretary of state, within thirty days after the day of election, the said secretary shall forthwith send a messenger to the clerk of the county commissioners' court of such county, whose duty it shall be, to furnish the said messenger with a copy of such returns; and the said messenger shall be paid out of the state treasury, the sum of ten cents for each mile he shall necessarily travel, in going to, and returning from the office of the said clerk.

SEC. 19. Any person who shall receive a certificate of his election as senator or representative to the General Assembly, sheriff, coroner or county commissioner, shall be at liberty to resign such office, though he may not have entered upon the execution of its duties, or have taken the requisite oath of office. And when any vacancy shall happen in the office of senator or representative to the General Assembly, by death, resigna-

Returns to the  
Secretary of  
State

Votes to be  
canvassed

Gov. to grant  
certificate

And issue a  
proclamation

Sec'y. may  
employ a mes-  
senger

Compensa-  
tion

Liberty of re-  
signing

Vacancy how  
filled in case  
senator &c



tion or otherwise, the governor shall issue a writ of election, directed to the sheriff of the county, in which such vacancy shall happen, commanding him to notify the several judges of election in his county, to hold a special election to fill such vacancy or vacancies, at a time to be appointed by the governor: *Provided*, that if <sup>Proviso</sup> there is to be no session of the General Assembly, between the happening of such vacancy, and the time of the general election, it shall not be necessary to order a special election to fill such vacancy. And when any vacancy shall happen in the office of sheriff or coronor, <sup>In case of</sup> either by death, resignation or otherwise, the clerk of <sup>sheriff &c.</sup> the county commissioners' court, in which such vacancy shall happen, shall immediately notify the governor of such vacancy; and it shall be the duty of the governor to issue a writ of election, and direct the time when such <sup>Writ of elec-</sup> election shall be held, the said writ to be directed to <sup>tion</sup> the said clerk. And when any vacancy shall happen in <sup>Vacancy of</sup> the office of representative to congress from this state, <sup>rep'r. in con-</sup> it shall be the duty of the governor to issue his procla- <sup>gress</sup> mation appointing a day to hold a special election to fill such vacancy.

SEC. 20. If any vacancy shall happen in the office <sup>Vacancy of</sup> of governor, by death, resignation, removal from office, <sup>gov.</sup> or refusal by the governor elect to take the requisite oath of office, it shall be the duty of the secretary of state to notify the clerks of the county commissioners' courts of the several counties in this state, that at the next succeeding general election of members of the General Assembly, or electors of president and vice president, (as the case may be) an election will be held to fill such vacancy: *Provided, however*, that the secretary shall not give such notice, nor shall such special election of governor take place, unless the vacancy, shall have happened at least forty days previous to such general election for members of the General Assembly, or of electors of president and vice president of the United States, nor unless a regular session of the General Assembly shall intervene, between the time when such vacancy shall have happened, and the succeeding quadrennial election of governor.

SEC. 21. If any candidate of the proper county, <sup>Contested</sup> shall desire to contest the validity of any election, or <sup>elections</sup> the right of any person declared duly elected to hold his seat in the Senate or House of Representatives of <sup>Senator or</sup> the General Assembly, such candidate shall give notice <sup>rep. to the</sup> of his intention in writing, to the person whose election <sup>General As-</sup> ssembly

Taking depo-  
sitions

he intends to contest, or leave a notice thereof at his usual place of residence, within thirty days after the day of election, expressing the points on which the same will be contested, the name of one of the justices of the peace who will attend at the taking of the depositions, the place where, and the time when the said depositions will be taken; which time, so fixed upon for the taking of the depositions, shall not exceed sixty days from the day of election; and the party whose election is contested, shall have a right to select another justice of the peace, and the two justices so selected, shall make choice of a third justice, and if they fail to agree upon a third justice to act with them, they shall proceed to select, by lot, a justice of the peace, who shall preside with them at the taking of such testimony; and the three justices, thus selected, or a majority of them, shall have power, and they are hereby authorized to issue subpoenas to all persons whose testimony may be required by either of the parties, commanding such person or persons to appear and give testimony at the time and place therein mentioned, under the penalty of fifty dollars, to levied on each and every delinquent who has been duly served with process: *Provided*, however, that should the person, whose election is contested, fail to nominate a justice as aforesaid, it shall be the duty of the justice nominated, by the person contesting the election as aforesaid, to select a justice of the peace, who shall proceed as above stated. And if any witness, or witnesses summoned as aforesaid, shall fail or refuse to appear at the time specified in said notice, it shall be lawful for said justices, or either of them, to issue an attachment against such witness or witnesses, and the testimony of him, her, or them, so failing or refusing to appear, may be taken, at any time, before the next session of the Legislature thereafter, by giving five days notice to the party whose election is so contested, and to the party contesting the same; and if any justice of the peace selected, as aforesaid, to attend at the taking of the depositions, shall without reasonable excuse, fail or refuse to attend at the time and place appointed, after having undertaken to attend, he shall forfeit and pay a fine of fifty dollars, to be recovered by action of debt, in any court having cognizance thereof, one half to the county, and the other half to the person who will sue for the same. And the said justices when met, shall hear, and certify under seal, all testimony relative to the said contested election to the speaker of the Senate, or

to the speaker of the House of Representatives, as the case may require. And no testimony shall be heard by the said justices, on the part of the person contesting the election, which does not relate to the points specified in the notice, a copy of which notice, attested by the person who served or delivered the same, shall be delivered to the said justices, and by them transmitted with the other documents to the speaker of the Senate, or to the speaker of the House of Representatives, to whichever body, the person, whose election is contested, belongs.

SEC. 22. When any candidate shall desire to contest the validity of any election, or the right of any person declared duly elected, to hold and exercise the office of sheriff, coroner, or county commissioner, such candidate so contesting the election as aforesaid, shall proceed in all respects in the manner prescribed in the foregoing section, except that the documents taken relative to such contested election, shall be transmitted with the notice aforesaid, to the judge or justice of the Supreme Court, presiding in the circuit to which the county belongs, in which such contested election shall take place, ten days notice having been given to both parties of the time when, and the place where, such judge or justice of the Supreme Court will be called upon to decide such contested election, at which time both parties shall have a right to be heard by themselves or counsel. And the said judge or justice shall forthwith proceed to examine said documents, and declare which of said candidates shall, in his opinion, have been duly elected, and the decision of such judge or justice in relation to such contested election, shall be final.

SEC. 23. If any judge of the election, or clerk, or any other officer or person, in any manner concerned in conducting the election, shall wilfully neglect, improperly delay, or refuse to perform any of the duties required by this act, after having undertaken to perform such duties, he shall forfeit and pay to the state the sum of forty dollars; and if any such judge of the election, clerk, or other officer or person, in any wise concerned in conducting the election, shall knowingly admit any person to vote, not qualified according to law, or shall knowingly receive and count more than one vote from one person, at the same election for one office, or shall be guilty of fraud, corruption or partiality, or manifest misbehaviour, in any matter or thing relating to said election, each and every person so offending shall forfeit and pay to the county the sum of one hundred dollars, to

In case of  
sheriff, coro-  
ner, county  
commissioner

Penalty of  
judges & cl'ks  
refusing to act  
&c

And for other  
misconduct

To be disqualified

Refusing to admit voters

Proviso

Vacancy of senator &c

How filled

Vacancy in the office of

be recovered in any court of record in the state, in the name of the state, for the use of the county, in an action of debt, with costs of suit, or at the suit of any person who may sue for the same, one half for the use of the person suing, and the other half for the use of the county; and every such person so offending as aforesaid, shall moreover, on conviction, be rendered incapable of holding any office within this state for the term of ten years thereafter. If any judges of election shall wilfully refuse to receive the vote of any elector, who has a right according to the constitution and laws of this state, to vote at the polls where such judges preside, and who, being challenged, shall offer to take the oath prescribed in such case by this act, such judges of election, so refusing shall be liable to the penalty of fifty dollars, to be recovered by action of debt, in the name of the state, or of any person who may sue for the same, one half of the said fine to go to the use of the county, and the other half to the use of the person suing: *Provided*, that nothing in this act shall be so construed, as to prevent the judges of election from refusing to receive the vote of any person when it shall be proved to the satisfaction of a majority of them, that in taking the said oath, he shall have sworn falsely. And if any judge of election shall order to be received the vote of any person, who, being challenged, shall not take the oath, or affirmation, prescribed by law such judge of election, so offending, shall forfeit and pay the sum of fifty dollars, to be recovered by action of debt, in the name of the state, or of any person suing therefor, the one half of said fine for the use of the county, and the other half for the use of the person suing.

SEC. 24. When any vacancy shall happen in the office of senator or representative, to the General Assembly, by death, removal or otherwise, it shall be the duty of the clerk of the county commissioners' court of the county, if one county only compose the senatorial or representative district, as soon as he shall have been informed thereof, to notify the governor of such vacancy, and if there be more than one county comprised within the limits of such senatorial or representative district, it shall be the duty of the clerk of the county commissioners' court of the senior county, in such district so to notify the governor, and the governor, immediately upon his receiving such notification, shall proceed in the same manner as is prescribed, for other cases, in the 19th section of this act. And whenever any vacancy shall happen in the office of governor, either by death, removal, resignation, refusal to qualify, or any other cause, in shall be the duty of

the secretary of state to notify the different sheriffs throughout the state, and order an election to be held to fill such vacancy, at the next succeeding election of representatives to the General Assembly, and it shall be lawful for the people at the said election for representatives to elect a person to fill such vacancy: *Provided*, that such vacancy shall happen at least one month previous to such election, and provided also, that such election shall take place previous to the stated quadrennial election of governor.

SEC. 25. On the first Monday in August, one thousand eight hundred and thirty, and on the first Monday in August biennially thereafter, there shall be an election in each county in this state, for representatives to the General Assembly; senators, where under the provisions of the constitution of this state, a senator shall have to be elected; one sheriff; one coroner; and three county commissioners. And there shall be held on the said first Monday in August, 1830, and quadriennially thereafter, an election throughout this state, for governor and lieutenant-governor.

Election to be held on the 1st Monday in Aug 1830

And biennially thereafter for Gen Assem &c

And quadriennially thereafter for Gov & Lt Gov

SEC. 26. On the first Monday of August, in the year one thousand eight hundred and thirty-one, and on the first Monday of August, one thousand eight hundred and thirty-two, and on the first Monday of August, every second year thereafter, an election shall be held for so many representatives to congress, as this state shall be entitled to at that time.

For congress on the 1st Monday in Aug 1831 and 32 and biennially thereafter

SEC. 27. Nothing in this act shall be so construed as to authorize the clerks of the county commissioners' courts to reject the whole, or any part of the votes taken at any poll in pursuance of law.

Clerks not empowered to reject votes

SEC. 28. There shall be allowed out of the county treasury of each county, to the several judges and clerks of election, such compensation, not exceeding one dollar per day, as the county commissioners' courts shall deem proper to allow; and to the person carrying the polls from the place of election to the clerk's office, the sum of five cents per mile, for going and returning. The county commissioners' courts shall also allow to the clerks of election such compensation as they shall deem just, for any stationary such clerk may furnish for the purposes of the election.

Compensation to cl'ks and judges

SEC. 29. In case any person, declared duly elected an elector of president and vice-president of the United States, shall fail to attend at the state-house, at the seat of government of this state, at or before the hour of 12 o'clock at noon, of the day on which his vote is required

Electors of president &c not attending to vote vacancy to be filled

to be given, it shall be the duty of the elector or electors of president and vice-president, attending at that time and place, to appoint a person or persons to fill such vacancy: *Provided*, that should the person, or persons, chosen by the people as aforesaid, arrive at the place aforesaid, before the votes for president and vice-president are actually given, the person, or persons appointed to fill such vacancy, shall not act as elector of president and vice-president.

*Proviso*

*Acts repealed*

SEC. 30. The act entitled an act regulating elections, approved, March 1, 1819; and the act to provide for a new election in case of vacancy in the office of governor, approved, February 26, 1819; and the act, entitled an act regulating elections, approved, February 3, 1821; the act entitled an act regulating elections, approved, January 3, 1823; and the act entitled an act supplementary to the act regulating elections, approved, January 17, 1825, are hereby severally repealed. *Provided*, that nothing in this act contained, shall be so construed as to interfere with the provisions of an act to provide for the election of justices of the peace and constables, approved, December 30, 1826; but the elections of justices of the peace and constables shall, in all respects, not conflicting with the provisions of the last recited act, be conducted according to the provisions of this act; nor shall any thing in this act contained, be so construed as to interfere with the provisions of an act concerning sheriffs and coroners, approved, February 12, 1827.

*Proviso*

*Elections by the General Assembly*

SEC. 31. In all elections by the General Assembly, or by either House thereof, (elections of justices of the Supreme Court, and judges of inferior courts excepted) the member shall vote *viva voce*, and their votes shall be entered upon the journals. Elections by joint vote of the two houses shall be made in the hall of the House of Representatives, at such time as shall have been previously appointed by joint resolution of the two houses; and at all such joint meetings the speaker of the House of Representatives shall preside. Elections of justices of the Supreme Court and judges of inferior Courts shall be made by joint ballot of both houses, in the hall of the House of Representatives, the speaker of which shall appoint a member of each house to act as tellers. No person shall be declared duly elected by the General Assembly, or either branch thereof, until he shall have received a majority of all the votes given, blank votes included.

This act to take effect on the first day of June next.

[Approved January 10, 1829.]

AN ACT TO REGULATE THE ENCLOSING AND CULTIVATING  
OF COMMON FIELDS.

SEC. 1. *Be it enacted by the People of the State of Illinois, represented in the 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 and declared, or that shall hereafter be occupied, used or declared to be a common field, may meet together, by themselves or agents, annually, on the first Monday in March, or such other days 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 field, 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 to the common fields, as by this law directed.

IN FORCE,  
FEB. 23, 1819

SEC. 2. That better to enable them to carry on and manage the affairs of such fields, they are hereby authorized and empowered, to elect a chairman, clerk and treasurer, who shall be sworn to the faithful discharge of their duties, respectively; and the clerk 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 said proprietors, or a majority of them in their lawful meetings assembled.

SEC. 3. That for the better management of their common fields, they shall choose a committee of three persons, which shall be styled "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.

SEC. 4. That the proprietors of common fields are hereby authorized 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 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 appropriated, by a majority of the proprietors for the common benefit.

SEC. 5. 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 directions of such committee: *Provided*, such committee shall attend all orders, and comply with all regulations of the major part of the proprietors of such common 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. 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 person's 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 division 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 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 charges of the delinquent: which expense, 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. 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 fields, to be recovered in any action of damages, before any court having competent jurisdiction.

SEC. 8. That all accounts for any services rendered any person acting under the appointment 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 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 the collectors, shall, for all or any moneys 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 moneys 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.

SEC. 9. 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*, That 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 to appeal from the judgment of said proprietors to the next circuit court, 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.

SEC. 10. 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 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 fines, as shall be ordered by the said proprietors, in lawful meeting assembled.

[Approved, February 23, 1819.]



### ESTRAYS.

IN FORCE, AN ACT TO AMEND AN ACT ENTITLED "AN ACT CONCERNING WATER  
JAN. 22, 1829. CRAFTS, FOUND ADRIFT, LOST GOODS, AND ESTRAY ANIMALS,"  
APPROVED JANUARY 10, 1827.

How the right of property shall be vested in the taker up. SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly*, That in all cases where any estray horse, gelding, mare, colt, mule, or ass, neat cattle, sheap, goat, or hog, shall be taken up as estrays, and no owner shall apply, to prove his or her property, within one year after advertisement shall be made thereof, and when the valuation shall not exceed the sum of five dollars, the property shall be vested in the person taking up the same; but if the valuation thereof shall exceed the sum of five dollars, and no owner appear to claim the property within the time aforesaid, it shall be the duty of the person taking up the same, to deliver such animal, so taken up, to the sheriff of the county, who shall sell such estray, or estrays, at public auction, to the highest bidder, on a credit of nine months, the purchaser giving bond, with security, to be approved by said sheriff, payable to said sheriff, or his successor in office, for the use of the county, the sheriff, previous to such sale, having given notice thereof in the manner prescribed by the act, to which this is an amendment. And if the owner shall appear, and prove his or her property, within one year after the sale thereof, as afore-

How the estray may be sold.

Bond for payment.

Notice of sale

Appearance of owner

said, he shall be entitled to the note for which said property was sold; but if said note has been paid into the county treasury, the county commissioners of such county shall order the same to be paid out of the county treasury, after deducting such fees and compensation as may have accrued. If the appraisement of any estray, or estrays, shall exceed five, and does not exceed fifteen dollars, the right therein shall be vested in the taker up, by his paying into the county treasury the appraised value thereof, at the expiration of one year, after the same shall be advertised.

Taker up, when preferred as purchaser

SEC. 2. So much of the act, to which this is an amendment, as is repugnant to this act, is hereby repealed; but any rights accrued under the provisions of that act shall not be impaired or affected hereby.

Laws repealed

[Approved, January 22, 1829.]



FERRIES, TOLL BRIDGES AND TURNPIKE ROADS.

AN ACT TO AMEND AN "ACT TO PROVIDE FOR THE ESTABLISHMENT OF FERRIES, TOLL BRIDGES, AND TURNPIKE ROADS," APPROVED, MAY 1, 1829. FEBRUARY 12, 1827.

SEC. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly,* That so much of the act to which this is an amendment, and so much of the act entitled "an act supplemental to an act, entitled 'an act to establish and regulate ferries,' (approved, February 20, 1819,) approved, February 12, 1827," as prohibits the establishment of any ferry or toll bridge, within three miles of any other ferry or toll bridge, heretofore established, or which may hereafter be established under the provisions of the acts aforesaid, be, and the same are hereby repealed.

Laws repealed

SEC. 2. If any person or persons, except those whose ferries or toll bridges have been, or shall hereafter be established and confirmed before this act takes effect, shall, at any time, run any boat or boats, or other craft, or erect any toll bridge or toll bridges, on or across the waters of the Mississippi, Ohio, Illinois, or Great Wabash rivers, within two miles; or on, or across any other river, creek or water course in this state, within one mile of any such established ferry or toll bridge; he, she

Penalty for ferrying contrary to law

or they, so offending, shall be liable to the same penalties and forfeitures as are prescribed in the eleventh section of the act to which this is an amendment.

This act to take effect, from and after the first day of May next.

[Approved, January 22, 1829.]



GENERAL ASSEMBLY.

IN FORCE, JAN. 6, 1825. AN ACT PROVIDING STATIONARY AND FIRE-WOOD FOR THE USE OF THE GENERAL ASSEMBLY.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That previous to every session of the General Assembly, it shall be the duty of the secretary of state, to provide a sufficient quantity of stationary for the use of both branches of the General Assembly, and to keep the same in his office, or some other safe place, except when it shall become his duty to part with it upon application by the proper authority.

Duty of secretary of state

SEC. 2. That after having procured a suitable quantity of stationary, as aforesaid, upon the best terms it can be obtained, he shall present his bill (specifying the quantity, with charges of transportation, if there be any) to the auditor of public accounts, whose duty it shall be, to give him a warrant upon the treasurer for the amount, if, in his opinion, it shall be just and reasonable, who shall pay the same out of any moneys in the treasury not otherwise appropriated.

Auditor to issue his warrant for the amount

SEC. 3. That the secretary is hereby authorized to advertise, if necessary, three months previous to each regular meeting of the General Assembly, that he will receive proposals for furnishing fire-wood for the use of the said assembly, and it is required of him to contract with the person who will furnish it with the greatest certainty, and at the cheapest rate.

To advertise to receive proposals

[Approved, January 6, 1825.]

## HORSES.

AN ACT FOR IMPROVING THE BREED OF HORSES.

IN FORCE,  
JUNE 1, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That it shall and may be lawful for any person to take up any stoned horse that may be found running at large, out of the enclosure of the owner or keeper, more than one year old, and shall give notice thereof to the owner or keeper; and if such owner or keeper shall not take away or secure the same, allowing him one day for every fifteen miles he may reside from such taker up, the taker up shall take or show the same to a justice of the peace within the county, and if it shall appear to such justice, that said horse is more than one year old, he shall issue his warrant to some person skilled in the business, to geld such stoned horse, or the same may be shown by the taker up, to any horse farrier or other person of the county, well skilled in the age of horses, and if upon view and examination, the horse shall be considered of the age of one year old, the person so examining, if he be skilled in the business, may geld and alter the same; if not, he shall give a certificate relative to the age thereof, and the taker up may then take said horse to some person skilled as aforesaid, and have the same gelded, and in performing the operation, reasonable care shall be taken to preserve the life of the animal; but should the owner not be known to the taker up, he shall advertise the same in three of the most public places in the county, for ten days, giving a true description thereof; and if no owner, or person on his behalf, shall by that time appear, and take charge of said horse, such taker up may proceed as above directed, and have the same gelded; and the owner shall pay to the taker up the sum of two dollars, together with reasonable charges for advertising and keeping the same, if the same be advertised, and the person altering, shall be paid by the person applying to have the same done.

Horses running at large may be taken up

Notice to the owner

Duty of taker up

Justice to issue a warrant to geld

Care to preserve life

Owner unknown, horse to be advertised

Owner not appearing

Horse to be gelded

Owner to pay expenses

SEC. 2. It shall not be lawful for any person to alter any horse that is known to be kept for covering mares, which may accidentally break out of, or from the possession of the owner or keeper, and found running at large: in that case, the same shall be taken to the owner or keeper, without unnecessary delay, and the owner or keeper, shall thereupon pay such person so taking up and delivering the said horse, the sum of two dollars;

Horses accidentally breaking away

To be taken to the owner

Who shall pay expense

and should the trouble and expenses of taking up, keeping and delivering, be extraordinary and great, a further and liberal sum shall be paid by the owner or keeper of such horse to the person so taking up and delivering; but if the owner or keeper of any stoned horse whether he be kept for covering mares or not, shall negligently or wilfully suffer the same to run at large, out of his enclosure, any person may take such horse up, and forthwith have the same gelded, by some person skilled in the business, which shall be done carefully, and the owner or keeper shall pay to such taker up, the sum of five dollars, the taker up paying the fee or charge for gelding; and the owner or keeper shall, moreover, be liable for, and pay all damages which any person may sustain, in consequence of such horse running at large; and if any horse shall die, or be injured in consequence of such gelding, the same being carefully done by a person skilled in the business, as above contemplated, the owner or keeper thereof, shall have no recourse whatever for damages upon such taker up, or person who shall have gelded the same.

Running at large by sufferance

To be gelded

Owner to pay costs

And damages

Gelded horses dying

Owner not appearing, horse how taken care of

SEC. 3. If the owner or keeper of any horse, or other person in his behalf, shall not appear and take charge of the same, after being altered as aforesaid, the taker up shall take care of, feed and nourish the same, until said horse shall have recovered, and shall then turn the same out, and the owner shall pay to such person a reasonable sum in money therefor.

Glanders, distemper, &c.

Liability of owner

SEC. 4. If any person shall suffer to run at large, or keep in any place where other creatures can have access to, and become infected, any horse, mare, gelding, mule or ass, that is known to the owner, or the person having the same in his care and possession, to be afflicted with glanders, distemper, or any other infectious disease, he shall be fined in the sum of twenty dollars, and shall be liable to pay all the damage that may result from such running at large, of such afflicted horse, mare, gelding, mule or ass, to be recovered before any justice of the peace in the county, if the sum of damages be under one hundred dollars, otherwise in the Circuit Court.

Indecency in letting horses to mares

How punish'd

SEC. 5. Any person letting any stallion to any mare, within any town or village in this state, the same not being incorporated, or immediately in the vicinity thereof, that may expose such conduct to public view, shall be liable to pay a fine not exceeding five dollars, at the discretion of any justice of the peace, to whom complaint shall be made, with costs of prosecution.

SEC. 6. All sums or penalties incurred under the provisions of this act, provided the same do not exceed one hundred dollars, shall be recovered before any justice of the peace; if above that, in the Circuit Court; and appeals shall be allowed, as in other cases, to said court.

Fines recovered before justices  
Or Circuit Court

SEC. 7. The act passed on the twentieth day of February, 1819, entitled "an act for improving the breed of horses," is hereby repealed.

Act repealed

This act to take effect on the first day of June next.

[Approved, January 3, 1829.]



IDIOTS, &C.

AN ACT REGULATING THE ESTATES OF IDIOTS, LUNATICS AND PERSONS DISTRACTED, AND FOR OTHER PURPOSES. IN FORCE, FEB. 12, 1823

SEC. 1. *Be it enacted by the People of the State of Illinois represented in the General Assembly,* That whenever any idiot, lunatic or distracted person has any estate, real or personal, the judge of the Circuit Court of the county in which such idiot, lunatic or distracted person lives, shall, on the application of any creditor or relation, or if there be neither creditor or relation, then any person living in such county, order a jury to be summoned, to ascertain whether such person be a lunatic, insane or distracted; and if the said jury return, in their verdict, that such person is a lunatic, insane or distracted, it shall be the duty of the judge aforesaid, to appoint some fit person to be the conservator of such idiot, lunatic or distracted person.

Creditors or relations may call a jury to ascertain if persons, &c.

SEC. 2. That the conservator of such estate so appointed, shall enter into bond with sufficient security, to be approved by the said judge, to the treasurer of the county in which such idiot, lunatic or distracted person resides, in double the amount of such estate, for the faithful discharge of his duty.

Security to be given by conservators

SEC. 3. That such conservator shall have the entire care of the estate of such idiot, lunatic or distracted person, both real and personal; and such conservator shall forthwith make a true and perfect inventory of said estate, and return the same into the office of the clerk of the Circuit Court of said county, where it shall

Inventory to be made, and returned to Circuit Court

be kept on file; and shall render his account to the judge of said court, of the management of such trust, when thereto required; and shall be allowed by such judge, reasonable compensation for his services. And said court shall have power to remove such conservator for neglect of duty, or mismanagement of his trust, and appoint another in his place.

Income of property to be applied to support and educate children

SEC. 4. That it shall be the duty of such conservator, to apply the annual income and the profits thereof, to the support of such idiot, lunatic or distracted person, his or her family. He shall have power to collect all debts due to such person, and to institute suits for that purpose, and to adjust and settle all accounts and debts due from him or her; he may sell or dispose of the personal estate to pay his or her debts, or to support him or her, or his or her families, and to educate the children of the same.

Conservators may sue and be sued, and property may be sold

SEC. 5. That the said conservator may sue and be sued, in every instance, as the representative of the person so insane, lunatic or distracted, and execution may issue in the name of, and against the said conservator, as representative, as aforesaid; and all the property of such person may be sold to pay his or her just debts, that might or could be sold in other cases.

Persons being restored to their reason shall have possession of their property

SEC. 7. That if such person, as aforesaid, shall be restored to his or her reason, then what remains of his or her property and estate, shall be returned to him or her; or in case of his or her death, to his or her heirs, executors or administrators, after a reasonable allowance to said conservator for his services, to be ascertained by the judge of said court.

[Approved, February 12, 1823.]



## INSOLVENT DEBTORS.

AN ACT FOR THE RELIEF OF INSOLVENT DEBTORS.

IN FORCE,  
JUNE 1, 1829.

Debtors refusing to deliver property *ca. sa.* may issue

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That whenever any debtor shall refuse to surrender his or her estate, lands, tenements, goods or chattels, for the satisfaction of any execution which may be issued against the pro-



perty of any such debtor, it shall and may be lawful for the plaintiff in such execution, or his or her attorney or agent, to make affidavit of such fact before any justice of the peace of the county, and upon filing such affidavit with the clerk of the court from which the execution issued, or with the justice of the peace who issued such execution, it shall be lawful for such clerk, or justice of the peace, as the case may be, to issue a *ca. sa.* against the body of such defendant in execution.

SEC. 2. The judges of probate, in the several counties in this state, shall have the sole power, in the first instance, to hear and determine all applications for discharge from imprisonment for debt under this act.

Jurisdiction of judges of probate

SEC. 3. When any person shall be arrested for debt on execution, or on original process, for the purpose of being held to bail, and shall be desirous of releasing his or her body from such arrest or imprisonment, by delivering up his or her property, it shall be the duty of the sheriff, or other officer having the custody of such debtor, to convey him or her before the judge of probate of the county in which such arrest is made.

Persons desirous may be conveyed before judges of probate

SEC. 4. It shall be the duty of the judge of probate, before whom any such debtor shall be brought as aforesaid, to require of such debtor a full, fair, and complete schedule of all his or her estate, real or personal, including money, notes, bonds, bills, obligations and contracts for money, or property of any and every description, or kind, name, or nature whatsoever, together with a true and perfect account of all the debts which he or she shall or may be owing at the time, which schedule shall be subscribed by the debtor; who shall also take the following oath, or affirmation, to wit: "I do solemnly swear (or affirm, as the case may be) that the schedule now delivered, and by me subscribed, contains to the best of my knowledge and belief, a full, true and perfect account and discovery of all the estate, lands, tenements, hereditaments, goods, chattels and effects, unto me in any wise belonging, and such debts as are unto me owing, or unto any person or persons for me, or in trust for me, and of all securities and contracts whereby any money may become due or payable, or any advantage or benefit accrue to me, or to my use, or to any person or persons for me, or in trust for me; that I have not lands, money, or any other estate, real or personal, in possession, reversion, or remainder, which is not set forth in this schedule; nor have I, at any day or time, directly or indirectly, sold, lessened in value, or otherwise disposed of,

Who shall require a schedule

Of property

And debts

Debtor to make and subscribe oath

all or any part of my lands, money, goods, stock, debts, securities, contracts, or estate, whereby to secure the same, or to receive, or expect to receive, any profit or advantage therefrom, to defraud any creditor, or creditors, to whom I am indebted in any wise whatsoever; and also, that this schedule contains a true and perfect account of all the debts which I owe to any and every person whatsoever." Which oath, or affirmation, shall be subscribed by the debtor, and certified by the judge, as may all oaths, or affirmations, which it may be necessary for him to administer in the discharge of the duties assigned him by this act.

Which shall be certified by the judge

Creditors may contest

SEC. 5. Any creditor of such debtor, shall have the right to appear before the judge of probate, and contest the truth of such schedule, and may for that purpose call such witnesses as he or she shall deem necessary; and the judge shall issue subpoenae, and compel the attendance of witnesses, in the same manner as the judges of the Circuit Courts do in term time.

Examination may be adjourned

SEC. 6. The judges shall have power to adjourn or continue the examination of any such debtor to any convenient time, not exceeding thirty days, upon the said debtor giving security for his appearance, and also for the surrender of all the goods, chattels, and estate, mentioned in his schedule, at the day or time to which such examination may stand continued or adjourned.

Upon giving bond

Assignee may be appointed

SEC. 7. If after full investigation, and fair examination of the debtor, and the witnesses, if any, it shall appear to the judge that the proceedings on the part of the said debtor are fair, just and honest, it shall be the duty of the judge to name some fit person to act as assignee of the said debtor, and such debtor shall immediately, by endorsement on the back of such schedule, assign all, or so much of his property therein mentioned, as will in the opinion of the judge be sufficient to pay all the debts, interest, costs, and charges, in such schedule mentioned, to the person so named as assignee; and such assignment, so made, shall absolutely vest in such assignee, all the interest of such debtor, in and to the said estate, so assigned for the use of the creditor or creditors of such debtor.

Discharge how granted

SEC. 8. Whenever the said debtor shall produce to the judge, a receipt of the assignee of such debtor, certifying that he has received all the estate, property, goods, chattels, and effects so assigned to him, then it shall be the duty of the said judge to give to such debtor a discharge, in writing, from imprisonment; and the of-

ficer having the custody of the said debtor, shall, on the production of such discharge, forthwith liberate such debtor from arrest or imprisonment; and such discharge from arrest or imprisonment, shall exempt the said debtor from arrest on account of any debt mentioned in said schedule, until the same shall be vacated by due course of law. And of what effect

SEC. 9. Any creditor thinking himself or herself aggrieved by any such discharge, shall and may be allowed an appeal to the next Circuit Court, to be held in the county, upon his or her giving bond, with security, to prosecute the said appeal at the next circuit court, and to pay all costs and damages which may accrue to the party seeking such discharge; which bond shall be made payable to the judge of probate, or his successor in office, as shall all other bonds which may be given by authority of this act; and the said bond shall be filed with the judge of probate. Appeal

SEC. 10. Upon application of any debtor for a discharge from imprisonment under this act, and refusal of the judge to make an assignee, or to grant a discharge from imprisonment, the said applicant shall be allowed to appeal to the next circuit court, to be held in said county, upon said applicant's entering into bond, with security, in such sum as the judge shall require, to appear on the first day of the next term of the circuit court, and abide the decision thereof, and also that he or she will not sell or dispose of, or remove or lessen in value, any or all of the estate or property mentioned in the schedule of such applicant, but that the same shall be forthcoming, and subject to the order of the said court; and upon such debtor entering into such bond, it shall be the duty of the said judge to certify the whole of the proceedings, which have been had before him, to the said circuit court, on the first day of the term thereof. All appeals shall be prayed before the judge at the time of trial or within ten days thereafter.

SEC. 11. No assignee shall sell any property assigned to him by any debtor as aforesaid, during the pendency of any appeal to the circuit court, unless the same be of a perishable nature, and such as will be materially injured in its value by delay. Property of a perishable nature only, to be sold

SEC. 12. The circuit court, at the term to which the proceedings shall be returned, shall (unless for good cause) proceed to hear and determine the matter, and shall empanel a jury to find the facts, at the request of either party, admitting all necessary evidence, and shall Proceedings in the circuit court

make such order therein as justice and equity may require, affirming or reversing the whole, or any part, of the proceedings of the judge of probate, and doing all things that may be necessary to effect the objects of this act.

Arrests for fraud and trial thereon

SEC. 13. In every case where a debtor is arrested on affidavit, charging such debtor with fraud, and being desirous of releasing his or her body from arrest or imprisonment, it shall be the duty of the sheriff, or other officer having the custody of such debtor, forthwith to convey him or her before the judge of probate of the county, whose duty it shall be to issue a *venire* to the sheriff, or other officer having custody of such debtor, commanding him forthwith to summon seven reputable householders of the neighbourhood, to assemble before the said judge as a jury, who shall be sworn to try the fact of fraud with which such debtor shall stand charged.

Verdict of the jury

SEC. 14. If after full hearing of the parties, the jury shall find a verdict of "guilty of fraud," against such debtor, he or she shall be imprisoned until he or she shall comply with the requisitions of the fourth section of this act: but if the jury find such debtor "not guilty of fraud," then the maker of such affidavit, as aforesaid, shall pay all such costs as may have accrued in consequence of such arrest or imprisonment, and the debtor shall be discharged from such arrest or imprisonment: *Provided*, always, that either party shall have the right to an appeal, upon the same conditions as in other cases under this act.

And judgment thereon

Jury allowed to debtor in case of refusal

SEC. 15. Every debtor arrested on any civil suit or process, shall upon going before the judge of probate, if he shall desire the same, be allowed a jury of seven householders of the neighbourhood, who shall be sworn to try the fact of refusal to surrender the property of such debtor for the benefit of his, or her creditor, and if the jury return or find a verdict of "guilty of such refusal," then such debtor shall be compelled to surrender his or her property, or schedule his or her property, as provided in the fourth section of this act; but if the jury find such debtor "not guilty" of refusing to surrender, then such debtor shall be forthwith discharged.

Judgment

Duty of assignee

SEC. 16. Every assignee, appointed by authority of this act, shall within the space of thirty days after the assignment of the property mentioned in the schedule or inventory of any insolvent debtor, advertise all the personal property, goods, or chattels, mentioned in such schedule, at the door of the court house, and in three other

To advertise

public places in the county, giving twenty days' notice of the time and place of such sale, at which time and place such assignee shall proceed to sell all such personal property, goods and chattels, for the highest price which can be obtained; on a credit of nine months, for which he shall take bond with sufficient security; and the said assignee shall also advertise at the same places, as above required for personal property, the lands and tenements contained in such schedule, which shall be sold at the door of the court house, on the first day of the circuit court, next to be holden in the said county, between the hours of eleven in the morning and sun setting of said day; but if the said circuit court should not sit on such day so appointed for its sitting. then such lands and tenements shall be sold in the same manner as if said court had been held at the time appointed, to the highest bidder, on a credit of twelve months, the said assignee taking bond, with sufficient security, for the payment of the same.

And sell personal property

And lands

SEC. 17. It shall be the duty of every assignee, who shall sell any lands or tenements by or under authority of this act, upon payment of the purchase money being made by the purchaser, to make and execute to such purchaser, his heirs, executors, administrators, or assigns, a deed of conveyance for the same, which shall be acknowledged in the same manner as deeds are acknowledged by sheriffs, and such deed shall vest in the purchaser all the rights of the assignor to such lands and tenements.

To make a deed

And acknowledge the same

SEC. 18. It shall be the duty of every assignee of any insolvent debtor, within eighteen months after such assignment, to make a settlement of the estate of such insolvent debtor before the judge of probate, giving thirty days public notice of the time of making such settlement; and the judge of probate shall make such order concerning the distribution thereof, as is made in cases of insolvency of deceased persons; and such assignee shall pay the creditors of such insolvent debtor, the amount of their several dividends, within thirty days after such settlement; and if the whole amount of debts shall not have been collected at the time of making such settlement, then such assignee, shall continue to collect such outstanding debts, and, from time to time, make dividends of such sums as shall come to his possession, until the whole is collected and paid, first deducting such charges and fees as are by law allowed; and if any thing shall remain in the hands of any such assignee, after paying

To settle with the court of probate

Notice

Distribution

Subsequent collections

And payments

Balance remaining in his hands all such debts as are mentioned in such schedule, together with the costs thereon, then such assignee shall pay over the same to the said debtor, his or her heirs, executors, administrators or assigns.

Compensation to assignee SEC. 19. The judge of probate is hereby authorized to allow every assignee, who shall be appointed under the provisions of this act, such compensation as shall be reasonable and just for the services which he shall be necessarily called upon to perform, in the discharge of his duties as assignee.

Fees of judge of probate SEC. 20. The judge of probate shall be allowed the same fees for services rendered by authority of this act, as he is allowed for similar services in the court of probate, in addition to the sum of two dollars for the examination of each applicant for a discharge under this act, and one dollar for each discharge by him granted to such debtor, as aforesaid.

Judge of probate insolvent to proceed before co. com. SEC. 21. In case of the insolvency of any judge of probate within this state, the same proceedings shall be had against him, before any county commissioner of the county, as are prescribed for other debtors by this act.

False oath SEC. 22. Any debtor who shall be convicted of taking a false oath, under any of the provisions of this act, shall be deemed guilty of wilful perjury, and shall suffer the pains and penalties imposed by law therefor.

Effect of discharge under this act SEC. 23. Any debtor, who shall obtain a discharge under this act, and who shall have acted honestly and without fraud, shall for ever after be discharged from imprisonment, on account of any debt or debts that he may owe at the time of obtaining such discharge, and that may be contained in the schedule required to be made by this act; and the certificate of the judge of probate of such discharge, shall protect such debtor from imprisonment, in all cases where any action may be brought against him for any such debt, or debts, as aforesaid.

Acts repealed SEC. 24. An act entitled "An act to abolish imprisonment, for debt in certain cases," approved February 17, 1823; and the 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 21st, and 22nd sections of an "Act establishing courts of probate," approved February 10th, 1821, are hereby repealed. This act to take effect on the first day of June next.

[Approved, January 12, 1829.]

## JUDGMENTS AND EXECUTIONS.

IN FORCE  
MAY 1, 1825.

## AN ACT CONCERNING JUDGMENTS AND EXECUTIONS.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That all and singular the goods and chattels, lands, tenements and real estate of every person against whom any judgment has been, or hereafter shall be obtained, in any court of record, either at law or in equity, for any debt, damages, costs, or other sum of money, shall be liable to be sold upon execution to be issued upon such judgment; and the said judgment shall be a lien on such lands, tenements and real estate, from the last day of the term of the court in which the same may be rendered, for the period of seven years: *Provided,* that execution be issued at any time within one year on such judgment, and from and after the said seven years, the same shall cease to be a lien on any real estate as against *bona fide* purchasers, or subsequent incumbrances, by mortgage, judgment, or otherwise: *Provided,* that in case the party in whose favour any such judgment shall have been entered, shall be restrained by injunction out of chancery, or order of any judge or court, either from issuing execution or selling thereon, the time which he shall be so restrained shall not be deemed or considered, as any part of the said seven years.

SEC. 2. That when any judgment shall have become a lien as aforesaid, and the defendant happen to die before execution shall have been issued thereon, the remedy of the person in whose favour the said judgment shall have been rendered, shall not be delayed or suspended by reason of the non-age of any heir or heirs of such defendant; but no execution shall issue upon such judgment until the expiration of one year after the death of such defendant; nor shall any previous law of this state, which gives no preference to the claims of a creditor of a deceased debtor, be so construed as to impair or affect the lien of any judgment as aforesaid.

SEC. 3. That the legal holder or holders by record, of any certificate of purchase of lands from the United States, shall be deemed to be within the true intent and meaning of this act.

SEC. 4. That in all executions to be issued upon judgments hereafter to be recovered upon contracts

Goods, chattels and lands may be sold on execution

Judgments a lien

Proviso

Proviso

Defend't dying before execution issued remedy not delayed &amp;c

Certificates of land liable to execution

Interest allowed on judgments

either express or implied; it shall be lawful to direct the collection of interest on the said judgment from the time of recovering the same until paid, at the rate of six per centum per annum.

Execution may issue against the body &c of defendant

SEC. 5. That it shall be lawful for the party in whose favour any judgment as aforesaid may be obtained, to have an execution against the body of such debtor, or against his goods and chattels, lands and tenements, in the usual form, or both in succession, and to be directed to any county in the state, at the election of such party: *Provided*, however, that no execution shall be issued against the body or the goods and chattels, lands and tenements of any heir, executor, or administrator, unless such person shall have made his estate liable to the same debt, by false pleading or otherwise: And *provided* also, that no execution shall issue against the body of such debtor, except in the manner, and as is provided and declared in the act entitled "an act to abolish imprisonment for debt in certain cases;" approved February 17, 1823; but nothing in this act contained, nor in the said act abolishing imprisonment for debt, shall restrain or prevent any execution being issued against the body of any defendant, where the judgment shall have been obtained for a tort or trespass committed by said defendant.

Proviso

Execution to be returned in 90 days

SEC. 6. That all executions shall be made returnable ninety days after date, and no writ of execution shall bind the property of the goods and chattels of any person against whom such writ shall be issued; but from the time that such writ shall be delivered to the sheriff, or other officer, to be executed; and for the better manifestation of the said time, the sheriff, or other officer, shall on the receipt of every such writ, endorse upon the back thereof, the hour, day of the month, and year, when he received the same.

Sheriff to endorse the time of receiving execution

Replevy bonds to have the force and effect of judgments  
Not replevia ble

SEC. 7. That in all cases where executions have been issued from the courts of record, and replevied pursuant to the laws of this state, the replevy bonds, so taken shall have the same force and effect under this act, as they would have under those laws; and when executions shall be issued on those bonds, no further replevy of any kind shall be allowed; but such proceedings may be had thereon, as in other cases of execution under this act.

SEC. 8. That no lands or tenements shall be sold by virtue of any execution aforesaid, unless such sale be at public vendue, and between the hours of nine in the



morning and the setting of the sun of the same day, nor unless the time and place of holding such sale shall have been previously advertised, for the space of twenty days, by putting up written or printed notices thereof in at least three of the most public places in the county where the lands may be situated, specifying the name of the plaintiff and defendant in the execution, and in all which notices, the lands or tenements to be sold shall be described with reasonable certainty, by setting forth their number; or by some other appropriate description; and if any sheriff or other officer shall sell any lands or tenements by virtue of any such execution, otherwise than in the manner aforesaid, or without such previous notice, or if any person shall take down or deface any such notice, previous to the day of sale, unless upon satisfaction of the judgment on which such execution issued, or without the consent of the plaintiff and defendant herein, the sheriff or other officer so offending, every such offence, forfeit and pay the sum of fifty dollars and every person so offending by taking down or defacing such notice, shall forfeit and pay the like sum of fifty dollars, to be respectively recovered with cost of suit, in any court of record in this state, by the person whose lands may have been advertised for sale: *Provided* however, that no such offence, nor shall any irregularity on the part of the sheriff or other officer having the execution, be deemed to affect the validity of any sale made under it, unless it shall be made appear that the purchaser had notice of such irregularity.

Lands &c to be sold by public vendue

And be advertised

Penalty on sheriff for violating the provisions of this section  
Penalty for taking down advertisement

Proviso

SEC. 9. That when any real estate, or personal property, shall be levied upon by virtue of any execution issued as aforesaid, it shall be the duty of the sheriff, or other officer making such levy to cause the same to be valued or appraised by three disinterested freeholders, of the county where the same may be situated, to whom he shall administer an oath to make such valuation and appraisement according to the best of their judgments, which valuation or appraisement shall be entered on the back of the execution, or on a paper thereto annexed, and subscribed with their names, as appraisers, describing the number of acres, if there be more than one and upon being exposed to sale at public vendue as aforesaid, the said real estate may be struck off to the highest bidder for what it will bring, and without regard to such valuation or appraisement: *Provided* however, that if the execution, by virtue of which the sale be made, shall have been issued upon a judgment hereto-

Property to be valued

May be sold to highest bidder  
Proviso

fore rendered, or on a replevy bond taken or given before this act takes effect, or upon a judgment hereafter to be rendered upon any contract made, or upon a cause of action accrued, or liability incurred, before this act takes effect, then and in that case the said premises, real estate or personal property, shall not be struck off to the highest bidder, unless the bid amount to two-thirds of such valuation or appraisement. And if the plaintiff in the execution will not bid two thirds of such valuation or appraisement, or take the said premises or real estate or personal property at that rate, or so much thereof, at his election, as will satisfy the execution, the judgment upon which it issued shall altogether cease to be a lien as against all other judgments, or subsequent *bona fide* purchasers, or incumbrances by mortgage, judgment, or otherwise: *Provided*, always, that the plaintiff in any execution may elect on what property he will have the same levied, except the land on which the defendant resides, and his personal property, which shall be last taken in execution: And *Provided* also, that when any property, real or personal, shall be taken in execution, if such property be susceptible of division, it shall be sold in such quantities as may be necessary to satisfy such execution and costs.

If property will not bring two thirds its valuation

Judgment ceases to be a lien

Proviso

Proviso

Sheriff to give a certificate of purchase

Sheriff to file a duplicate of certificate in clerk's office

Defendant &c may redeem real property in 12 months

SEC. 10. That whenever any lands or tenements shall be sold after this act takes effect, by virtue of any execution already issued, or that shall hereafter be issued, it shall be the duty of the sheriff or other officer, instead of executing a deed for the premises sold, to give to the purchaser or purchasers of such land or tenements, a certificate in writing, describing the lands or tenements purchased, and the sum paid therefor, or if purchased by the plaintiff in the execution, the amount of his bid, and the time when the purchaser will be entitled to a deed for such lands or tenements, unless the same shall be redeemed, as is provided in and by this act, and such sheriff or other officer, shall within ten days from such sale, file in the office of the clerk of the county, a duplicate of such certificate, signed by him: and such certificate, or a certified copy thereof, shall be taken and deemed evidence of the facts therein contained.

SEC. 11. That it shall be lawful for any defendant, his heirs, executors, administrators, or grantees, whose lands or tenements shall be sold after this act takes effect by virtue of any execution within twelve months from such sale, to redeem such lands or tenements, by paying

to the purchaser thereof, his executors, administrators or assigns, or to the sheriff or other officer who sold the same, for the benefit of such purchaser, the sum of money which may have been paid on the purchase thereof, or the amount given, or bid, if purchased by the plaintiff in the execution, together with interest thereon at the rate of ten per centum from the time of such sale, and on such sum being made as aforesaid, the said sale and the certificate thereupon granted, shall be null and void.

With ten per cent. interest

SEC. 12. That if default be made by any such defendant to redeem the lands or tenements which have been so sold, it shall be lawful for any other judgment creditor to redeem the same in the manner prescribed in the preceding section, within fifteen months after such sale, and he shall be entitled to all the rights of the original purchaser.

If defendant does not redeem judgment creditor may redeem in 15 months

SEC. 13. That if such lands or tenements so sold, shall not be redeemed as aforesaid, either by the defendant or by such creditor as aforesaid, within fifteen months from the time of such sale, it shall be the duty of the sheriff or other officer who sold the same, or his successor in office, or his executors or administrators, to complete such sale by executing a deed to the purchaser; and if any creditor shall redeem such lands or tenements as aforesaid, it shall be the duty of the sheriff, or other officer, on the expiration of fifteen months from the time of such sale, to execute a deed to such creditor as the original purchaser; and such deeds shall be as valid and effectual in law, as if such creditor had been the original purchaser.

Property not redeemed sheriff to give a deed

SEC. 14. That when a sheriff or other officer shall execute a deed for lands or tenements, which he may have sold by virtue of any execution, it shall be his duty to acknowledge the same before the clerk of the court whence it issued, or in open court, unless it issued from the Supreme Court, in which case the acknowledgment may be made before the clerk of any county commissioners' or circuit court; and the clerk's certificate of such acknowledgment shall be deemed *prima facie* evidence of the execution thereof.

Sheriff's deed to be acknowledged before the clerk

SEC. 15. That when any sheriff or other officer shall go out of office, not having made a deed for any lands or tenements, which he may have sold, by virtue of any execution, it shall be lawful for him, his successors in office, or if he be dead, for his successor, his executor or administrator, to make and acknowledge a deed for the same: and in no case shall the death of a sheriff take

Sheriff going out of office his successor to make deed

Deputy sheriff away or suspend the powers of the deputy sheriff of same powers as principal such sheriff; but such deputy may do all acts and things which he could have done had the sheriff remained in full life, until his powers be superseded by the appointment of a principal sheriff.

Ten day's notice to be given of sale of personal property

SEC. 16. That no goods or chattels shall be sold by virtue of any execution aforesaid, unless previous notice of such sale shall have been given, for at least ten days successively, by putting up written or printed notices thereof, in three of the most public places in the county where such sale is to be, specifying the time and place where such goods and chattels are to be sold; and any person or persons who shall take down or deface any such advertisement, shall incur the same penalties as are hereinbefore imposed for taking down and defacing notices of the sale of lands and tenements.

Penalty for defacing notice

Defendant may replevy property by giving bond

SEC. 17. That whenever a sheriff, constable, or other officer, shall have levied any execution, issued from the courts of record, aforesaid, or upon the judgment of any justice of the peace, rendered in a civil suit or action upon the personal property of any defendant, or shall be about to make such levy, and the said defendant be desirous of retaining the same in his possession, it may be lawful for such sheriff, constable or other officer, to take a bond from the defendant with security, that such property shall be forthcoming, or delivered, at such time and place as may be named in the condition, and that the same shall not be disposed of, injured or the like; and a bond, so taken, shall not be deemed void, as taken by color of office.

Mortgagee may sue for scire facias

SEC. 18. That if default be made in the payment of any sum of money, secured by mortgage, on lands and tenements, duly executed and recorded, and if the payment be by instalments, and the last shall have become due, it shall be lawful for the mortgagee, his executors or administrators, to sue out a writ of scire facias, from the clerk's office of the circuit court of the county in which the said mortgaged premises may be situated, or any part thereof, directed to the sheriff, or other proper officer, of such county, requiring him to make known to the mortgagor, or if he be dead, to his heirs, executors, or administrators, to shew cause, if any they have, why judgment should not be rendered for such sum of money as may be due by virtue of said mortgage: and upon the appearance of the party, named as a defendant, in said writ of scire facias, the court may proceed to judgment, as in other cases: but if said scire facias be returned nihil, or that the defendant is not found, an alias

scire facias may be issued; and if it be returned as aforesaid, or if the defendant appear and plead, or make default, the court may proceed to give judgment with costs, for such sum as may be due by said mortgage, or appear to be due by the pleadings, or after defence, if any be made; and also that said mortgaged premises be sold to satisfy such judgment, and may award or direct a special writ of fieri facias, for that purpose, to the county or counties in which said mortgaged premises may be situate, and on which the like proceedings may be had, as in other cases of execution levied upon real estate: *Provided* however, that the judgment aforesaid shall create no lien on any other lands or tenements than the mortgaged premises, nor shall any other real or personal property of the mortgagor be liable to satisfy the same: but nothing herein contained shall be so construed as to effect any collateral security, given by the mortgagor, for the payment of the same sum of money, or any part thereof, secured by the mortgage deed.

If scire facias be returned nihil, alias may issue

Mortgaged property may be sold

Proviso

SEC. 19. That every person, being the head of a family and living with it, shall be permitted to retain and enjoy, exempt from execution, one milch cow and calf, the wearing apparel of himself and family, necessary bed and bedding, one spinning wheel and pair of cards, provisions not more than sufficient for the support of the family three months, and the necessary utensils for cooking, and necessary household furniture, not exceeding in value fifteen dollars: and if any sheriff or other officer shall take or seize any of said articles of personal property by virtue of any execution, he shall be liable to the party injured for three times the value thereof, to [be] recovered by action of trespass, with costs of suit: *provided*, that the wearing apparel of every person shall be exempt from execution.

Certain property exempt from taxation

SEC. 20. That nothing herein contained shall be so understood as to impair the existing right of any judgment debtor to discharge or pay the judgment against him in notes of the state bank of Illinois or its branches. And it shall be the duty of all courts, whether of record or justices of the peace, where actions are brought on contracts which have been or shall hereafter be made for the payment of or in notes of the state bank of Illinois, to render judgment for the specie value of such notes, at the time when such payment ought to have been made, according to the terms of such contract.

SEC. 21. That when notes, bonds, bills, obligations mortgages, or other securities, have been or shall here-

Judgments in  
favour of the  
state bank

Must be paid  
in bills of that  
institution

after be made or executed to the president and directors of the state bank of Illinois, and evidently for the payment of money in the notes of said bank, and judgment has been or shall be obtained upon any such note, bond, bill, obligation, mortgage, or other security, by reducing the number of dollars therein expressed, to their specie value, it shall be lawful and the duty of every such judgment debtor to satisfy and discharge the same judgment, or any execution which may be issued thereon, by paying the same number of dollars in the notes of the said bank, as are or may be specified in such note with the addition of interest and costs in like manner payable. And when judgment shall hereafter be rendered upon any such note, bond, bill, obligation, mortgage or other security, it shall be the duty of the court, immediately after entering the judgment, to note upon the record, by way of memorandum, the number of dollars in notes of the said bank, with interest then due thereon. And whenever execution shall or may issue on such judgment, the clerk shall endorse the same note or memorandum on the back of the execution, and paying the sum so endorsed, with interest thereafter accruing, and costs in the notes of the said bank, shall discharge the execution and judgment: and in case of refusal to pay the same, the sheriff or other officer having the execution, shall collect it in specie, or in the notes of said bank, as in other cases of execution.

SEC. 22. That not nothing in this act contained shall be so construed as to apply to judgments rendered by justices of the peace on executions issued by them, except sections seventeen and nineteen.

Judge may  
grant order to  
stay execution

SEC. 28. That a party out of term intending to move to set aside or quash any execution, replevin bond, or other proceedings, may apply to the judge at his chamber for a certificate, (and which the said judge may in his discretion grant) certifying that there is probable cause for staying further proceedings until the order of the court on the motion; and a service of a copy of the certificate at the time of, or after the service of the notice of the motion, shall thenceforth stay all further proceedings accordingly.

Certain acts  
repealed

SEC. 24. That the act entitled "an act concerning judgments and executions," approved, February 17, 1823; and the acts and parts of acts thereby repealed, be, and the same are hereby declared to be repealed. This act to take effect from and after the first day of May next.

## JUSTICES OF THE PEACE AND CONSTABLES.

AN ACT TO AMEND AN ACT ENTITLED AN ACT TO PROVIDE FOR THE ELECTION OF JUSTICES OF THE PEACE AND CONSTABLES, APPROVED, DECEMBER 30, 1826. IN FORCE, JAN. 13, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That it shall be lawful for the county commissioners' courts in the counties in this state, at any regular or special term, to lay off, in their several counties, as many districts, not exceeding eight, for the election of justices of the peace and constables, as they shall deem necessary and proper.

New districts may be formed

SEC. 2. When any district shall be so laid off, elections for justices of the peace and constables shall be held therein, in the same manner as is prescribed in the act to which this is a supplement; and the justices and constables elected in said districts, shall continue in office until the next quadrennial election of justices of the peace and constables, and until their successors shall be elected and qualified.

Elections of justices and const. and term of service

SEC. 3. When a vacancy shall happen in any district created in pursuance of this act, the same shall be filled in the manner prescribed in the fifth section of the act to which this is a supplement.

Vacancies

SEC. 4. The county commissioners' court, at any regular term, shall have power to alter the limits of the several districts in their respective counties, as the convenience of the county may require: *Provided,* no such alteration shall be made, without petition from a majority of the qualified voters residing within the limits of the district proposed to be altered, and twenty days public notice given of their intention to petition for such alteration.

Alterations in districts

With the consent of voters

SEC. 5. No alteration which shall be made in the districts, shall prevent the justices of the peace or constables in office, at the time of such alteration, from serving out the time for which they may have been elected.

Old justices to continue in office

SEC. 6. When any justice of the peace shall resign his office, or remove from the county or district in which he was elected, it shall be his duty to deliver over his docket and papers, relating to the business transacted before him, to the nearest justice of the peace of his county, and to return to the office of the clerk of the county commissioners' court, all copies of the statutes which he may have received from that office; and in case of the death of any justice of the peace, it shall be the duty of the

Justices, &c. resigning, to deliver his papers, &c.

person having possession of said docket, papers and statutes, to deliver them over as aforesaid. And any person who shall refuse or neglect to comply with the requisition of this section, shall forfeit and pay a sum not exceeding fifty dollars, to the use of any person who may sue for the same, in any court having cognizance thereof.

Penalty

Additional justices &c at county seat

SEC. 7. It shall be lawful for the county commissioners' court of any county of this state, when they may deem it necessary, to cause an election to be held of one additional justice of the peace and two additional constables, in the district which includes the county seat; such justices of the peace and constables, to hold their offices until the next quadrennial election of justices of the peace and constables, at which time, an election shall take place in such district, for four justices of the peace and four constables: and all vacancies in the office of constable, shall be filled by appointments made by the county commissioners' court: *Provided*, that a majority of the qualified voters of the district may petition the county commissioners' court for that purpose.

Vacancies in the office of constable to be filled by co. com'rs.

*Approved, January 13, 1829.*



IN FORCE, AN ACT TO AMEND "AN ACT CONCERNING JUSTICES OF THE PEACE AND CONSTABLES," APPROVED, FEBRUARY 13, 1827.  
JUNE 1, 1829.

Bail before J. P. in suits of trespass & trover

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly, that when any person or persons, shall be about to commence an action of trespass or trover, before a justice of the peace, and he, she or they shall make oath before such justice that he, she or they, verily believe, that the benefit of whatever judgment may be recovered in such action, will be in danger of being lost, unless the defendant or defendants, be held to bail; upon such oath being made, the justice shall issue a warrant, as in cases for debt, varying the same to suit the action, and the defendant may release his body by giving special bail, as in actions of debt. Upon all judgments in action of trespass or trover, the justice may issue an execution against the goods and chattles, or body of the defendant, at the election of the plaintiff. And in cases of judgment for debt, whenever the plaintiff, or his authorized agent, shall make oath before the justice, in whose office such*

Executions in trespass and trover

Oath to procure a ca. sa.



judgment may be, that he or she verily believes the defendant or defendants, to be able to pay such judgment, and withholds the money, or secretes his, her or their property from the officer, so that the debt cannot be levied, it shall be lawful for the plaintiff to demand, and for the justice to issue, execution against the body of such defendant or defendants. And that in all cases where a defendant shall give special bail under the provisions of this act, or the act to which this is an amendment, and shall not be surrendered on or before the return day of the *scire facias* upon the judgment, nor a sufficiency of property be found to pay the judgment and costs within the time aforesaid, it shall be the duty of the justice of the peace, upon the application of the plaintiff, or his agent, to issue a summons against the special bail, in the following form, as nearly as may be, to wit: "State of Illinois, \_\_\_\_\_ county. The people of the state of Illinois, to any constable of said county, greeting: You are hereby commanded to summon \_\_\_\_\_ to appear before me, at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, to show cause, if any he have, why judgment should not be rendered against him, as the special bail of \_\_\_\_\_ upon a *capias* issued by me, against him, in favour of \_\_\_\_\_ for the sum of \_\_\_\_\_ dollars and \_\_\_\_\_ cents, the amount of the judgment rendered against the said \_\_\_\_\_ in favour of the said \_\_\_\_\_ and hereof make due return, as the law directs. Given under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_\_

Liability of bail

Proceedings against special bail

Form of summons

JOHN DOE, J. P. [Seal]"

In which summons, the justice shall specify a certain day, place and hour, for the trial, not less than ten, nor more than fifteen days from the date thereof, at which time and place, the defendant is to appear, which process, shall be served at least five days before the time of trial mentioned therein, by reading the same to the defendant or defendants.

What it shall contain

How served and returned

SEC. 2. If the defendant or defendants, shall not appear at the time of trial, after being served with a summons, as directed in the first section of this act, and no sufficient reason be assigned to the justice, why he or she does not appear, then the justice shall render a judgment against the defendant or defendants, and issue execution thereon immediately.

Judgment by default

And execution

SEC. 3. If the defendant shall appear at the time and place appointed for trial, he shall be permitted to show cause for his failure to comply with the condition

Appearance

What shall  
release the  
bail

of his undertaking, or to show that he hath complied with the same; and if it shall appear that the defendant was prevented from surrendering the body of the original defendant, by the act of the plaintiff, or that the said original defendant had departed this life previous to the time required for making such surrender, or that his health was such, as to endanger his life by such surrender, or that he had delivered the body in execution, according to the condition of the recognizance, then the bail shall be released, and discharged from all liability.

Appeal

SEC. 4. Either party shall have the right to appeal to the Circuit Court, from any judgment which may be rendered under the provisions of this act.

Evidence by  
the oath of  
parties

SEC. 5. In all trials before justices of the peace, when either party may not have a witness or other legal testimony, to establish his or her demand, discount or set off, the party claiming such demand, discount or set off, may be permitted to prove the same, by the testimony of the adverse party; and if such adverse party shall not appear at the time of trial, or shall refuse to be sworn, or to testify, then the party claiming the same, shall be permitted to prove his or her demand, discount or set off, by his or her own oath: *Provided*, that such party claiming the benefit of his own oath, or that of the adverse party, shall first make oath that he has a demand, discount or set off, in said cause, and that he knows of no witness by whom he can prove the same, except by his own oath, or that of the adverse party: *Provided further*, that no person shall be allowed to prove his demand, discount or set off, unless the adverse party be present, or shall have been notified thereof, and for which purpose, the justice may continue the cause for such time as may be necessary.

Evidence  
shall be the  
same in the  
Circuit Court  
on appeal

SEC. 6. Upon the trial of appeals in the Circuit Court, the same rules of evidence shall be observed, as in trials before justices of the peace.

Payment or  
tender to the  
constable re-  
leases from  
costs.

SEC. 7. That where the defendant, upon whom any summons or warrant, issuing from a justice of the peace, shall be served, shall pay, or tender to the constable, the amount actually due, with all costs then accrued, and shall prove the same upon trial, and bring the money forward, and deposit it with the justice of the peace, no costs which shall thereafter accrue, shall be adjudged against him, but the plaintiff shall pay the same.

Non-residents  
shall give  
bond for costs

SEC. 8. No person, who is not a resident of this state, shall hereafter commence any action before a justice of the peace, until such non-resident shall file with the justice before whom such action may be brought, a

bond, with sufficient security, for the payment of all costs which may be awarded against the plaintiff, should he fail in his suit; which bond shall be in the following form, as near as may be, inserting the names of the parties, the county and state:

“ State of Illinois, } A. B. } Demand \$—— Form thereof  
County of—— } vs. }  
C. D. }

I, E. F. do enter myself security for all costs that may accrue in the above case, this —— day of —— 18——.” Which bond shall be signed by the security, and if the said plaintiff shall be cast in his suit, discontinue or make default, and shall not, within ten days thereafter, pay to the justice, all the costs that may have been occasioned to the defendant, to the justice and constable, jurors or witnesses, the justice shall issue his execution against the security for the amount thereof, accompanied with a bill of costs, in which shall be set down every particular charged. And if any suit shall be commenced by a non-resident, as aforesaid, without filing a bond for costs, as aforesaid, the suit shall be dismissed on the motion of the defendant and the plaintiff shall be liable to pay all costs occasioned thereby, which may be recovered before any justice of the county, in the name of the party injured.

Liability of security

Bill of costs

Suit shall be dismissed for want of bond

SEC. 9. In all cases, before justices of the peace, either party may have the case continued any reasonable time, not exceeding one month, for the purpose of taking the deposition of any non-resident witness; which deposition shall be taken in conformity to the manner of taking and returning depositions of non-resident witnesses, in the Circuit Courts in this state.

Continuance

Depositions

SEC. 10. Justices of the peace shall not have jurisdiction, where the defendant or defendants shall be sued as executor or administrator, where the sum or demand shall exceed twenty dollars; but in all cases where an executor or administrator shall be plaintiff, justices of the peace shall have jurisdiction, as in other cases.

Jurisdiction in case of adm'r. &c

SEC. 11. All summons shall be served by reading the same, as contemplated in the 3d section of the act, to which this is an amendment, unless the defendant shall evade the service, and not listen to the same, or secrete himself; then the officer shall serve the same, by leaving a copy at his place of residence, with some white person, of the age of ten years or upwards; and in all such cases, the constable shall make a special return, when, and how served, and the circumstances attending the

Manner of serving summons

Special returns

same; and if the justice shall be satisfied that the defendant evaded the service by reading, and that the party is sufficiently notified and summoned, he shall proceed to hear and determine the case.

Jurisdiction  
in case of  
assault and  
battery &c

Appeals in  
such cases

Judgment  
and fine

Prosecutor  
liable for costs

Laws repeal-  
ed

SEC. 12. Justices of the peace shall have original exclusive jurisdiction, in all cases of assault, and assault and battery, and affrays, wherein the people are plaintiff, subject to an appeal to the Circuit Court, as provided by law. In all appeals to the Circuit Court, from the judgment of justices of the peace, in cases of assault, assault and battery or affrays, the Circuit Court shall proceed to hear and determine the cause, and if the defendant pleads not guilty, the trial shall be by jury, and said court shall give such judgment, and assess such fine, as shall be deemed just.

SEC. 13. In all criminal prosecutions before a justice of the peace, where the party accused shall be found not guilty, and it shall appear to the justice before whom such case shall be tried, that there was no reasonable ground for said prosecution, and that it was maliciously entered, that in such case, the justice of the peace is hereby authorized to give judgment against the complainant for the costs of said suit, and issue execution thereon.

SEC. 14. The sixty-third section of the act relative to criminal jurisprudence, approved, January 30, 1827, be, and the same is hereby repealed.

SEC. 15. So much of the sixteenth section of the act passed on the 10th day of January, 1827, concerning costs, as permits the successful party, on appeals and *certiorari*, to recover only fifteen dollars of costs, be, and the same is hereby repealed.

This act to take effect on the first day of June next.

[Approved, January 23, 1825.]



## LAND.

### AN ACT CONCERNING OCCUPYING CLAIMANTS OF LAND.

IN FORCE.  
FEB. 23, 1819.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly, and it is hereby enacted by the authority of the same, That all and every person who may hereafter be evicted from any land for*

which he can show a plain and connected title in law or equity, deduced from the record of some public office, without actual notice of an adverse title in like manner derived from record, shall be exempt and free from all and every species of action, writ or prosecution for, or on account of any rents or profits, or damages, which shall have been done, accrued or incurred at any time prior to receipt of actual notice of the adverse claim, by which the eviction may be effected, provided such person obtained peaceable possession of the land.

SEC. 2. That the court, who shall pronounce and give judgment of eviction, either in law or equity, shall at the time nominate seven fit persons, any five of whom shall have power, and it shall be their duty to go on the premises, and after viewing the same, on oath or affirmation, to assess the value of all such lasting and valuable improvements which shall have been made thereon, prior to the receipt of such notice as aforesaid; and also, to assess all damages the land may have sustained by the commission of any kind of waste, or by deduction of soil by cultivation, or otherwise during the occupancy of the person evicted, and subtract the same from the estimated value of the said improvements, which assessment, signed and sealed by the persons making the same, shall be by them lodged with the clerk of the court wherein they were nominated, before the next ensuing term, or as soon thereafter as may be convenient; and at the next court, after such assessment, it shall be entered up as a judgment in favour of the person evicted, and against the successful claimant of the land by the clerk, upon which judgment, execution shall immediately be issued by the clerk, if directed by the person evicted, unless the successful claimant shall give bond and security to be judged of by the court, to the person evicted, and to be taken at the time of entering up such judgment, conditioned to pay the same within twelve months from the date thereof, with five per cent. interest thereon: *Provided*, the balance shall ultimately be in favour of such occupying claimant, according to the directions and provisions of this act, which bond shall have the force of a judgment, and at the expiration of twelve months aforesaid, an execution shall be issued upon the same by the clerk of the court in which it was taken, at the request of the party entitled thereto, on oath being made that the same is yet due, should the balance be in favour of the successful claimant, judgment in like manner shall be entered up in his favour, against the other

party, for the amount of the same, upon which execution may be issued as aforesaid, unless bond and security be given to such claimant, which may be acted upon in the manner before directed, and to declare what shall be the law between adverse claimants, under distinct titles of the kinds aforesaid after notice.

SEC. 3. That the persons nominated by the court as aforesaid, when making an assessment shall carefully distinguish between such improvements, as were made on the land prior to notice, and those which were made after notice; and when making an assessment, they shall also take into consideration, all such necessary and lasting improvements as shall have been made on the lands, after the receipt of such notice as aforesaid, and shall ascertain the amount of the value thereof, and they shall also take into consideration and ascertain the amount of the value of the rent and profits arising from the whole of the improvements on the land from the time that notice of such adverse claim was received by such occupying claimant, and then after taking the amount of one from the other, the balance shall be added or subtracted from the amount of the value of the improvements which shall have been made before the receipt of the notice aforesaid, as the nature of the case shall require.

SEC. 4. That the commissioners shall also estimate the value of the lands in dispute, exclusive of any improvements that shall have been made thereon, and make report of the amount of such valuation to the court, and if the value of the improvements shall exceed such estimated value of the land in dispute, in that case, it shall and may be lawful for the proprietor of the better title, to transfer or convey, as the nature of the case may require, his better title to the occupying claimant, and thereupon judgment shall be entered up in his favour against the occupying claimant, for such estimated value, upon which an execution may issue, unless the occupying claimant shall give bond and security to be approved of by the court, to pay the amount of such judgment, within one year after the person transferring or conveying as aforesaid, with interest from the date, which bond shall have the force of a judgment, and if not paid at the expiration of the year, an execution may issue, in the manner before directed by this act: *Provided*, that the proprietor of the better title shall, in every such case, at the time of entering up judgment in his favour, give bond and security to be approved of by the court,

to the occupying claimant, to refund the amount of such judgment, in case the land so transferred or conveyed, shall ever thereafter be taken from him by any other prior or better claim.

SEC. 5. That the persons nominated by the court, in virtue of this act, shall be called commissioners, and shall respectively take an oath or affirmation, to do equal right to the parties in controversy; and shall also have power and authority to call witnesses, and administer the necessary oaths, and to examine them for the ascertainment of any fact material in the enquiry and assessment by this act directed.

SEC. 6. That the said commissioners in making every estimate of value by virtue of this act, shall state separately the result of each, and the court shall have power to make such allowance to the said commissioners in any case, as shall seem just, which allowance shall be taxed and collected as costs: *Provided*, that this act shall not be extended to affect or impair the obligation of contracts, or to authorize the occupying claimant to be twice paid for his improvements; and in all cases where the occupying claimant is paid for his improvements by any other person than the proprietor of the better title, such person shall have the same redress as is allowed to the occupying claimant.

SEC. 7. That the court shall have the same power to proceed by appointing commissioners to assess the value of improvements, and the damages by the commission of any kind of waste, by reduction of soil by cultivation or otherwise, during the occupancy of the person evicted in case of arbitration, or by consent of the parties, on motion without suit.

SEC. 8. That notice of any adverse claim or title to the land within the meaning of this act, shall have been given by bringing a suit, either in law or equity for the same, by the one or other of the parties, and may hereafter be given by bringing a suit as aforesaid, or by delivering an attested copy of the entry, survey or patent, from which he derives his title or claim, or leaving any such copy with the party, his wife, or other free person above the age of sixteen years, on the plantation: *Provided however*, that notice given by the delivery of an attested copy as aforesaid, shall be void, unless suit is brought within one year thereafter; *Provided*, that in no case shall the proprietor of the better title be obliged to pay to the occupying claimant for improvements

made after notice, more than what is equal to the rents and profits aforesaid.

SEC. 9. That notice to any occupying claimant shall bind all those claiming from, by or through such occupying claimant to the extent of such claim.

SEC. 10. That nothing in this act shall be construed so as to prevent any court from issuing a precept to stay waste, and ruling the party to give bond and security in such manner as such court may think right.

This act shall be in force from and after the passage thereof.

[Approved, February 23, 1819.]



## LAWS.

IN FORCE,  
FEB. 4, 1819.

AN ACT DECLARING WHAT LAWS ARE IN FORCE IN THIS STATE.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly, and it is hereby enacted by the authority of the same,* That 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 I. excepting the second section of the sixth chapter of XLIII. Elizabeth; the eighth chapter XIII. Elizabeth, and ninth chapter XXXVII. Henry VIII; and which are of a general nature and not local to that Kingdom, shall be the rule of decision, and shall be considered as of full force, until repealed by legislative authority.

[Approved, February 4, 1819.]



IN FORCE,  
JAN. 19, 1826.

AN ACT CONCERNING THE REVIVAL OF STATUTES.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That in all cases hereafter, where any laws or parts of laws, acts or parts of acts, now in force, or which may be hereafter enacted, or in force in this state, shall be repealed by any subsequent act or acts of the General Assembly, of



this state, and such subsequent or repealing act or acts, shall be afterwards repealed by any other act or acts of the said General Assembly, the said first mentioned laws or parts of laws, acts or parts of acts, which may at any time be repealed as aforesaid, shall not, on that account, be considered as revived: but all such laws or parts of laws, acts or parts of acts, as aforesaid, when once repealed, shall be null and void to all intents and purposes, and shall never after be considered as revived, unless there be express words to that effect, in such latter or repealing act or acts as aforesaid, any law, custom or usage to the contrary notwithstanding.

This act to take effect from and after its passage.

[Approved, January 19, 1826.]



AN ACT AUTHORIZING THE GOVERNOR OF THIS STATE TO TRANSMIT THE ACTS OF THE GENERAL ASSEMBLY OF THIS STATE TO THE EXECUTIVES OF THE SEVERAL STATES AND TERRITORIES, IN THE UNITED STATES, AND TO THE DEPARTMENT OF STATE OF THE UNITED STATES. IN FORCE,  
JAN. 1, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That it shall be the duty of the governor of this state, for the time being, so soon as the acts of the General Assembly of this state, after each and every session thereof, shall have been published, to transmit, free of postage, to the executive of each state and territory of the United States, and to the secretary of state of the United States, three copies of the acts of the General Assembly of Illinois, at such session, and request a like interchange by the several states: *Provided,* that where such request has heretofore been made, it shall not be the duty of the governor again to make it. Gov. to transmit acts of the Gen. Assembly  
Free of postage  
And request the like interchange from the other states

SEC. 2. Any expense incurred by virtue of this act, shall be paid out of the contingent fund, reserved in the state treasury, to be drawn by warrant from the auditor, on the certificate of the governor, from time to time, as the case shall require. Expense how paid

SEC. 3. The act entitled "An act authorizing the governor of the state of Illinois, to transmit the acts of the General Assembly of this state, to the executives of the several states, in the United States," approved March 2, 1819, is hereby repealed. Act repealed

[Approved, January 1, 1819.]

IN FORCE  
JAN. 14, 1829.

AN ACT REGULATING THE PUBLICATION AND DISTRIBUTION OF  
THE LAWS AND JOURNALS OF THE GENERAL ASSEMBLY.

2000 copies of  
laws to be  
published

Arrangement  
of matter  
Index

Marginal  
notes, &c.

Secretary of  
state to super-  
intend the  
printing  
Or appoint  
some person

250 copies to  
be reserved

To whom the  
laws shall be  
distributed

To county  
officers

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That there shall be published at the close of each session of the General Assembly, an edition of two thousand copies of all the acts of a public and permanent nature, passed at such session, arranged under their proper heads, in alphabetical order, according to their subject matter. Prefixed to each volume there shall be a table of contents; and at the end of the same, there shall be a full and complete index.

SEC. 2. Each edition of the laws, required by the preceding section to be published, shall be comprised in one octavo volume, with marginal notes, and the day on which each act takes effect, shall be stated in the margin, opposite the title, and the day on which the same was approved by the council of revision, or when it became a law, notwithstanding the objections thereof, shall be stated at the end of the act, omitting the name and style of the governor, and of the speakers of the two houses of the General Assembly.

SEC. 3. The printing of the acts, required by this act, shall be superintended by the secretary of state, or some person appointed by him for that purpose, for whose superintendance he shall be responsible, and he shall cause all typographical errors to be corrected as far as he may discover the same.

SEC. 4. The secretary of state, on the completion of the printing and binding of the acts of the present and any future General Assembly of this state, shall reserve two hundred and fifty copies thereof in his office, subject to the disposition of any future General Assembly. He shall cause to be delivered to the governor, lieutenant governor, auditor of public accounts, state treasurer, cashier of the state bank, each of the justices of the Supreme Court, attorney general, state's attorney, secretary of the senate, and clerk of the house of representatives, engrossing, and enrolling clerks of each house, one copy each. He shall transmit by some person, or persons, with whom he may contract for the purpose, a sufficient number of copies to the clerk of the county commissioners' court of each county, to be distributed among the different civil officers of the county, and members of the General Assembly residing therein, allowing one for each judge of probate, county commissioner, coroner, clerk of a court.

county treasurer, sheriff, justice of the peace, county surveyor, constable, and member of the General Assembly, residing in the county; and there shall also be delivered to the clerk of the circuit court of each county, two copies for the use of the court, grand jury, and bar; and the surplus copies, if any, shall be by said clerk of the county commissioners' court carefully kept and preserved, to be distributed as may be hereafter directed by law.

SEC. 5. The clerks of the several county commissioners' courts on receiving the laws for distribution, as aforesaid, shall give them receipts for the same; which receipts shall be filed in the secretary's office by the person by whom the said laws were distributed, before he shall be entitled to payment for distributing the same. Clerk to give receipts

SEC. 6. The clerks of the several county commissioners' courts shall, upon the request of any person who may be entitled to a copy of the laws, as aforesaid, deliver to him such copy, taking his receipt for the same: but no person shall be entitled to more than one copy, although he may hold several offices. And distribute in his county  
One copy to each person

SEC. 7. Upon the expiration of the term of service, resignation, or removal from office, of any county officer, it shall be his duty to return to the clerk of the county commissioners' court of his county, for the use of his successor in office, the copy, or copies, of the laws of this state, received by him in pursuance of this act: and in case of the death of any such officer, the said copy or copies of the laws shall be returned, as aforesaid, by his executors or administrators. If any such officer, his executors or administrators, shall refuse or neglect, for three months after the happening of such vacancy, as aforesaid, to return the said copy, or copies, of the laws to the clerk of the county commissioners' court, as aforesaid, it shall then be the duty of said clerk to sue for the same, before some justice of the peace, and he shall recover for the use of the county, the sum of four dollars for each copy so detained, with costs of suit. No person, however, while he continues to hold any office, which entitles its incumbent to a copy of the laws, shall be required to return his copy of the same, as aforesaid. Copies, when to be returned  
Penalty for not returning

SEC. 8. There shall be added to each copy of the laws published in conformity to this act, an accurate account of the receipts and expenditures of the public moneys, for the two years preceding the session of the General Assembly at which were passed the laws comprised in such copy. The volume hereby required to be published, Receipts and expenditures of public money to be published with the laws

shall also contain the title of every act, of a private or temporary nature, passed at such session.

Expenses of  
publication  
and distribu-  
tion, how  
paid

SEC. 9. On the fulfilment of any contract for printing, binding, folding, stitching or distributing, the laws of this state, the secretary of state shall certify the fact to the auditor of public accounts, who shall issue his warrant on the treasurer, for the sum due such person, for such printing, binding, folding, stitching, or distributing.

Journals

SEC. 10. There shall be printed at the close of each session of the General Assembly, five hundred copies of the Journals of each house thereof, for the printing, folding, and stitching of which, the said General Assembly shall contract; and they shall be distributed among the several counties, according to the number of white inhabitants, reserving in the office of the secretary of state, fifty copies. This act to be in force after its passage.

[Approved, January 14, 1829.]



IN FORCE,  
JAN. 13, 1825.

## MECHANICS.

### AN ACT FOR THE BENEFIT OF MECHANICS, &c.

Persons fur-  
nishing labor  
or materials,  
&c. to hold a  
lien on the  
property

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That in all cases hereafter, when any contract shall be made between the proprietor or proprietors of any tract of land or town lot, on the one part, and any person or persons on the other part, for the erecting or repairing any house, or other building, mill, or machinery, of any description whatever, or their appurtenances; or for furnishing labour or materials for the purpose aforesaid; and every other person who may have furnished materials, which shall have been used in the construction of such house, building, or mill, whether by special agreement, or otherwise; the person or persons who shall, in pursuance of such contract, have furnished labour or materials, for such purpose, or who shall have furnished such materials as aforesaid, shall respectively have a lien, to secure the payment of the same, upon such house, or other building, mill, or machinery, and on the lot or tract of land, on which the same shall stand or be erected: *Pro-*

Provide

vided, That no such lien shall continue in force for more than three months from the time when payment should have been made, by virtue of any such contract, by which such lien shall be claimed, unless within that time a suit shall have been commenced for the purpose of enforcing such contract.

[Approved, January 13, 1825.]



## MILITIA.

AN ACT TO AMEND AN ACT, ENTITLED AN ACT FOR THE ORGANIZATION AND GOVERNMENT OF THE MILITIA OF THIS STATE.

IN FORCE,  
JAN. 29, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That there shall be one regimental and one company muster, and one regimental drill muster of officers, in each year: the company muster shall be held on the first Saturday in September, unless changed to some other day by order of the commandants of regiments, or odd battalions, in which case sixty days notice of such change shall be given to the commandants of each company. Regimental drill musters shall be held on the Friday and Saturday next preceding the regimental musters. Hereafter, no brigade inspector shall be required to attend regimental or drill musters.

Number of  
musters

And time of  
holding them

Brigade in-  
spector not  
required to at-  
tend

SEC. 2. For the purpose of review or inspection, the brigadier general may change the time fixed by law for regimental musters, by giving to the several commandants of regiments, or odd battalions, under their command, a notice to that effect, on or before the first day of March, in each year.

Brig. General  
may change  
regimental  
musters

SEC. 3. Commandants of companies may receive any lawful excuse of non commissioned officers, or privates, under their command, for a failure to attend muster, or for not being properly equipped.

Command-  
ants of com.  
may receive  
excuses for  
non atten-  
dance, &c.

SEC. 4. No non commissioned officer, or private, shall be fined more than one dollar for failing to attend any regimental muster, nor more than fifty cents for failing to attend any company muster.

Amount of  
fines

SEC. 5. No person conscientiously opposed to doing military duty, by reason of his religious opinions, shall be com-

Persons con-  
scientiously  
scrupulous

pelled so to do in times of peace: *Provided*, such person shall work two days, in each year, on the public roads, in the district in which such person or persons may reside, in addition to the road labour now required of them, under the regulations prescribed in the second section of "An act for the relief of persons having conscientious scruples against bearing arms," or pay into the county treasury seventy-five cents. The first section of the act, entitled "An act for the relief of persons having conscientious scruples against bearing arms," approved February 6, 1827, is hereby repealed.

Laws repealed.

SEC. 6. So much of the act, to which this is an amendment, as requires battallion musters to be held; so much of said act as fixes the time for holding regimental drill musters; so much thereof as allows compensation to division and brigade inspectors; so much thereof as requires two company musters to be held in each year, and prescribing the holding of the same; be, and the same are hereby repealed. This act to be in force from and after its passage.

[*Approved, January 19, 1829.*]



## MONEY.

### AN ACT REGULATING THE INTEREST OF MONEY.

IN FORCE,  
MARCH 2,  
1819.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That creditors (except as hereinafter excepted,) shall be allowed to receive at the rate of six per centum per annum, for all moneys after they become due on any bond, bill, promissory note or other instrument of writing, on any judgment recovered before any court or magistrate authorized to enter up the same, within this state from the day of signing judgment until the effects be sold, or satisfaction of such judgment be made, likewise on money lent, on money due on the 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 owner's knowledge, and on money withheld by an unreasonable and vexatious delay of payment: *Provided always,* that

nothing in this act contained, shall be so construed as to limit the rate of interest for the payment of which an express contract hath been made: *And provided also*, that no bank or monied institution, shall have the right to demand or receive a greater or higher rate of interest than six per centum per annum; and all and every species of contract made by any bank or monied institution, by which a greater or higher rate of interest shall be stipulated to be paid, shall be, and the same is hereby declared to be fraudulent and wholly void.

[*Approved, March 2, 1819.*]



NEGROES, &C.

IN FORCE,  
JANUARY 17,  
1829.

AN ACT RESPECTING FREE NEGROES AND MULATTOES, SERVANTS AND SLAVES.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly*, That from and after the passage of this act no black or mulatto person, not being a citizen of some one of the United States, shall be permitted to reside in this state, until such person shall produce to the county commissioners' court, where he or she is desirous of settling, a certificate of his or her freedom, which certificate shall be duly authenticated in the same manner that is required to be done, in cases arising under the acts and judicial proceedings of other states. And until such person shall have given bond, with sufficient security, to the people of this state, for the use of the proper county, in the penal sum of one thousand dollars, conditioned that such person will not, at any time, become a charge to said county, or any other county of this state, as a poor person, and that such person shall, at all times, demean himself, or herself, in strict conformity with the laws of this state, that now are or hereafter may be enacted: the solvency of said security shall be approved of by said clerk: The clerk shall file said bond, and if said bond shall in any condition thereof be broken, the whole penalty shall become forfeited, and the clerk, on being informed thereof, shall cause the said bond to be prosecuted to effect. If any person shall harbor such negro, or mulatto as aforesaid, not having such certificate, and given bond, and taken a certificate thereof, or shall hire, or in any wise give

Negroes and mulattoes how to gain a residence

They shall give bond

Persons harboring negroes &c

Sustenance to such negro, or mulatto, not having such certificate of freedom, and of having given bond, shall be fined in the sum of five hundred dollars, one half thereof to the use of the county, and the other half to the party giving information thereof; *Provided*, this section shall not affect any negro, or mulatto who shall be a resident of this state at the time of the passage of this act.

**Sec. 2.** Every black or mulatto person who shall be found in this state, and not having such a certificate as is required by this act, shall be deemed a runaway slave, or servant, and it shall be lawful for any inhabitant of this state, to take such black or mulatto person before some justice of the peace, and should such black or mulatto person not produce such certificate, as aforesaid, it shall be the duty of such justice to cause such black or mulatto person to be committed to the custody of the sheriff of the county, who shall keep such black or mulatto person, and in three days after receiving them shall advertise them at the court house door, and shall transmit a notice, and cause the same to be advertised for six weeks, in some public newspaper printed nearest to the place of apprehending such black person, or mulatto, stating a description of the most remarkable features of said supposed runaway; and if such person, so committed, shall not produce a certificate or other evidence of their freedom, within the time aforesaid, it shall be the duty of the sheriff to hire them out, for the best price he can get, after having given five days previous notice thereof, from month to month for the space of one year; and if no owner shall appear and substantiate his claim, before the expiration of the year, the sheriff shall give a certificate to such black or mulatto person, who on producing the same to the next circuit court of the county, may obtain a certificate from the court, stating the facts, and that the person shall be deemed a free person, unless they shall be lawfully claimed by their proper owner, or owners thereafter. And as a reward to the taker up of such negro, there shall be paid by the owner, if any, before he shall receive him from the sheriff, ten dollars, and the owner shall pay to the sheriff, for the justice, two dollars, and reasonable costs for taking such runaway to the sheriff, and also pay the sheriff all fees for keeping such runaway, as other prisoners: *Provided*, however, that the proper owner, if any there be, shall be entitled to the hire of any such runaway, from the sheriff, after deducting the expenses of the same: and *provided* also, that the taker up shall have

Finer  
 Proviso  
 Negroes not having a certificate shall be arrested as runaways  
 Notice thereof  
 And to be hired out  
 Sheriff's certificate thereof  
 Upon which circuit court may grant a certificate of freedom  
 If the owner shall appear  
 Costs to be paid



a right to claim any reward which the owner shall have offered for the apprehension of such runaway: should any taker up claim any such offered reward, he shall not be entitled to the allowance made by this act.

Owner entitled to the hire

SEC. 3. No person of colour, negro or mulatto, of either sex, shall be joined in marriage with any white person, male or female in this state, and all marriages or contracts, entered into between such coloured person and white person, shall be null and void in law; and any person so offending, shall be liable to pay a fine, whipped in not exceeding thirty nine lashes, and be imprisoned not less than one year; and every person so offending shall be held to answer in no other than a criminal prosecution by information or indictment: and any clerk who shall knowingly issue a license to any such coloured person, negro or mulatto, or to any white person to be joined to a negro or mulatto, in manner aforesaid; or if any officer or person authorized to solemnize marriages in this state, shall join any such coloured person, negro or mulatto, in marriage with a white person, such magistrate, or other person so offending, as aforesaid, on conviction thereof, shall be fined in a sum not less than two hundred dollars, to be sued for and recovered in any court of record in this state, the one half for the use of the county in which said suit is brought, and the other half to the person suing for the same, and thereafter be ineligible to any office in this state.

Taker up may claim reward

Marriage of white persons and negroes

Punished

Clerk issuing a license for

Or officer joining in marriage

Shall be fined

And ineligible to office

SEC. 4. If any negro or mulatto, being the property of a citizen of the United States, residing without this state, shall hereafter come into this state for the purpose of hiring himself, or herself, to labor in this state, and shall afterwards institute, or procure to be instituted any suit or proceedings, for the purpose of procuring his or her freedom, it shall be the duty of the court before which such suit or proceeding shall be instituted and pending, upon being satisfied that such negro, or mulatto, had come into this state for the purpose aforesaid, to dismiss such suit, or proceeding, and cause the same to be certified to the sheriff of the county, who shall immediately take possession of such negro, or mulatto, whose duty shall be to confine such negro, or mulatto in the jail of his county, and notify the owner of such slave of the commitment aforesaid, and that said owner make immediate application for said slave: and it shall be the duty of the sheriff, on such application being made, after all reasonable costs and charges being paid, to deliver to said owner such negro or mulatto slave.

Negroes hiring in this state & suing for their freedom

May be arrested and sent to their masters

## NOTARIES PUBLIC.

IN FORCE  
JUNE 1, 1829.

AN ACT FOR THE APPOINTMENT OF NOTARIES PUBLIC.

- SEC. 1.** *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That the governor of the state, by and with the advice and consent of the senate, shall appoint and commission one notary public in each county in this state, except in those counties where there is one already in office, who shall hold his office during good behaviour.
- SEC. 2.** It shall be the duty of each and every notary public in this state, whenever any bill of exchange, promissory note, or other written instrument, shall be by him protested for non-acceptance, or non-payment, to give notice in writing thereof to the maker, and to each and every endorser, of any bill of exchange, and to the maker or makers of, and each and every security or endorser of any promissory note, or other written instrument, on the same day the said protest is made, or within forty-eight hours from the time of such protest.
- SEC. 3.** It shall be the duty of each and every notary public, to keep a correct record of all such notices and of the time and manner in which the same shall have been served, and of the names of all the parties to whom the same were directed, and the description and amount of the instrument protested; which record shall, at all times, be competent evidence to prove such notice, in any trial, before any court of this state, where proof of such notice may become requisite.
- SEC. 4.** It shall be the duty of each and every notary public personally to serve the notice upon the person or persons protested against, provided he or they reside in the town where such protest was made, or within one mile thereof; but if such person or persons reside more than one mile from such town, then the said notice may be forwarded by mail, or other safe conveyance.
- SEC. 5.** It shall be the duty of the governor to take bond, with sufficient security, from each notary public, before he enters on the duties of his office, in the sum of five hundred dollars conditioned for the due and faithful performance of the duties of his office, which bond shall be filed in the office of the secretary of state, and if forfeited, suit may be instituted thereon, for the use of the party injured by such forfeiture.
- SEC. 6.** Nothing herein contained shall be so construed as to remove from office any notary public now in of-
- Notaries public to be appointed
- Term of service
- Their duty
- In relation to notes, &c.
- To give notice of protest
- To keep a record
- Which shall be evidence
- To serve notice personally
- On persons living within one mile
- And to forward to others
- To give bond
- How sued upon
- Notaries hereafter appointed

office in this state. The act, entitled "An act for the appointment of notaries public," approved, February 22, 1819; and the act, entitled "An act to amend an act for the appointment of notaries public," approved, February 10, 1823, be, and the same are hereby repealed. This act to be in force, from and after the first day of June next.

[Approved, December 30, 1828.]



POOR.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT FOR THE RELIEF OF THE POOR, PASSED MARCH 5th, 1819."

IN FORCE FEB. 6, 182

SEC. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly,* That when any non-resident, or any other person not coming within the definition of a pauper, shall fall sick or die in any county in this state, not having money or other property to pay his board, nursing, and medical aid, it shall be the duty of the overseers of the poor of the proper township, or any two of them, upon complaint being made to them, to give or order to be given such assistance to such poor person as they may deem just and necessary: and if said sick person shall die, then said overseers of the poor shall give or order to be given to such person a decent burial: and the said overseers of the poor shall make such allowance for board, nursing, medical assistance, and burial expenses, as they shall deem just and equitable, which allowance shall be laid before the county commissioners' court to examine and allow all or any part of said accounts as they shall deem just, and order the same to be paid out of the county treasury.

Poor persons other than paupers, falling sick, &c. how to be provided for  
Such poor persons dying overseers of poor to provide for their burial, &c. Expenses incurred for board, &c. of such poor persons how defrayed

[Approved, February 6, 1821.]

M

**PUBLIC OFFICERS.**

IN FORCE,  
JAN. 19, 1829.

AN ACT CONCERNING PUBLIC OFFICERS, AND PAYMENT  
OF MONEY OUT OF THE STATE TREASURY.

Officers in-  
debted to the  
state, not to  
be paid

Provided  
there be a  
judgment a-  
gainst them

Defaulters to  
be reported  
by the cashier  
to the auditor

Proviso

Further pro-  
viso

SEC. 1. *Be it enacted by the People of the State of Illinois represented in the General Assembly,* That no money shall hereafter be paid out of the public treasury, to any officer of this state, duly appointed and commissioned, towards his annual salary, who is now, or shall hereafter be, justly indebted to the state, or to the state bank, or any of its branches, which indebtedness shall have been previously ascertained by the judgment of a court of justice, until such officer shall have accounted for, and paid into the treasury, or into the state bank, as the case may be, all sums for which he may be liable, and justly owing; and the cashier of the principal bank is required to return to the auditor of public accounts, on or before the first day of March next, and every year thereafter, a list of all such officers, who are defaulters to the said bank, or any of its branches; and it shall be the duty of the auditor and treasurer of state to ascertain, from the different departments, who are defaulters within the meaning of this act, the amount of any such debt, or debts, for which judgment shall have been rendered, as aforesaid, and to retain and withhold the salary of every such officer, until he shall have accounted for and paid his debt, or debts, as aforesaid: *Provided,* that this act shall not be construed to extend to those persons who have paid their regular instalments to the state bank, or either of its branches: *Provided, also,* that no person shall be affected by this act, by reason of a liability to the state bank, or either of its branches, excepting where there is a judgment obtained against them, and the same remains unsatisfied. This act to be in force, from and after its passage.

[Approved, January 19, 1829.]



IN FORCE, AN ACT RELATIVE TO THE SEVERAL OFFICERS THEREIN NAMED.  
A.N. 22, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That the attorney general, and each state's attorney, shall, on or

before the first day of March next, make and execute a bond to the governor of the state, and his successors in office, with good and sufficient security to be approved of by the governor, in a sum sufficient to cover all notes to the state bank, or its branches, put into his or their hands for collection by the cashiers of the principal bank, or its branches; and the governor shall, should he deem it necessary, require said attorney general, and each of said state's attorneys, from time to time, to give bond with additional security. Said bond or bonds, shall be conditioned that said attorney will well and faithfully collect and pay over all moneys by him collected, or to be collected upon said notes of said bank, to the cashiers thereof so soon as the same shall be collected.

Attorney general & state's attorneys to give a bond

SEC. 2. Each of the cashiers of the said bank, shall, from time to time, when required by the governor transmit to him an account of all notes so placed in the hands of said attorneys, as aforesaid; and upon failure or refusal of said attorneys to give such bond and security as required in this act, the governor shall forbid all persons from paying said moneys to such attorney; and every payment made to such attorney, after such refusal or neglect to give bond, and notice thereof as required shall be void, and the persons paying the same shall be liable, and shall repay such sum or sums, so by them paid to such attorney to the state bank, or to the state as the case may be, or to such officer as the legislature may authorize to collect the same.

Account of notes furnished for collection shall be made to the governor

SEC. 3. The office of judge of probate, county surveyor, recorder, the office of clerk of the circuit and county commissioners' courts, shall be deemed vacant when such officer holding any of said offices, shall leave the county wherein he may hold said office, and permanently reside out of the same.

Certain offices declared vacant by non-residence

This act to be in force from and after its passage.

[Approved, January 22, 1829.]

## RECORDERS AND CONVEYANCES.

AN ACT RELATING TO THE OFFICE OF RECORDER.

IN FORCE,  
JULY 1, 1829.Recorder's  
office estab-  
lished

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That there shall be an office of recorder, in each and every county, which shall be called and styled "the recorder's office," and shall be kept in some convenient place at the county seat, in the respective counties; and the recorder shall duly attend to the duties of the same, and at his own proper costs and charges shall provide parchment, or good large well bound books, of royal or other large paper, 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 law.

Recorder to  
provide books  
and record  
deedsThe words  
"grant, bar-  
gain & sell"

SEC. 2. All deeds to be recorded in pursuance of this act, whereby any estate of inheritance, in fee simple shall hereafter be limited to the grantee 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 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 leases not exceeding one and twenty years, where the actual possession goes with the lease.

Proviso

Mortgages

SEC. 3. Every mortgagee of any real or personal estate, in this state, having received full satisfaction and payment of all such sum or sums of money as are really due to him or her from the mortgagor, shall at the request of the mortgagor, enter satisfaction upon the margin of the record of such mortgage, in the recorder's office, which shall forever thereafter discharge and release the same, and shall bar all actions or suits brought, or to be brought, thereupon.

Satisfaction  
thereofrefusal to en-  
ter  
satisfaction

SEC. 4. If such mortgagee, by himself or herself, his or her attorney, shall not within three months after request, and tender made of his or her reasonable charges, repair to said office, and there make acknowledgment as aforesaid, he or she neglecting or failing so to

do, shall for every such offence forfeit and pay to the party or parties aggrieved, any sum not exceeding the mortgage money, to be recovered in any court of record by action of debt.

SEC. 5. The governor, by and with the advice and consent of the Senate, shall appoint a recorder in every county, now, or hereafter to be created, where there is no recorder already appointed in such county. But before any of the recorders enter upon the duties of his office, he shall become bound to the governor, and his successors in office, with one or more sufficient sureties, in a bond for five hundred dollars, conditioned for the true and faithful execution of the duties of his office, and to deliver up the records and other writings belonging to his office, safe and undefaced to his successor in 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 damaged or aggrieved, as is or shall be in such cases directed by law.

Recorders  
how to be ap-  
pointed

To give bond

SEC. 6. And no recorder whatsoever, now, or hereafter to be 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 one hundred dollars, one half to the state, and the other half to him or them that shall sue for the same, to be recovered as aforesaid: but no record made by him shall be vacated or so avoided as to operate against the parties, to the instrument recorded, by reason of such recorder not giving such bond.

Penalty for  
neglecting to  
give bond

SEC. 7. Every recorder shall keep a fair book in which he shall immediately make 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 deed or writing, are situate, dating the entry on the day on which such deed or writing was brought into his office, and shall record all such deeds and writings in regular succession, according to the priority of time of their being brought into said office; and shall also make and keep a complete alphabetical index to each record book, shewing the page on which each instrument is recorded, with the names of the parties thereto: he shall give a receipt to the person bringing such deed or writing to be recorded, bearing date on the same day as the entry and containing the abstract

Entry book

Deeds to be  
recorded in  
succession  
Index

And receipt

Acts repealed aforesaid, for which entry and receipt he shall be entitled to no fee or compensation whatever.

SEC. 8. The act entitled "an act establishing the recorder's office, and for other purposes," approved, February 19, 1819, is hereby repealed, but nothing herein contained shall be so construed as to affect or remove from office any recorder appointed under that act, but he shall continue in office as though this act had not been passed, nor shall any of his legal acts as such be hereby impaired.

This act to take effect on the first day of July next.

[Approved, January 8, 1829.]



### REVENUE.

IN FORCE.  
JAN. 17, 1829. AN ACT AUTHORIZING THE COMMISSIONERS OF THE SCHOOL AND SEMINARY FUND TO LOAN THE SAME TO THE STATE.

Gov authorized to borrow the school & seminary fund

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That the governor is hereby authorized to borrow on account of the state, of the commissioners of the school fund, all the specie they now, or hereafter may have, and of the commissioners of the seminary fund, the amount that may be received from the sales of seminary lands, at the rate of six per cent. interest, per annum; said interest shall be added to the principal at the end of each and every year, until the money, borrowed as aforesaid, shall be refunded; and said commissioners are hereby authorized and required to loan the same, for the use of the state.

Money to be deposited in the treasury

SEC. 2. The money thus borrowed, shall be deposited in the Treasury, to meet the current expenses of the government, for the three last quarters of the year 1829, and the year 1830. All warrants issued by the auditor after the last day of march next for payments which shall become due after that day, shall be issued for the amount in specie, which may be due the individual in whose favour such warrant is issued; except where the contract, debt or appropriation, is, or shall be, for state paper, in which case the auditor shall specify that said warrant is to be paid in state paper: and no portion of the money, to be borrowed under the provisions of this act, shall in any case, be paid out of the treasury, in payment of warrants issued, or to be issued by the auditor before the first day of April next.

Warrants to be paid there-with

Exception



SEC. 3. All warrants issued previous to the first day of April next, or which shall at any time be issued in payment of any debt, due or payable before the said first day of April, where the debt or demand shall be payable in specie, shall be issued for state paper at the rate of seventy cents to the dollar.

How warrants shall be issued before April next

SEC. 4. The treasurer shall, after reserving state paper sufficient to redeem all the warrants now due, (except those belonging to the school fund) and all that may be issued previous to the first day of April next, proceed to burn in the presence of the governor, auditor of public accounts, and secretary of state, within ten days after the expiration of each quarter all of said paper that may remain in the treasury at the end of each succeeding quarter, entering the amount of the same in an account to be opened for that purpose.

State paper & warrants when rec'd into the treasury to be burnt

[Approved, January 17, 1823.]



AN ACT SUPPLEMENTAL TO AN ACT, ENTITLED "AN ACT TO PROVIDE FOR RAISING A REVENUE."

IN FORCE, JAN. 19, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That any resident of this state, owning lands in a county in which he does not reside, may list such lands, either in the county in which he resides, or in the office of the auditor of state. If he shall list such lands in the county, he shall pay the taxes thereon to the sheriff; but if such lands shall be listed in the auditor's office, the taxes thereon shall be paid into the state treasury. In listing lands lying in another county, the owner shall state particularly in what county each tract is situated: *Provided,* that in all cases where any part of the survey, or tract of land belonging to any individual, or individuals, shall be situate in the county in which such owner, or owners, may reside, the whole survey or tract shall be listed for taxes, in said county, as resident lands: *And provided also,* that in all cases where partial payments only shall have been made to the United States for any lands listed for taxation, as aforesaid, the taxes to be paid thereon shall be in proportion to the instalments which shall have been paid thereon, as aforesaid.

Residents may list their land either with the auditor or in the county  
If listed in the county  
If listed with the auditor  
The county to be stated  
Part in two counties

Land on which partial payments have been made to U. S.

SEC. 2. The sheriff shall settle with the county com-

Settlement of  
sheriff, when  
made  
What money  
to be paid in-  
to county  
treasury  
Counties on  
the bounty  
lands  
Per cent. to  
sheriffs  
Duty of coun-  
ty treasurer  
Clerk co.  
com. to trans-  
mit list to the  
auditor  
His duty to  
sell  
Clerk to be  
paid for  
transcript  
Clerk shall  
note the lands  
listed with  
him, lying out  
of the county

missioners' court, at the March term of said court, in each and every year, which settlement shall be entered on the records of said court; and shall pay into the county treasury, on or before the first Monday of March, annually, the whole of the tax collected by him, on property taxed by order of the county commissioners' court; and in all counties, except those on the military bounty tract, the sheriff shall also pay into the county treasury the whole amount of the tax collected by him on lands lying within the county. In lieu of the taxes paid by residents of the several organized counties on the military bounty tract, upon lands lying in said counties, the state treasurer shall pay, on the warrant of the auditor, to the county commissioners of each of the counties of Pike, Adams, Fulton, Calhoun, Peoria, and Schuyler, for the use of the county, the sum of seventy-five state paper dollars, annually, in addition to what the said counties received for the last two years; and any county which may hereafter be organized upon the military tract, shall, upon its organization, be entitled to receive a similar sum out of the state treasury. All the taxes on lands lying in the military bounty tract, and all the taxes collected by him on lands lying without the limits of his county, shall be paid by the sheriff, on or before the first Monday of March, annually, into the state treasury, deducting seven and a half per cent. as his compensation for collecting the same; and a similar compensation shall be allowed to all sheriffs for collecting taxes on real or personal property.

SEC. 3. The county treasurer shall finish taking in the list of taxable property, and make his return to the clerk of the county commissioners' court, on or before the first day of July, annually; and on or before the fifteenth day of July, the clerk of the county commissioners' court shall transmit to the auditor, by mail, a transcript of all lands listed for taxation in his county; and all lands not listed in the county, shall be sold as non-resident lands by the auditor, if said lands are not listed, and taxes thereon paid to him, as provided in the first section of this act. For the transcript of the list of taxable lands, listed in the county, the clerk of the county commissioners' court shall be entitled to two cents for each tract described in such transcript, to be paid out of the state treasury.

SEC. 4. It shall be the duty of the clerk of the county commissioners' court to insert, in an appendix to the book received by him from the auditor, a full and complete list and description of all lands lying out of the county, but list-

ed with him, or with the county treasurer, by residents of the county. And the clerk shall correct such inaccuracies, and supply such defects, in said list, as may, from time to time, come to his knowledge.

And correct inaccuracies

SEC. 5. If the transcript of taxable lands, listed for taxation in any county, shall not be received at the auditor's office on or before the first day of August in any year, it shall be the duty of the auditor to send a messenger to the clerk of the county commissioners' court of such county, to demand such transcript, and it shall be the duty of said clerk to deliver the same to the messenger without unnecessary delay: said messenger shall be entitled to receive out of the state treasury, on the warrant of the auditor, ten cents for each mile necessarily travelled by him, in going after said list, and returning to the seat of government. If the clerk of the commissioners' court of any county shall neglect to transmit said list to the auditor, at the time, and in the manner, required by law, he shall forfeit and pay the sum of twenty-five dollars, to be recovered by action of debt, with costs of suit, in the name of the auditor, for the use of the state, before any court having cognizance of the same.

Auditor may send a messenger for such list

His compensation

Clerk neglecting to forward list, to be fined

SEC. 6. The sheriff shall not, in any case, sell for taxes any land not lying within his county: but if he cannot obtain the taxes on such land by the sale of the personal property of such delinquent, he shall certify the fact to the auditor, who shall credit the sheriff with the amount of such delinquencies, and proceed to advertise and sell such lands, in the same manner, and at the same time, as the lands of non-resident delinquents.

Sheriff not to sell land lying out of his county

If there is no personal property, the auditor may sell land

SEC. 7. If any sheriff shall fail to pay over to the county treasurer the amount of taxes due, or other moneys belonging to the county, on or before the first Monday of March, annually, it shall be the duty of said treasurer to inform the county commissioners' court of every such failure, at their March term, which court shall thereupon issue a citation to such delinquent sheriff, to be served by the coroner, or any constable of said county, requiring him to attend and shew cause, at said term, why judgment should not be entered against him. And upon hearing and examining the case, the said court shall proceed to enter up a judgment, in favour of the county treasurer, for the amount due from said sheriff; and the clerk of said court may issue execution thereon, directed to the coroner, or any constable of said county, returnable as in cases of execution issued by the clerk of the circuit court.

Sheriff failing to pay over money

Treasurer shall give information thereof

Proceedings against the sheriff

SEC. 8. Whenever, in the opinion of the county

How the treasurer may re-value property

treasurer, any person shall list his property below its real value, it shall be the duty of said treasurer to alter the valuation thereof, in such manner as to make it as nearly equal to the general valuation of the same species of property as possible; and no person shall be compelled to value his property under oath.

Letters and figures may be used in describing land

Land shall be advertised for sale

Allowance to the printer

Shall deposit a copy of adv. with auditor, trea. & sec. of state, and forward copy to clerk com. courts

Which shall be filed

Auditor's deed evidence of regularity of sale

Formal exceptions to deed shall be overruled

SEC. 9. In describing the lands advertised for sale, for taxes, letters and figures may be used, as they have heretofore been, to denote townships, ranges, sections, quarter sections, and parts thereof, and the years for which taxes are due. The auditor shall cause the transcript required by the third section of this act, to which this is a supplement, to be published once in some paper printed in the state, which publication shall be at least seventy-five days before the day of sale; and the printer shall be allowed eight cents, state paper, for each tract so advertised. It shall be the duty of the printer to deposit one copy of the said list with the auditor of public accounts; one copy with the treasurer of the state; and forward one copy with the secretary of state; and forward one copy to each of the clerks of the county commissioners' court in the respective counties; and it shall be the duty of these officers to file and preserve the copies, so furnished, in their respective offices, as records thereof; and copies, taken from them, shall be evidence in any court of justice within this state. It shall not be necessary for any purchaser of lands, so sold for taxes, to obtain, keep, or produce, any advertisement of the sale thereof, but his deed from the auditor of public accounts shall be evidence of the regularity and legality of the sale, until the contrary shall be made appear: *Provided*, however, that no exceptions shall be taken to any such deed, but such as shall apply to the real merits of the case, and are consistent with a liberal and fair interpretation of the intentions of the legislature.

How land may be deemed from two sales

Two or more tracts in one deed

SEC. 10. That if any purchaser of lands sold for taxes, shall suffer the same to be sold a second time, before the expiration of the two years allowed for the redemption of the same, the person, or persons, whose lands shall have been so sold, may redeem the same from both sales by paying into the state treasury, upon the auditor's certificate, the tax and costs of the first sale, and double the amount of the taxes, interest, and costs, for which they were sold at the second sale: *Provided*, that nothing in the act, to which this is an amendment, shall be so construed as to prevent the auditor from incorporating, in the same deed, two or more tracts of land, if the purchaser shall require it.

SEC. 11. The sales of lands, or town lots, hereafter sold by the sheriff for taxes, are hereby declared to be good and valid, and he is required to give a certificate and keep a list of the same, and if not redeemed within two years, by paying double the amount of such sale to the sheriff or purchaser, to make and execute a deed, and acknowledge the same before the clerk of the circuit court, for such lot, or lots, and which deed shall vest the fee simple in such lot, or lots, in the purchaser and his heirs: *Provided*, the sheriff shall give thirty days' notice of the time and place of such sale, by putting up written or printed advertisements, in three of the most public places in the county, describing therein the lot, or lots, to be sold. The sheriff's deed shall be evidence of the duties, required of him, having been performed, until the contrary shall be proved: to acknowledge a deed for the same, as in other cases of sale by him.

Sale of lands  
and town lots  
by sheriff

They may be  
redeemed

Deed for same  
how made

Effect thereof

Notice of sale

Sheriff's deed  
evidence of  
regularity of  
sale

SEC. 12. The auditor of public accounts may issue a duplicate deed of any tract of land which may have been sold for taxes, whenever the original deed of such tract has been lost, or mislaid. Notice of application, for such duplicate, shall be published in the newspaper printed at the seat of government, for three successive weeks, at least three weeks preceding such application: and the owner of any lost deed, so applying, shall file an affidavit, setting forth that said deed has been lost, or mislaid, and has not been transferred or conveyed by him.

Duplicate  
deeds

On proper no-  
tice

And affidavit

SEC. 13. The county commissioners' courts, in each and every county, shall have power to levy and collect an annual tax, on each ferry within their respective counties according to the value or annual income of said ferry; and all moneys, so collected, shall be laid out under the direction of said commissioners, for the opening and repairing the public roads leading to and from such ferry, and within ten miles of said ferry, from which such money may have been collected, and for no other purpose: *Provided*, they shall not collect from any one ferry, in one year, a sum to exceed three hundred dollars.

Tax on ferries  
to improve  
roads

SEC. 14. That sections 14 and 20, of the act to which this is a supplement; and so much of said act as requires sheriffs to settle with the clerk on the first Monday of December, or allows the county treasurer till the first of August to take in lists of taxable property, and make his return to the clerk; and so much of the 17th section of said act as requires the sheriff to leave written notices in certain cases; and so much of the third section as requires the lists of lands of non-residents delinquents to be pub-

Laws repeal-  
ed

lished three weeks, successively; and so much of the same section as allows the printer ten cents a tract for publishing said lists; are hereby repealed.

[Approved, January 19, 1829.]



## RIVERS.

## AN ACT TO PROVIDE FOR THE IMPROVEMENT OF THE KASKASKIA RIVER.

IN FORCE,  
JAN. 23, 1825.

Board of com-  
missioners

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That Shadrach Bond of Randolph county, Edward Newsham of Monroe county, Samuel Morrison and Hartshorn White of Washington county, Charles Slade of Clinton county, and William Lee D. Ewing of Fayette county, be, and they are hereby appointed a board of commissioners for the improvement of the navigation of the Kaskaskia river; and, moreover, they are hereby constituted a body corporate and politic, and may sue and be sued, plead and be impleaded, in any court in this state.

Made a body  
corporate

Where to  
meet  
Their duty

SEC. 2. Said commissioners, or a majority of them, shall meet at Carlyle, on the first Monday of June next: they shall appoint a chairman and secretary from their number, and shall keep a record of their proceedings: they shall have power to fix upon their adjournments, and the time and place of their meetings: they shall appoint a committee of two from their body, whose duty it shall be, at such time as the board of commissioners shall direct, and at such time as the stage of water in said Kaskaskia river will permit, to make an examination of said river from Vandalia to the town of Kaskaskia, and make a detailed report to the board, at their next regular meeting, of all the obstructions to the navigation of said river, from shoals, ripples, timber or drift wood; a copy of which report, the board shall cause to be laid before the next legislature, with such additional information as said board may be able to give, touching the improvement of the navigation of said river.

Quorum

SEC. 3. A majority of said commissioners shall constitute a *quorum* to do business: they shall determine upon the best and most expeditious manner of removing the obstructions from drift wood or timber in said river: they shall have power to engage such number of hands,

teams, &c. for the removal of the drift wood and timber from said river, as they may deem necessary and proper; a memorandum of which, and of all acts done by said board, shall be entered in their records, a copy of which they shall transmit to the next legislature, together with their aforesaid report.

SEC. 4. So soon as the stage of water in said river will permit, said commissioners shall cause the work of removing the timber and drift wood, which obstruct the navigation of said river, to be commenced under the superintendence and direction of one or more of the said commissioners, and who shall be designated by the board for that purpose. Obstructions to be removed.

SEC. 5. The board of commissioners shall cause the work to be commenced as low down on said river as they shall deem expedient, and they shall cause the obstructions to navigation, from drift wood or timber, to be removed and cleared out as high up said river as they shall deem it capable of being made navigable, or until all the appropriation herein made for that purpose, shall be expended. Where to begin

SEC. 6. Said commissioners shall be entitled to a reasonable compensation for their services, to be paid out of the proceeds of the sales of Vandalia lots, hereafter to be sold, which compensation shall not exceed two dollars per day, while said commissioner or commissioners shall be actually engaged in said work. For the purpose of improving the navigation aforesaid, of said Kaskaskia river, the sum of two thousand dollars is hereby appropriated, out of the first sales of Vandalia lots, hereafter to be made; and the auditor shall issue his warrant for the same, as soon as the aforesaid sum, or any part thereof, is received from such sales, from time to time, as the said commissioners, by their order on said auditor, shall require. Compensation to com'rs

SEC. 7. Said commissioners are authorized to receive two thousand dollars out of the proceeds of the sales of the Vermilion saline lands, appropriated to the improvement of the navigation of the Kaskaskia river, and to apply the same as is above directed in this act. Proceeds of Vermilion saline

SEC. 8. Said commissioners are also authorized, in case a donation of land shall be made by Congress, in aid of the above described improvement, to proceed forthwith, on receiving notice thereof, to select the said lands, and when selected, to report the same to the auditor of public accounts, who shall sell the same, in the same manner as the seminary lands are directed to be Donation from Congress

To be reported to the auditor and sold

Proceeds to be paid over to com'rs sold, by an act entitled "an act to provide for the sale of seminary lands," passed at the present session of the legislature, and who shall pay over the proceeds of the said sales to said commissioners, to be applied by them as all other moneys mentioned in this act.

This act to take effect from and after its passage.

[Approved, January 23, 1829.]



## ROADS.

IN FORCE, AN ACT PROVIDING FOR A CHANGE IN A PART OF THE STATE ROAD  
DEC. 26, 1828. LEADING FROM SPRINGFIELD TO PARIS.

Road changed  
SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That that part of the state road laid out from Springfield, Sangamon county, to Paris, in Edgar county, which lies between Springfield and the house of David Owens, in Sangamon county, be, and the same is hereby vacated.

Com'rs appointed  
Where to meet  
To take an oath  
Their duty  
To make a survey and report  
SEC. 2. That John Dawson, Sowyel Cox and John Hoover be, and they are hereby appointed commissioners, to view, survey and locate a road from Springfield, to intersect the state road leading from Springfield to Paris, at or near the house of David Owens, in Sangamon county: said commissioners, or a majority of them, shall meet at the town of Springfield, on the first Monday in March next, or within ten days thereafter, and after being sworn before some justice of the peace, "honestly and faithfully to discharge the duties required of them by this act," shall proceed to view, survey, mark and locate said road, crossing the Sangamon river at Judd's ferry; thence on the best ground, passing between the farms of Valentine Mallory and Samuel Danley, thence by the house of Christian Shinkles and John Dawson, thence through said Dawson's woodland, to the termination: and said commissioners shall, as soon as may be, make and cause a true survey and map of said road, signed by them, to be lodged with the clerk of the county commissioners' court of Sangamon county.

Road declared a state road  
Duty of county com'rs  
SEC. 3. Said road, when laid out as aforesaid, shall be deemed and considered a public highway: and the commissioners' court of Sangamon county, shall cause the same to be opened four poles wide, and to be worked and kept in repair as other county roads; and the said



court shall allow said commissioners a reasonable compensation for their services, to be paid out of the county treasury. Compensation of com'rs

This act to take effect and be in force from and after its passage.

[Approved, December 26, 1828.]



AN ACT RELATIVE TO THE ROAD LEADING FROM CARMI TO COLLINS'S FERRY.

IN FORCE,  
DEC. 26, 1828.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That the road leading from Carmi, in White county, to Collins's ferry, on the Big Wabash, is hereby declared a state road. Declared a state road

This act to be in force from and after its passage.

[Approved, December 26, 1829.]



AN ACT TO IMPROVE THE STATE ROAD, BETWEEN MC'CRAWLEY'S BRIDGE AND THE MUDDY FORK, IN CLAY COUNTY.

IN FORCE,  
JAN. 2, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That the sum of three hundred state paper dollars be, and the same is hereby appropriated, out of the state treasury, towards improving that part of the state road leading from Vincennes to Carlyle, &c. which lies between McCawley's bridge and the Muddy Fork, in Clay county. Appropriation For what purpose

SEC. 2. The auditor of public accounts is hereby required to issue his warrant on the treasury, for the said sum of three hundred state paper dollars, in favour of the county commissioners of said county of Clay, on the application of said commissioners, who shall expend the same as they may deem most advisable, in improving said road. Auditor to issue warrant

This act to be in force from its passage.

[Approved, January 2, 1829.]

IN FORCE,  
JAN. 10, 1829.

AN ACT FOR A CHANGE IN A PART OF THE STATE ROAD LEADING  
FROM PARIS TO VANDALIA.

Com'rs ap-  
pointed

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That Robert Brooks, Joseph Curtis and William Murphy be, and they are hereby appointed commissioners to view and re-locate that part of the state road leading from Paris to Vandalia, that lies between Paris and the sixteenth section, in township 13 north, range twelve west.

Their duty

SEC. 2. Said commissioners shall meet in Paris, on or before the first Monday in April next, and after being sworn before some justice of the peace, shall proceed to view, mark and locate said road on the nearest and best route, taking into consideration the public good, and the damages sustained by private individuals.

To make a  
survey and re-  
port

SEC. 3. Said commissioners shall, within fifteen days after the location of said road, cause a true survey or map of the same to be lodged with the clerk of the county commissioners' court of Edgar county; and said road shall in all respects be deemed a public highway, and shall be opened and kept in repair as other public roads are. And the commissioners' court of Edgar county, shall allow to the said commissioners a reasonable compensation out of the county treasury.

Their com-  
pensation

This act to take effect and be in force from and after its passage

[Approved, January 10, 1829.]



IN FORCE,  
JANUARY 20,  
1829.

AN ACT TO APPOINT COMMISSIONERS TO LAY OUT THE ROADS  
THEREIN NAMED.

Com'rs. ap-  
pointed

SEC: 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That James Greene, Joshua Teague and Bennett Towlson be, and they are hereby appointed commissioners to view, survey and locate a road from Belgrade, in the county of Pope, by Greene's mill, to intersect the state road leading from Golconda to Vandalia, near Massac or Petello's bluff.

To locate a  
road from  
Belgrade to  
the state road  
from Golcon-  
da

Shall take an  
oath

SEC. 2. The said commissioners, or a majority of them, shall meet at some convenient place, on the first Monday of May next, or within three months thereafter, who, after being duly sworn before some justice of the

peace, faithfully to observe the provisions of this act, shall proceed to view and locate said road, taking into consideration the local situation of the country and the public convenience, and shall fix said road on the most advantageous ground for a permanent road: and the said commissioners shall, on or before the first Monday in September next, make, or cause to be made, a true survey and map of said road, which, being signed by them, shall be delivered to the county commissioners' court of the county of Pope. And make return to the county com'rs court

SEC. 3. The said road, when laid out as aforesaid, shall be deemed and considered a state road, and shall be opened, worked and kept in repair, as other state roads are: and the said commissioners, so appointed, shall receive such compensation out of the county treasury, as the commissioners' court may deem just and reasonable. Their compensation

SEC. 4. John D. Hughes, Joseph Folkes, Samuel Mitchell, junior, and John Steel, are hereby appointed commissioners, to lay out and survey a road from the Illinois town, passing the French village and Belville, in St. Clair county, thence to Tatman's ferry, on the Kaskaskia river, thence to Cyrus Sawyer's in Washington county, and thence to Kirkpatrick's, on Little Muddy, in Franklin county: the survey of said road shall be recorded in the proper counties, and when so recorded, said road shall be a public state road. The road already laid out from said Kirkpatrick's, on Little Muddy, to the place where the road from Kaskaskia to Shawneetown crosses Big Muddy river, is likewise declared a public state road. All of which said roads shall be repaired and kept open as other public roads are. Com'rs appointed To lay out a road from Illinois town to Franklin county Survey to be recorded Road from Kirkpatrick's to Big Muddy a state road

SEC. 5. The said last named commissioners, shall receive for their services, a just compensation, out of the funds of the counties of St. Clair, Washington and Perry. Compensation to com'rs

SEC. 6. Easton Whitton of Montgomery county, Levi Casey of Shelby county, and William Whitley of Edgar county, are hereby appointed commissioners to view, mark and lay out a road from Hillsborough, in Montgomery county, to Shelbyville, in Shelby county, and thence to Paris, in Edgar county. Levi Jordan and Benjamin Walden of Shelby county, and Matthias Shelton of Sangamon county, are hereby appointed commissioners to view, mark and lay out a road from Lawrenceville, in Lawrence county, by the way of Stringtown, to Shelbyville, in Shelby county, and thence to Springfield, Com'rs appointed To lay out a road from Hillsboro' to Paris Com'rs appointed To lay out a road from Lawrenceville to Springfield

Com'rs appointed

To lay out a road from Shelbyville to the Illinois river

When and where com'rs to meet

Surveys to be lodged with the county com'rs courts

Supervisors to be appointed

Compensation to com'rs

Road from Vandalia, by Henderson's &c to Springfield, a state road

Com'rs appointed

To lay out a road from Curtis's bridge to Edwardsville

in Sangamon county. And John Ward, Thomas Robinson and William A. Hodge, are hereby appointed commissioners to view, mark and lay out a road from Shelbyville aforesaid, through Ward's settlement, thence through Tazewell county, to the mouth of the Big Vermilion, on the Illinois river.

SEC. 7. The three commissioners first named in the preceding section, or a majority of them, shall meet at Hillsborough; the three second named commissioners, or a majority of them, shall meet at Lawrenceville; and the three last named commissioners, or a majority of them, shall meet at Shelbyville, on the first Monday of May next, or within ten days thereafter, and proceed to view, mark and lay out the roads of which they are appointed commissioners, respectively, on the nearest and most eligible routes, taking into consideration the present and future population of the counties through which they pass, and the local situation of the country.

SEC. 8. Said commissioners, respectively, shall, during the month of May next, or as soon thereafter as possible, cause, true surveys and maps of said roads, signed by them, to be lodged with each of the county commissioners' courts, in the counties respectively, through which they pass; which roads, when laid out as aforesaid, shall be deemed and considered public state roads; and the county commissioners' courts of the counties aforesaid, through which said roads are located, shall appoint supervisors, and cause the same to be opened, worked and kept in repair, as other public roads are.

SEC. 9. The commissioners appointed in the sixth section of this act, shall receive for their services a just compensation, out of the funds of the counties, respectively, in which they reside, by order of the county commissioners' courts.

SEC. 10. The main road, leading from Vandalia to Hillsborough, and from thence to Henderson's, on the Macoupin, thence by Flower Husband's, on Sugar creek, thence by the widow Ferrel's, on Lick creek and thence to Springfield, in Sangamon county, be, and the same is hereby declared a public state road.

SEC. 11. Joseph Duncan and Isaac Ferguson of Madison county, and Brazil Lozey of Clinton county, are hereby appointed commissioners to lay out a road from Curtis's bridge, on Shoal creek, by Joseph Duncan's, on Sugar creek, to Edwardsville; said commissioners shall, on or before the first day of May next, meet at the house of Brazil Losey, and after being duly

sworn, faithfully to locate said road on the most eligible route, shall proceed to perform the duties herein required of them, and shall make a survey and map of said road, and cause one copy to be filed in the office of the clerk of the commissioners' court of each of the counties of Madison and Clinton; and said road shall be deemed a public highway, and shall be opened and kept in repair as other public roads: said commissioners shall receive, out of the treasuries of their respective counties, such compensation as the county commissioners' courts of the same shall deem just.

Shall take an oath

Survey &c to be filed

Compensation to com'rs

[Approved, January 20, 1829.]



AN ACT DECLARING CERTAIN ROADS PUBLIC HIGHWAYS.

IN FORCE,  
JAN. 20, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That the road as last laid out and established, leading from Carrolton, in Greene county and the road as last laid out and established, leading from Jacksonville, in Morgan county, to Thomas Beard's ferry, on the Illinois river be, and they are hereby declared public highways.

Roads to Beard's ferry declared public highways

SEC. 2. That the road from Abraham Irvin's, in Hamilton county, to McLeansboro', thence to Robert Wilson's, thence to George McKinzey's, is hereby declared a state road: and John Ferguson shall view and mark a road from said McKinzey's, on the nearest and best way to Equality, in Gallatin county, and shall file in the clerk's office, of the said counties of Hamilton and Gallatin, a report and plat of said road. which said report and plat, shall be recorded by the respective clerks of said courts; and said road shall be a state road, and opened and repaired as other state roads. And the said Ferguson, shall receive for his services, a just and reasonable compensation, to be allowed by the county commissioners' courts of the respective counties, and paid out of the county treasuries. That part of the county road from James Garrison's to John Baker's, in White county, is hereby declared the state road: the present road, as laid off between those places, is vacated.

Road from Irvin's to McKinzey's a state road Com'r appointed to mark a road from McKinzey's to Equality Report and plat to be recorded

Compensation

Road from Garrison's to Baker's a state road Present road vacated

[Approved, January 20, 1829.]

IN FORCE, AN AOT TO LAY OUT AND LOCATE A STATE ROAD FROM VANDALIA,  
 JAN. 20, 1829. TO INTERSECT THE ST. LOUIS AND VINCENNES ROAD NEAR  
 LEBANON.

Com'rs ap-  
 pointed

To lay out a  
 road from  
 Vandalia to  
 Lebanon

Shall take an  
 oath

And make re-  
 turn to the  
 county com'rs  
 courts  
 Their com-  
 pensation

The road de-  
 clared a pub-  
 lic highway

SEC. 1. *Be it enacted by the people of the state of Illi-  
 nois represented in the General Assembly,* That Thomas  
 Ray of St. Clair county, Joseph Gracey of Madison  
 county, and Peter Hubbard of Bond county be, and they  
 are hereby appointed commissioners, to mark and lay  
 out a road from Vandalia to Lebanon, in St. Clair coun-  
 ty, by way of Johnson's and Plant's bridge, on Shoal  
 creek, thence to Joseph Duncan's, on Sugar creek,  
 thence the nearest and best way, to intersect the St.  
 Louis and Vincennes state road at Shackford's planta-  
 tion, one mile and a half east of the town of Lebanon.  
 The said commissioners shall meet at Greenville, on or  
 before the first Monday in May next, and after being  
 sworn before some justice of the peace, as the law di-  
 rects, shall thereupon proceed to mark and lay out said  
 road: and the said commissioners shall, as soon as they  
 have located the same, return a copy and map of said  
 road, to the several clerks of the county commissioners'  
 courts of the respective counties, through which said  
 road may pass: and said commissioners shall receive  
 such compensation for their services, as prescribed by  
 law for similar services; which shall be paid to them,  
 out of any moneys in the several county treasuries, to  
 which said commissioners belong, not otherwise ap-  
 propriated.

SEC. 2. Said road is hereby declared a public high-  
 way, to be opened and kept in repair, at the expense  
 of the several counties through which the same may  
 pass.

[Approved, January 20, 1829.]



IN FORCE, AN ACT FOR SURVEYING CERTAIN ROADS AND FOR OTHER PURPOSES.  
 JAN. 22, 1829.

Mill dam on  
 Sangamon  
 river

SEC. 1. *Be it enacted by the people of the state of Illi-  
 nois, represented in the General Assembly,* That John Cam-  
 eron and James Rutledge be, and the same are hereby  
 authorized to erect a mill-dam on the Sangamon river,  
 at or near the fish trap ford: *Provided,* that the said

Cameron and Rutledge enter into bond with the people of the state of Illinois, in the penal sum of two thousand dollars, conditioned that the erection of such mill-dam shall not affect the navigation of said river; and said bond may be put in suit by any person injured by a breach of the condition thereof, in the manner provided in the second section of an act entitled "an act to authorize the building mill dams across the Sangamon river," approved, February 14, 1827. And if it may be found at any time, that the navigation of said river is injured by said dam, it shall be the duty of the owners thereof, upon receiving three months notice thereof, from the county commissioners of Sangamon county, to alter said dam, by locks, canalling or otherwise, so that the safe navigation of said river shall be fully restored; and if said alterations shall not be made within the time aforesaid (unless the stage of water should render it impossible) it shall be the duty of said commissioners to direct an order to the sheriff of said county, commanding him to demolish the said dam forthwith.

Bond required

Suit thereon

Notice and

Alterations in the dam

Demolition thereof

SEC. 2. The surveyor of Schuyler county is hereby authorized and required to make a survey of the road leading from the west bank of the Illinois river, opposite Beard's ferry to Rushville, and thence in a direction to Quincy, in Adams county, so far as to the western boundary line of Schuyler county: and the county surveyor Adams county shall in like manner continue said road to the town of Quincy: and said roads when laid out and opened, under the directions of this act, shall be public state roads, and the expenses of said surveyors shall be paid out of the respective county treasuries.

Survey of a road in Schuyler county

In Adams co

To be a public road

[Approved, January 22, 1829.]



AN ACT ESTABLISHING A STATE ROAD FROM THE WEST BANK OF THE WABASH RIVER, OPPOSITE VINCENNES, LAWRENCE COUNTY, TO DANVILLE, IN VERMILION COUNTY.

IN FORCE.

JAN. 22, 1829

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That the county roads leading from the Wabash river, opposite Vincennes, through the counties of Lawrence, Crawford, Clark, Edgar, and Vermilion to Danville, in Ver-

Certain roads declared state roads

milion county, are hereby declared a state road leading from the Wabash, opposite Vincennes, to Danville as aforesaid. The road passing through the settlement in Allison Prairie, called the Christian Settlement, and from thence to Palestine, is the road intended hereby for a part of the state road aforesaid. The county commissioners in the several counties through which said road shall pass, may alter the same so as to connect the said roads, in a line, for the state road as aforesaid, and may cause the same to be improved.

[Approved, January 22, 1829.]



IN FORCE,  
JAN. 22, 1829. AN ACT FOR LAYING OUT A ROAD FROM HARRISONVILLE, BY JAMES' MILL, JEWETT VARNUM'S, AND JOHN BAMBERS, TO THE KASKASKIA RIVER, IN THE DIRECTION OF MOUNT VERNON, IN JEFFERSON COUNTY.

Commission-  
ers appointed

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly, That Thomas James, Henry Null, John G. Waddle, and John Bamber, or a majority of them, be, and they are hereby, authorized and required to lay out and mark a road upon the nearest and best route from Harrisonville, by James' mill, Jewett Varnum's and John Bamber's, in the direction of Mount Vernon in Jefferson county, to the Kaskaskia river. That said commissioners, as soon as they locate said road, shall certify to the county commissioners' court of Monroe county, and said road, thus laid out, shall be and remain a public highway of this state. Said road shall be opened and kept in repair in the same manner as other public roads; and the county commissioners' court of said county shall allow said commissioners such compensation, for locating said road, as they may deem reasonable.*

Their duty

And compen-  
sation

This act to take effect, from and after its passage.

[Approved, January 22, 1829.]



AN ACT FOR LAYING OUT AND MARKING A ROAD FROM COLUMBIA, IN MONROE COUNTY, TO MISSISSIPPI RIVER OPPOSITE JEFFERSON BARRACKS. IN FORCE, JAN. 22, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That William B. Whaley, Joseph Palmier, Robert Coleman, and John Divers, and Adam W. Snyder, be, and they are hereby appointed commissioners, a majority of whom may act, to lay out, mark and survey, a road from Columbia, in Monroe county, upon the nearest and best route, to the Mississippi river, opposite Jefferson Barracks.

Com'rs appointed

To lay out a road From Columbia to Mississippi river

SEC. 2. The said commissioners shall make report of their proceedings, to the county commissioners' court of said county, and the road when laid out by them as aforesaid, shall be a public highway of this state; and the county commissioners' court shall cause the same to be opened, and kept in repair, in the same manner as other roads. Said commissioners' court shall also make a reasonable compensation to said commissioners for viewing and laying out said road.

Road made a public highway

Compensation

This act to take effect from and after its passage.

[Approved, January 22, 1829.]



AN ACT TO APPOINT COMMISSIONERS TO LOCATE CERTAIN ROADS. IN FORCE, JAN. 22, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That Isaac Sanford, Richard C. Kimbraugh, and John Laswell, be, and they are hereby appointed commissioners to view, survey, and locate a road, from the public square in Paris, to the state line, in a direction to Clinton, on the Wabash, in the state of Indiana, viz: From Paris to Waynes' mill, on Sugar creek; thence to the center of section twenty two: thence east through section twenty-three; thence the nearest and best route, to the state line, to intersect a road laid, or about to be laid from Clinton to Paris.

Com'rs appointed

To locate a road from Paris to the state line

SEC. 2. Said commissioners before entering on the duties assigned them, shall take an oath before some justice of the peace of said county of Edgar, faithfully and impartially to locate the same, taking into consideration the public good, shall proceed during the month of May next, to establish the road, and shall return to

Shall take an oath

And make re-  
turn to the  
county court

the county commissioners' court, at their June term next, a true map or plat of the same, and said road when thus laid out, shall be opened and kept in repair, as other roads are, and shall be and forever remain a state road, four poles wide, and the county commissioners' court shall allow said commissioners a reasonable compensation out of the county treasury.

Their com-  
pensation  
Com'rs  
appointed

To lay out a  
road from  
Georgetown  
to Dillinger's  
mill

Shall take an  
oath

Expenses to  
be paid by  
Washington  
& Perry coun-  
ties

SEC. 3. William Pyle, and John B. Hutchings, of Perry county, and William Ayres of Washington county are hereby appointed commissioners to mark and lay out a road, from Georgetown in Washington county, through Pinkneyville in Perry county, to Dillinger's mill, in Jackson county. The commissioners aforesaid shall meet at the house of George Franklin, on the first Monday in September next, or within ten days thereafter and after being duly sworn faithfully to perform the duties hereby enjoined upon them, they, or any two of them, shall proceed to mark and lay out said road; and the expenses of locating the same shall be paid by the counties of Washington and Perry, each an equal proportion.

This act to be in force from and after its passage.

[Approved, January 22, 1829.]



FORCE,  
N. 23, 1829.

AN ACT TO LAY OUT, AND PERMANENTLY ESTABLISH, THE ROAD FROM THE WABASH RIVER, NEAR VINCENNES, TO THE MISSISSIPPI RIVER, OPPOSITE ST. LOUIS.

Com. appoin-  
ted

To locate a  
road

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That John Thomas, Thomas Ray, and Nicholas Boismenu, of St. Clair county, John Kain of Clinton county, John R. Taylor of Clay county, Benjamin Vermilion of Marion county, and Henry M. Gillham of Lawrence county, or a majority of them, are hereby appointed commissioners to lay out, survey, and permanently locate, the road from the state line, where said road crosses the Wabash river, at Vincennes, by Lawrenceville, Evans's, M'Cawley's, Maysville, Elliot's, Meisenhamer's, Lewis's, Piles's, Salem, Vermilion's, Carlyle, Scott's post office, Lebanon, and Hathaway's, to the bank of the Mississippi, opposite St. Louis.

SEC. 2. Said commissioners shall survey said road, or

cause the same to be done, by them laid out and located, as aforesaid, and shall make out a plat, or cause it to be done, of said road, and forward a copy thereof to each county, through which the same shall be located, as aforesaid, and one copy to the secretary of state, which he shall file in his office. Said county commissioners' courts shall cause said plat to be entered upon their records, and shall file and preserve the original, and a certified copy of said record shall have the same force and effect, in all courts and places, as other records.

And make a survey and plat thereof

Which shall be filed in each county and with the sec. of state  
Which shall be evidence

SEC. 3. Said commissioners appointed to locate and survey said road, shall erect suitable mile stones, or posts, either of which shall be erected, in the discretion of the commissioners' court of the county through which said road may pass, and permanently set in the ground, at the end of each mile, with figures upon them, denoting the distance, counting from the state line, near Vincennes, and where the said state road crosses the Wabash river, westwardly to the bank of the Mississippi river, opposite St. Louis.

Mile stones

SEC. 4. The commissioners, aforesaid, shall lay out and survey the above described road, upon the nearest and best route, departing, however, as little from the main road, as now travelled, as practicable. Said road, when laid out and surveyed as aforesaid, shall be and remain a public highway of this state, four poles wide, and shall be kept in repair through each county. The same shall be located in the same manner as other public roads. Should congress grant to this state scrip, or other means, expressly to improve said road, said commissioners shall receive the same, on behalf of the state, and shall have power to apply the same, or such part thereof as they may deem necessary for that purpose, in the improvement of said road: the work to be done in such manner as the said commissioners, or a majority of them shall determine.

Special directions to com.

SEC. 5. The said commissioners shall be paid for their services out of the funds congress may grant, as contemplated in the above section: should such grant not be made, then said commissioners shall be paid, out of their respective county treasuries, such sum as the county commissioners' court shall deem reasonable.

Compensation to com.

SEC. 6. Said commissioners before they receive any of the scrip mentioned in the above act, shall give bond and security to the governor of this state, in double the sum so to be received from the United States: said bond and security to be approved by the governor.

Com. to give bond

IN FORCE, AN ACT ESTABLISHING A PUBLIC ROAD FROM VANDALIA TO THE  
 JAN. 23, 1829. TOWN OF EMINENCE ON THE MISSISSIPPI RIVER.

SEC. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That Joseph Williams of Montgomery county, John D. Gilham, and Joseph Piggott of Greene county, be, and they are hereby appointed, commissioners to view and mark a road from Vandalia, on the most direct and suitable ground, to the town of Eminence on the Mississippi river. And the said commissioners, or a majority of them, shall cause a report of their proceedings to be lodged with the clerks of the county commissioners' courts, of each and every county, through which said road shall pass: and the road when so viewed and marked out, as aforesaid, shall be a public highway.*

SEC. 2. The county commissioners of each and every county, through which said road shall pass, shall cause the same to be improved and opened as other public roads are.

This bill having remained with the council of revision ten days, (Sundays excepted,) and the General Assembly being in session, it has become a law, this 23d day of January, 1829.

A. P. FIELD,  
*Secretary of State.*



## SABBATH BREAKING.

IN FORCE, AN ACT TO AMEND THE ACT RELATIVE TO CRIMINAL JURISPRU-  
 JAN. 19, 1829. DENCE, APPROVED JANUARY 30, 1827.

Sabbath  
 breaking

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly, That any person who shall hereafter knowingly disturb the peace and good order of society, by labour, or amusement, on the first day of the week, commonly called Sunday, (works of necessity and charity excepted,) shall be fined, upon conviction thereof, in any sum not exceeding five dollars.*

How punish-  
 ed

Disturbing  
 congregation

*That any person who shall by menace, profane, or vulgar language, or disorderly, or immoral conduct, disturb the peace or good order of any congregation, assembled for divine worship, such person, so offending, shall be*

deemed guilty of a high misdemeanor, and upon conviction thereof, shall be fined in any sum not exceeding fifty dollars: *Provided*, that this act shall not be construed to prevent watermen from landing their passengers, lading and unlading their cargoes, or ferrymen from carrying over the water, travellers, or persons moving with their families, on the first day of the week: *Provided*, that the section shall not prevent the due exercise of the rights of conscience by any person who may think proper to keep any other day as a Sabbath, than the first day of the week.

How punished

Proviso

Further pro-

viso

SEC. 2. That whoever shall be guilty of any noise, rout, or amusement, on the first day of the week, called Sunday, whereby the peace of any private family may be disturbed, such person, so offending, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not exceeding twenty-five dollars.

Noise, &c. on  
Sunday

How punished

SEC. 3. The justices of the peace, respectively, in their several counties, shall have jurisdiction of the aforesaid offences, committed in their counties, and upon view, or information upon oath, may cause any such person, having offended, or being charged with having offended, as aforesaid, to be apprehended and brought before him to answer such charge.

Jurisdiction  
of justices

SEC. 4. When any person, having offended, or being charged with having offended, as aforesaid, shall be brought before any justice of the peace, if such person shall require it, a jury of not less than six, nor more than eight, shall be summoned to try the cause, and if the jury shall find the defendant guilty, they shall assess the fine, and the justice shall enter judgment therefor; but if no jury shall be required, the justice shall hear the cause, and render such judgment as to him shall seem right.

Jury trials

Judgment

SEC. 5. The judgments rendered under this act shall be subject to appeals, as in cases of assault and battery, and affrays, and shall be collected in the same manner.

Appeals

[*Approved, January 19, 1829.*]

## SALARIES, FEES, &amp;C.

IN FORCE, JAN. 23, 1829. AN ACT IN ADDITION TO AN ACT REGULATING THE SALARIES, FEES, AND COMPENSATIONS, OF THE SEVERAL OFFICERS AND PERSONS THEREIN MENTIONED.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That hereafter it shall be lawful for the clerks of the respective courts of this state, who are authorized to issue fee bills, to place the same in the hands of any constable of the proper county for collection; and the constable receiving the same shall be liable to the several remedies, for any default set forth in the act to which this is an addition, therein provided.

Fees may be collected by constables

Fees of judges of probate

SEC. 2. The following fees shall be allowed to the judges of probate, in addition to the fees now allowed by law, viz:

|  | Cents. |
|--|--------|
| For administering oath to each witness,  | 6 1-4  |
| Swearing any person to an affidavit,   | 12 1-2 |
| Issuing order for writ of certiorari,  | 25     |
| Examining petition and application for writ of certiorari,   | 25     |
| Issuing injunction, <i>ne exeat</i> , or any special writ,   | 50     |
| Issuing subpoena, attachment, or other process, under seal,  | 25     |
| Entering each decree, order, or judgment, except orders allowing claims for or against an estate,  | 25     |
| Recording appraisement, sale bill, and all other exhibits and writings required to be recorded, (wills and codicils excepted,) for every hundred words, figures inclusive, | 10     |
| Filing each paper belonging to the settlement of any estate,   | 6 1-4  |
| Issuing letters of guardianship, and recording same,   | 1,00   |
| Taking bond of guardian,   | 50     |
| Taking any bonds not before specified,   | 50     |
| Revoking letters testamentary, administration, or guardianship,  | 50     |
| Swearing each jury,  | 25     |
| Writing indenture, to be paid by master,   | 50     |
| And for the collection of the fees aforesaid, the judge of probate may issue fee bills, directed to the sheriff, or  |        |

May issue his fee bill

to any constable of the county, who is hereby authorized to collect the same as in other cases.

SEC. 3. And hereafter the clerks of the courts of county commissioners shall not charge any fees for issuing writs of election, comparing election returns, issuing notices to supervisors of roads, issuing certificates of allowances made to individuals by the court, or for any other services rendered the county: but the courts shall allow their respective clerks such reasonable compensation as they may think right, as an *ex officio* fee, not exceeding twenty dollars per annum, exclusive of a reasonable allowance, per day, for their attendance on the courts in term time: and so much of the sixth section of the act, to which this is an amendment, as authorizes the county commissioners' courts to allow their clerks a compensation, per day, for their services rendered the county, is hereby repealed.

Clks. of county com.

The following fees shall be allowed to the recorders.

Recorder's fees

Cents.

For recording all deeds, mortgages, and other instruments of writing, for every one hundred words,

15

For entering every tract of land, over five, in each deed or conveyance,

6 1-4

SEC. 4. So much of the sixth section of the acts, regulating salaries, fees, and compensation of the several officers and persons therein mentioned, passed on the nineteenth day of February, 1827, as allows any commission to sheriffs for offering real or personal estate for sale, where the execution shall be settled by the parties, replevied, or stopped by injunction, or where the property shall not be actually sold, is hereby repealed; and in all such cases the sheriff shall be allowed fifty cents for levying, and six and one fourth cents a mile for going to, and returning from, the place of sale.

Sheriff's commission on levies

SEC. 5. Clerks of the supreme, circuit, and county commissioners' courts, and notaries public, shall be allowed a fee of twenty five cents for taking the proof or acknowledgment of any deed, or conveyance, and affixing his official seal.

Clerk's, &c. fee for taking proof or acknowledgment of deed

SEC. 6. Clerks of county commissioners' courts shall be allowed twenty five cents for every certificate of magistracy, with the official seal annexed.

Certificate of magistracy

SEC. 7. Every officer, authorized by law to take proofs or acknowledgments of deeds, is allowed a fee of twenty-five cents, for each deed proved or acknowledged before him.

Acknowledgment of deed.

## SALINES.

This act is to be in force from and after its passage  
 [Approved, January 23, 1829.]



## SALINES.

IN FORCE, AN ACT TO PREVENT CATTLE FROM BEING INJURED IN THE  
 DEC. 14, 1824. VICINITY OF SALINES.

SEC. 1 *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That the owners, renters, or lessees, of any salines within this state, who shall hereafter cause to be exposed any pickle, brine, or salt water, which in its nature is injurious and hurtful to any horned cattle, horses, hogs, sheep, mules, or other domesticated animals, without having erected good and sufficient barricadoes, to prevent such animals and cattle from having access to the same, to the injury of such cattle and their owners, by causing the same to be injured or die, that such person or persons, so offending, against the provisions of the foregoing statute, shall be liable to prosecution before any court of competent jurisdiction in this state, and be liable in an action of damages to the owner or owners of any cattle that may suffer or die by such neglect, in the full amount of their value, and costs.

Owners of salines to barricade the same  
 For failure, to pay damages

SEC. 2. That this law shall be in force from and after its passage.  
 [Approved, December 14, 1824.]



## SALINE RESERVES.

IN FORCE, AN ACT TO AMEND AND CONTINUE IN FORCE THE ACT ENTITLED  
 DEC. 19, 1823. "AN ACT CONCERNING SALINE RESERVES, A PENITENTIARY, AND THE IMPROVEMENT OF CERTAIN NAVIGABLE STREAMS" APPROVED 15th FEBRUARY, 1827.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That so much of the first section of said recited act, as requires the selection for water works, specified in said section, to be in addition to the thirty thousand acres therein mention-

Part of former act repealed



ed, be, and the same is hereby, repealed. So much of the twenty-sixth section of the act, to which this section is an amendment, as postpones the appropriation of one thousand dollars of the next avails of the sales, after twenty thousand dollars shall be realized, be, and the same is hereby, repealed; and the said sum of one thousand dollars shall be out of the next avails of said sale, after fifteen thousand dollars be realized.

SEC. 2. The commissioners, who are required by the eighteenth section of this act, to make their report to the present General Assembly, are authorized and required to make their report on the fifth day of the session of the next General Assembly. Com'rs to report

SEC. 3. The report of Leonard White, John Black, and Benjamin Cummins, commissioners appointed by the first section of the act, to which this is an amendment, be, and the same is hereby, approved and confirmed: and the residue of said recited act, to which this is an amendment, is hereby declared to be in full force from and after the passage of this act. Former report confirmed  
Former act confirmed

SEC. 4. The sum of five hundred dollars of the avails of said sales is appropriated to the improvement of the state road across Cash River bottom, in Alexander county, to be expended under the direction of Henry Sowers, William Price, and John Fisher. Appropriation for Cash river bottom

[Approved, December 19, 1828.]



AN ACT PROVIDING FOR THE SALE OF THE VERMILION SALINE RESERVE, AND APPROPRIATING THE AVAILS THEREOF.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That so soon as the congress of the United States shall raise the restriction thereon, and assent to the sale for the benefit of this state, the whole of the saline reservation, situate on Big Vermilion river, in the county of Vermilion, shall be sold and disposed of as hereinafter provided. Saline reservation to be sold with the assent of Congress

SEC. 2. That Amos Williams be, and he is hereby appointed register, and William Reed receiver, who shall keep the office for the sale of said lands at Danville, or at the seat of justice of said county; and being notified by the Governor that Congress has assented to the sale of said lands, and before entering on the duties assigned them, shall severally give bond, payable to the Register & receiver appointed  
To give bond

governor and his successors in office, for the use of the people of the state of Illinois, with good securities, to be approved of by the governor, the register in the sum of two thousand dollars, and the receiver in the sum of twenty thousand dollars, conditioned for the faithful performance of all the duties imposed on them by this act, or which may hereafter be required of them by law; and should the governor at any time thereafter deem additional security necessary, the same shall be given, and in case of neglect of duty, omission to account or for any good cause, the governor shall have power to dismiss the said register, or receiver, and in that case, and in case of death, or resignation, appoint others, and require bond and securities as aforesaid.

And additional security if required

Lands to be advertised

SEC. 3. The register and receiver having given bond as aforesaid, and being furnished with a map and description of the land, with directions from the governor to proceed, shall immediately advertise the same in two newspapers published in this state, one in Indiana, one in Louisville, Kentucky, and one in Cincinnati, Ohio, for twelve successive weeks before the day of sale, stating the day and place at which the sale will commence, that the same will continue from day to day until concluded.

Directions to be observed in offering them for sale

SEC. 4. In offering said lands for sale, the register and receiver shall begin with the lowest number of township, range and section, and continue offering the lowest number by half quarter sections, until all shall be offered, distinctly crying each half quarter section a reasonable time, when if no person shall bid therefor, it shall be passed over and noted unsold; but should there be a bid for any tract of land offered, the said register and receiver shall continue to have the same cried for a reasonable time after such bid, and shall then be stricken off to the last and highest bidder, and set down to such bidder; but no tract shall be sold at said sale, or at private sale thereafter, for a less price than one dollar per acre: Said sales shall be at public vendue, and shall be kept open each day from ten o'clock A. M. until two o'clock P. M. and shall be continued from day to day, Sundays excepted, until the whole shall be offered for sale: and all sales public and private, shall be for ready money, gold or silver coin, or notes of the bank of the United States.

Sales to be recorded

SEC. 5. The register and receiver shall each keep, in well bound books, a record of all lands sold, particularly stating the time sold, the purchaser's name and

place of residence, the number of the tract, section, township and range, the number of acres and the price sold for, and at the public sale, on the evening of each day's sale, and on the morning before the next day's sale shall commence, the receiver shall receive from the different purchasers the sum or sums by them bid on the land to them respectively set down, and give to them two receipts therefor, on one of which he shall write the word "duplicate," designating the persons name, place of residence, the tract or tracts, purchased, number of acres and price thereof, the original of which the purchaser shall deliver to the register, and retain the duplicate until he receives his deed or patent. And all the land in said reserve which shall not be sold at the first and public sale, may be entered with the register and paid for to the receiver, in the manner hereinafter provided.

Duplicate receipts

Lands not sold may be entered with the register

SEC. 6. Application to purchase at private sale shall be made in writing, signed by the person applying, describing his residence, and the tract or tracts, of land applied for, and the register shall certify the same to the receiver, and on payment of the purchase money, the receiver shall issue two receipts, as specified in the fifth section of this act, which he shall hand to the purchaser and the purchaser shall deposit the application and the original receipt with the register, retaining the duplicate, which application the register shall file in his office.

Applications to be made in writing

SEC. 7. At the end of every three months, computing from the commencement of the public sale, and during his continuance in office, the register shall make out and transmit by mail, to the auditor of public accounts, a correct account of sales made, the tracts sold, the time when, the amount of purchase money, purchaser's name, &c. from his record together with the receipts of the receiver deposited.

Register to report to the auditor

SEC. 8. The auditor of public accounts shall carefully file and preserve all reports and papers sent to his office; and shall keep a record of all saline lands reserved in, and belonging to the state; and shall make a special entry of all sales made, as returned to him in a clear and concise manner, in order to perpetuate and preserve the title: an exemplification thereof, duly certified, shall be received as evidence in any court of record or elsewhere in this state.

Auditor to file reports & keep a record of all saline lands

SEC. 9. The auditor shall make out in the name of the governor, and the same shall be signed by the governor, the seal of state affixed by the secretary of

To prepare patents and transmit them to the register

state, and countersigned by the auditor, patents for the lands so sold and purchased, vesting in the purchaser or purchasers respectively, the fee simple, and the auditor, after having made an entry of the date thereof, shall transmit to the register the said patents, who, on the receipts retained by said purchasers being presented, shall deliver the same to the person or persons entitled thereto.

Net proceeds  
of first

10,000 acres  
appropriated  
to the im-  
provement of  
the naviga-  
tion of the  
Great Wa-  
bash

SEC. 10. The receiver shall at the end of every six months, during his continuance in office, computing from the commencement of said public sales, pay over to William Wilson, of White county, all the net proceeds arising from the sales of the first ten thousand acres sold; which sum is hereby appropriated to improve the navigation of the Great Wabash river, from the mouth thereof up to the point where the state line leaves the river, below Terre Haute, to be disbursed in conjunction with the state of Indiana, when she shall set apart and appropriate funds for that purpose, in such manner as the states of Illinois and Indiana shall, by mutual laws, direct, and which money is hereby solemnly set apart for that object, and to be applied to none other.

Bond to be  
given by Wm  
Wilson

SEC. 11. The said William Wilson, before receiving any of said money, shall give bond with good securities, payable to the governor, and his successors in office, for the use of the people of the state of Illinois, to be approved of by the governor, in the sum of twenty thousand dollars, conditioned that he will keep said money safely, and pay over the same when legally required so to do; and should said William Wilson refuse to give bond as required, die, or the office otherwise become vacant, the governor shall appoint some person, and require bond as aforesaid.

Further ap-  
propriations

Little Wa-  
bash

State road  
from Vandalia  
to Golconda

SEC. 12. The net proceeds of the ten thousand acres being paid over as above stated, the following sums are hereby appropriated out of the money received from the sales of the said lands, to-wit: the sum of one thousand dollars, to improve the navigation of the Little Wabash river, from the Beach bluff, on said river, to Carmi, in White county, to be drawn upon the order, and expended under the direction, of the county commissioners of Wayne county: The sum of seven hundred dollars, to improve the state road from Vandalia to Golconda, of which appropriation, one hundred and fifty dollars shall be drawn upon the order, and expended under the direction, of the county commissioners of Pope county; one hundred and fifty dollars to be drawn upon the order, and expended under the direction of the

county commissioners of Franklin county; one hundred and fifty dollars to be drawn upon the order, and expended under the direction, of the county commissioners of Jefferson county; one hundred and fifty dollars to be drawn upon the order, and expended under the direction, of the county commissioners of Marion county; and one hundred dollars to be drawn upon the order, and expended under the direction, of the county commissioners of Fayette county: the sum of two thousand dollars, to improve the navigation of the Kaskaskia river, to be drawn upon the order, and applied under the the direction of such commissioners as the General Assembly shall appoint: the sum of one thousand dollars, to improve the navigation of the Sangamon river, to be drawn upon the order, and applied under the direction, of the county commissioners of Sangamon county: the sum of eight hundred dollars, to be drawn upon the order, and applied under the direction of the county commissioners of Greene county, in improving the navigation of Macoupin river, and the making of roads and bridges in said county: to the county of Vermilion the sum of two thousand dollars, to be drawn upon the order, and expended under the direction of the county commissioners of said county, in improving the navigation of the Big Vermilion river, from Danville to the state line of Indiana; in constructing a bridge across said river, near Danville, where the state road, leading from the west bank of the Wabash, opposite Vincennes, to said town of Danville, shall cross said river; and a bridge where said road shall cross Little Vermilion river: to the county of Edgar eight hundred dollars, to bridge Bruett's and Sugar creeks, on said road, and the balance to be applied on such other road, or roads, as the commissioners shall direct: to the county of Clark eight hundred dollars, to build a bridge across Big Creek, at Bell's mill, a bridge across Stony creek, near Aurora, and one on Mill creek; should there be a surplus, the same to be applied on the bottom between Stony and Bohn's creeks: to the county of Crawford one thousand dollars, for the purpose of building bridges on Rackoon, Hudson, Sugar, and Lamotte creeks, and improving the bottoms of said creeks, where the said state road shall pass; five hundred dollars of which shall be expended in bridging and improving the road on said Lamotte and Sugar creeks: also to John Houston, to be drawn on his order, and by him expended in improving the state road, leading from Vandalia to Palestine, six hundred dollars: to the county of

Kaskaskia  
riverSangamon  
river

Greene county

Vermilion  
county

Edgar county

Clark county

Crawford  
countyState road  
from Vanda-  
lia to Pales-  
tine

Lawrence county

Lawrence sixteen hundred dollars, to be expended as follows to-wit: six hundred dollars on the state road, when laid from the ferry, opposite Vincennes, to Danville, between said ferry and the high lands above Allison prairie: five hundred dollars on the state road from said ferry to Lawrenceville; two hundred dollars to build a bridge across Muddy Creek, on the state road from Lawrenceville to St. Louis; and the sum of three hundred dollars to improve the navigation of the Embarras river; which said sums, hereby appropriated, except the sum to be drawn by said Houston, or any person the commissioners' court of said county shall appoint in his stead, should he not serve, shall be drawn upon the order of the several county commissioners' courts, and expended as above contemplated.

How said appropriations directed to be paid

SEC. 13. All appropriations made in and by this act, except the proceeds of the sales of the first ten thousand acres, and the appropriations above stated, made to the counties of Vermilion, Edgar, Clark, Crawford, Lawrence and Wayne, which are hereby expressly ordered to be paid first, so soon as sales shall be made, and money sufficient therefor received, shall be paid out *pro rata* upon each of said appropriations; and the said receiver shall, at the end of every six months from the date of the last, and full payment of the last appropriations above named, make a dividend of the moneys by him received, and pay over said moneys upon each of said appropriations, in proportion to their respective amounts, to the person or persons authorized by law to receive the same, until all the said appropriations shall be paid off, should said lands sell for sufficient to pay the same; and should there be any surplus, after paying said appropriations, the said receiver shall pay the additional sum of two hundred dollars to the county of Greene, to be drawn and appropriated in like manner as the appropriation first made to the same: and also the further sum of one thousand dollars to the county of Sangamon, to be drawn and appropriated in like manner as the first appropriation to the same herein made. And all surplus moneys, after the foregoing appropriations are paid off, shall be paid by the receiver aforesaid into the state treasury.

Surplus

Additional appropriations to Greene county To Sangamon county

Residue to be paid into state treasury

Receiver to settle with the auditor

Compensation to register and receiver

SEC. 14. The receiver shall, every six months, settle with the auditor, and deposit all receipts taken on paying the sums hereby appropriated.

SEC. 15. The register and receiver shall each receive two and a half per centum on all moneys received,

and an allowance for advertising, and all blank books purchased for the two offices, in full compensation for all services and duties to be performed by them under this act.

SEC. 16. All laws heretofore passed or now in force, relating to the selling and disposing of the Vermilion saline reserve, and appropriating the avails thereof, are hereby repealed. Laws repealed

[Approved, January 19, 1829.]



## SCHOOLS.

AN ACT REQUIRING THE AUDITOR TO ISSUE HIS WARRANT ON THE TREASURY FOR SCHOOL PURPOSES.

IN FORCE,  
JAN. 22, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That the fifteenth, sixteenth, and seventeenth sections of the act, entitled "An act providing for the establishment of free schools," approved, January 15, 1825, be, and the same are hereby repealed: *Provided,* that rights accrued under the provisions of the sections hereby repealed, shall not be affected by this act. Laws repealed  
Rights saved

SEC. 2. The auditor is hereby required to issue his warrant on the treasury, in favor of the trustees of the school district in Johnson county, for the sum of twenty-five dollars. The act, entitled "An act relating to the school lands," approved 17th February, 1827, be, and the same is hereby repealed. Warrant in favor of Johnson county  
Act repealed

[Approved, January 22, 1829.]

IN FORCE,  
JAN. 22, 1829.

AN ACT AUTHORIZING THE SALE OF SECTIONS NUMBERED SIXTEEN,  
OR SUCH LAND AS MAY BE GRANTED, IN LIEU THEREOF,  
TO THE INHABITANTS OF SUCH TOWNSHIPS, FOR  
THE USE OF SCHOOLS.

Governor  
shall announce the  
assent of con-  
gress by pro-  
clamation

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That so soon as the congress of the United States shall assent that section numbered sixteen in each and every township, or such lands as may have been, or which may hereafter be selected in lieu thereof, granted to the inhabitants of each and every township, for the use of schools, may be sold, and that fact shall be known to the governor, it shall be the duty of the governor to announce the same to the inhabitants of the state, by a proclamation published in all the newspapers in the state, for three weeks successively.

Com. or agent  
for the county  
shall be ap-  
pointed

SEC. 2. It shall be the duty of the county commissioners' court, of each and every county, on proclamation being made as aforesaid, to appoint some good, competent and responsible person of the county to act as commissioner and agent for the inhabitants of the county, and who shall at all times, while acting as commissioner, reside in the county; and before entering upon the duties of his office, he shall give bond and security, in the sum of twelve thousand dollars, by three or more responsible freeholders, conditioned for the faithful performance of all the duties required by this act, or which may hereafter be required and enjoined on him by law; which bond shall be drawn in the name of, and payable to, the county commissioners of the county, or their successors in office, for the use of the inhabitants of the county, and of each and every congressional township therein; and which bond, when broken, may be prosecuted and sued upon, and judgment thereon rendered against the principal and securities, either jointly or severally, for the sum found due, in any court having jurisdiction thereof, for the use of the inhabitants of any township to whom the same may of right belong.

Shall give  
bond

How sued up-  
on

Additional  
security  
may be requi-  
red

SEC. 3. When it shall appear necessary for the better securing and managing the funds, or moneys, which shall come into the hands of any commissioner, so appointed, the commissioners' court may require additional security, in the sum aforesaid, or any other sum they shall deem right; and for any good cause, such as misapplication of the money, neglect of duty, or failure to give additional



security, to the acceptance of the court, or to render an account, or to give the necessary information of the loans made, or transaction of the business committed to his care, when required, the commissioners' court may remove him from office, and in that case, or in case of death, How removed from office or resignation, appoint another, and require bond and security as aforesaid; and all bonds given as aforesaid, shall be filed in the commissioners' court of the proper county, and an entry of record made of all such appointments, removals and bonds given, the amount, time when executed and delivered, and the names of the securities, Certificate of appointment and a certificate of appointment shall be made out, with the seal of the court affixed, and a certificate of the clerk, and handed over to the commissioner so appointed.

SEC. 4. It shall be the duty of such commissioner or Com. to keep a record agent to procure well bound books, in which, previous to making sale of any school lands, he shall make a record of his appointment, or commission, and of all the school lands in his county, as contemplated in this act, in a clear and comprehensive manner, designating the congressional townships, ranges, sections, and numbers of acres in each section.

SEC. 5. When the inhabitants of any congressional Inhabitants of townships may petition the com. township shall be desirous to sell and dispose of section numbered sixteen, or such lands as have or shall be selected in lieu thereof, granted for the use of the inhabitants, for the use of schools, they shall make their wish known to the said commissioner by a petition in writing, which shall be signed by at least nine tenths of the freeholders and householders of the township, and which shall Proof of signing be signed publicly, and of their own free will and accord, at any place in the township at which they may assemble, or otherwise, and which shall be done in the presence of at least two good citizens of the township, and shall make oath that said individuals signed said petition freely, and that the true intent and meaning thereof was made known and explained to them previous to signing, which oath shall be in writing, signed by the persons making the same, on the petition, or the same shall be annexed thereto.

SEC. 6. Upon petition as aforesaid, and it appearing Upon which sec. 16, may be sold to the satisfaction of the commissioner that nine tenths of the citizens of the township, as above, have signed said petition fairly and freely, he shall proceed and advertise the land for sale, giving at least forty days' notice previous to selling, particularly describing the land, the time when, and the place where, to be sold, by posting

Notice thereof  
 When and where sold  
 Price

up written or printed notices in six of the most public places in the county, and likewise by publishing the same in some newspaper, the nearest to the land, either in the state, or any adjoining state, as said commissioner shall deem best; and all such lands shall be offered and sold at public vendue, at the seat of justice of the county in which the land shall lie, and during the sitting of the Circuit Court, or the time said court ought to be in session, should the court not sit at the time stated by law, and in no case shall he offer a greater quantity than eighty acres, or a half quarter section, in one lot; and all subdivisions of tracts shall be made and sold as now directed and observed by the United States in selling public lands, by lines north and south, and all sales shall be conducted openly and fairly, between the hour of nine in the morning, and six o'clock in the evening, and may be adjourned from day to day, during the session of the court. The commissioner shall cry, (or cause the same to be done) the tract distinctly, and give a reasonable time for persons to bid, and the same shall be stricken off and sold to the highest bidder, and set down to him: *Provided*, that the sum bid shall amount to one dollar and twenty-five cents per acre; if that sum be not offered, no sale of such tract shall take place, but the same shall be set down and noted unsold.

Payment  
 Certificate of sale and payment  
 Default of payment and second sale  
 Difference to be paid by first purchaser

SEC. 7. The purchaser shall, during the day on which he purchases, or on the morning before the next day's sale commences, pay to the commissioner, in gold or silver coin, or notes of the bank of the United States, the amount of the land, or lands, so by him purchased, whereupon said commissioner shall give him a certificate, or receipt, stating the land particularly, the price sold for, and the purchaser's name and place of residence: if any person shall purchase any tract and not pay the money, as above stated, the same shall be again offered, and if, on a second sale, the same shall not sell for so great a sum as at the first sale, the person so bidding off said tract, and not paying for it, shall be liable for the difference between the first and second sale, to be recovered for the use of the township, in the name of the said commissioner, whose duty it shall be to prosecute and sue for the same, in any court having jurisdiction thereof.

Report to county court

SEC. 8. Said commissioner shall make to the commissioners' court of his county, at every regular term thereof, a true statement or return, in writing of all the lands so, from time to time, sold, particularly describing the land, number of acres, section, township, and range, price

per acre for which the same was sold, the time when sold, and the name and place of residence of the purchaser, which shall be recorded in the said court, in a well bound book, and the original shall be carefully filed and preserved in said court; and said commissioners shall, in like manner, make out and forward, by mail, every three months, to the auditor of public accounts, a similar statement and return, which shall be recorded, in like manner, by said auditor, and the return filed and preserved. And it shall be the duty of the auditor to make out, in the name of the governor, and the same shall be signed by the governor, the seal of the state affixed by the secretary of state, and the same shall be countersigned by the auditor, patents for the land so sold, or land sold at private sale, after being first offered at public sale, which shall completely vest in the purchaser, or purchasers, the fee simple, a sure, perfect, and absolute title to the land so purchased and patented; and the auditor, after having made an entry of the date thereof, shall forward the same to the said commissioner, to be by him delivered to the person, or persons, entitled thereto, on presentation and surrender of the original certificate, or receipt, given to such person, or persons, which receipts shall be filed and preserved by said commissioner.

Report to the auditor

Patents shall issue

SEC. 9. It shall be the duty of the auditor of public accounts, and secretary of state, on request, to give officially, to any commissioner, so appointed in any county, information respecting the school lands in the county, so far as they are enabled so to do from the records and documents in their respective offices.

Auditor and sec. of state

SEC. 10. It shall be the duty of each and every commissioner so appointed, to make a complete record, in a well bound book, or books, of all petitions, signers' names, &c. presented, praying for the sale of such school land, when he shall be clearly of the opinion that the same has been fairly obtained, and signed by the number of citizens above stated, and he shall determine to proceed to advertise and sell; and also a record of all sales made, describing the land particularly, the price sold for, the time when sold, the purchaser's name and place of residence, in a clear and concise manner, in order to perpetuate and preserve the title: and he shall make an entry, in a well bound book, of all moneys by him received on sales of land, and shall keep the money, and interest arising therefrom on loans made, of every township separate and distinct, and shall loan the same in like manner, and in all mortgages and notes taken, the same shall state to what

Com. to keep a record

What it shall contain

Loans of money

township the same belongs: he shall loan all the moneys which shall come into his possession for the best and highest interest he can get, and securing the same by taking good personal security, or by mortgage on real estate, and which letting shall be for one year, or a term of years, not exceeding five, and all sums loaned, viz: one hundred dollars, or any sum under that, may be secured by the borrower giving a note, with two or more good, responsible freeholders, as sureties, who shall sign and be considered in all respects as principals. Sums over one hundred dollars shall be secured by mortgage on real estate, the title of which shall be clear, unincumbered, and indisputable, in value treble the amount so loaned; and it shall be expressed in all mortgages and notes, that when additional security shall be required, that the same shall be given to the satisfaction of the commissioner: all mortgages and notes shall be drawn in the name of, and payable to, said commissioner, or his successor in office, for the use of the inhabitants of the township to which the money, so loaned, properly belongs, and the interest agreed on shall be expressed and required to be paid punctually, every year, at the time specified, and which interest shall be paid over by said commissioner, annually, to the trustees, or such person, or persons, of the township to which it belongs, as the county commissioners shall appoint, and under the regulations and restrictions the said court shall deem right, and make known, relating to the distribution of said interest, the principal remaining entire, and not in any case diminished.

Secured by note or mortgage

Additional security

Interest payable yearly

Private sales of land

Price

SEC. 11. All lands which shall not be sold at public sale, and no sale shall be made until the same shall have been first offered publicly, may be purchased of said commissioner, at private sale, at one dollar and twenty-five cents per acre, cash down; and the commissioner of each and every county is hereby empowered and authorized to bring suit, and prosecute, on all contracts, made by virtue of his office, when the same becomes necessary: and he shall be allowed such compensation for services rendered under this act, and expenses incurred, as the county commissioners of his county shall deem just.

[Approved, January 22, 1829.]

## SEALS.

AN ACT TO PROVIDE FOR ALL SEALS THAT MAY BE NECESSARY IN FORCE,  
 THE SEVERAL OFFICIAL DEPARTMENTS OF THE STATE OF ILLINOIS. FEB. 19, 1819.

SEC. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly, and it is hereby enacted by the authority of the same,* That it shall be the duty of the secretary of state to procure a permanent state seal of such device as may be agreed upon by the governor and justices of the supreme court.

SEC. 2. That the secretary shall certify to the auditor of public accounts, the amount of the cost of the same, when procured, who shall issue a warrant on the treasurer for the amount, whose duty it shall be, to pay the same out of any money in the treasury, not otherwise appropriated.

SEC. 3. That the secretary of state shall provide a seal with such device as shall be agreed upon by the said governor and justices, for the supreme court of this state; the expense of which seal, to be paid out of the treasury of this state.

SEC. 4. That it shall be the duty of the county commissioners in each county, as soon as practicable, to cause to be procured all the necessary official seals that may be requisite in their respective counties; and that they shall be, and they are hereby authorized to draw on the county treasurer for the expense of any such seal or seals, which shall be paid for in the same manner as other county debts are paid.

[Approved, February 19, 1819.]



## SECURITIES.

AN ACT PROVIDING FOR THE RELIEF OF SECURITIES IN A SUMMARY WAY IN CERTAIN CASES. IN FORCE, MARCH 24, 1819.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That when any person or persons shall hereafter become bound as security or securities by bond, bill or note, for the payment

of money or other property, shall apprehend that his or their principal debtor or debtors, is or are likely to become insolvent, or to migrate from this state, without previously discharging such bond, bill or note, so that it will be impossible or extremely difficult for such security or securities, after being compelled to pay the money or other property due by such bond, bill or note, to recover the same back from such principal debtor or debtors, it shall and may be lawful for such security or securities, in every such case, provided an action shall have accrued on such bond, bill or note, to require by notice in writing of his; her or their creditor or creditors, or his, or their assignee, forthwith to put the bond, bill or note, by which he, she or they may be bound as security or securities, as aforesaid, in suit: and unless such creditor or creditors or assignee, so required, to put such bond, bill or note in suit, shall, in a reasonable time, commence action on such bond, bill or note, and proceed with due diligence in the ordinary course of law, to recover a judgment for, and by execution to make the amount due by such bond, bill or note, the creditor or creditors, or assignee so failing to comply with the requisitions of such security or securities, shall thereby forfeit the right which he or they otherwise have to demand and receive of such security or securities, the amount which be due by such bond, bill or note.

SEC. 2. That any security or securities, or in case of his, her or their death, then his, or their heirs, executors or administrators, may in like manner, and for the same cause, make such requisitions of the executors or administrators or assignee of the creditor or creditors of such security or securities as is herein before enacted, may be made by a security or securities of his or their creditor or creditors; and in case of failure of the executors or administrators so to proceed, such requisition as aforesaid, being only made, the security or securities, his or their executors or administrators making the same, shall have the same relief that is herein before provided for a security or securities, when his or their creditors shall be guilty of a similar failure.

SEC. 3. That nothing contained in this act, shall be so construed as to affect bonds, collateral conditions, or the bonds which may be entered into by guardians, executors, administrators or public officers.

SEC. 4. That the rights and remedies of any creditor or creditors, against any principal debtor or debtors, shall be in no wise affected by this act; any thing herein

to the contrary, or seeming to the contrary notwithstanding.

SEC. 5. That in all cases where judgment hath been or shall hereafter be entered up in any of the courts of record within this state, against any person or persons, as security or securities, their heirs, executors or administrators, upon any note, bill, bond or obligation, and the amount of such judgment, or any part thereof, hath been discharged by such security or securities, his, her or their heirs, executors or administrators, it shall be lawful for such security or securities, his, her or their heirs, executors or administrators, to obtain judgment by motion against such principal obligor or obligors, his, her or their heirs, executors or administrators, in any court where such judgment may be entered up against such security or securities, his, her or their heirs, executors or administrators.

SEC. 6. That where the principal obligor or obligors have, or shall hereafter become insolvent, and there have been or shall be two or more securities jointly bound with the said principal obligor or obligors, in any bond, bill, note or other obligation, for the payment of money or other things, and judgment hath been, or hereafter shall be obtained against one or more securities, it shall and may be lawful for the court, before whom such judgment was, or shall be obtained, upon the motion of the party or parties against whom such judgment hath been entered up as securities, as aforesaid, to grant judgment and award execution against all and every of the obligors and their legal representatives, for their and each of their respective shares and proportions of the said debt, with the damages and cost of the former suit.

SEC. 7. That no security or securities, his, her or their heirs, executors or administrators, shall be suffered to confess judgment, or suffer judgment to go by default, so as to distress his, her or their principal or principals, if such principal or principals will enter him, her or themselves, a defendant or defendants to the suit, and tender to the said security or securities, his, her or their heirs, executors or administrators, other good and sufficient collateral security, to be approved of by the court before whom the suit shall be depending.

SEC. 8. That in all cases where judgment hath been or hereafter shall be entered up in any of the courts of record in this state, against any person as appearance or special bail, for the appearance of another to defend any suit depending in such court, and the

amount of such judgment, or any part thereof, hath been paid or discharged by such bail, his, her or their heirs, executors or administrators, it shall and may be lawful for such bail, his, her or their heirs, executors or administrators, to obtain judgment by motion against the person or persons for whose appearance they were bound, his, her or their heirs, executors or administrators, for the full amount of what may have been paid by said bail, his, her or their heirs, executors or administrators, together with interest and cost, in any court where judgment may have been entered up against such appearance or special bail; *Provided always*, that no judgment shall be obtained by motion in any of the cases aforesaid, unless the party or parties against whom the same is prayed, shall have ten days previous notice thereof.

[*Approved, March 24, 1819.*]



## SEMINARY LANDS.

IN FORCE,  
JAN. 12, 1829.

AN ACT TO PROVIDE FOR THE SALE OF THE SEMINARY LANDS.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly*, That the auditor of public accounts shall, on or before the first day of March next, record in a book or books to be provided by him for that purpose, the number and description of all seminary lands heretofore selected, and all that may hereafter be selected, as soon as such selection is made, and the evidence thereof returned; and which record, when certified, shall have the same force and effect in all places and courts, as other records. For the purpose of enabling the auditor to make or complete such record, the governor, when called on by the auditor for that purpose, shall, from time to time, certify to the auditor, the number and description of each tract of seminary land now selected, or that may hereafter be selected, and the evidence of which is, or may be filed in his office.

Auditor to record a list of the seminary land

Such record to be evidence

Gov. to certify the number &c



SEC. 2. The auditor of public accounts shall proceed to sell to the highest bidder, for specie or United States' paper, said seminary land, except township five north, one west, or offer the same for sale, at the door of the state house in Vandalia, on the first Monday of October next, and continue said sales from day to day, until the whole shall be sold, or offered for sale, he giving three months notice thereof, in two public newspapers printed in this state, to be selected by him: *Provided*, that said land shall in no case be sold for a less sum than one dollar and twenty-five cents per acre.

Auditor to sell said land

And give notice of sale-

Price \$1,25

SEC. 3. Upon the purchaser or purchasers, of any lot or lots of land, so sold by the auditor as aforesaid, paying into the treasury the amount in cash for which said lot or lots of land may have been sold, and producing to the auditor the treasurer's receipt for the same, the auditor shall make such purchaser or purchasers a deed for said lot or lots, signed and sealed by said auditor; and which deed shall vest the legal estate of such lot or lots of land in said purchaser or purchasers as aforesaid.

Deed to be made upon payment

SEC. 4. Should any purchaser or purchasers, fail to pay into the treasury, the money for which said land may have been sold as aforesaid, and to produce the treasurer's receipt for the same, as above provided, on or before the sale shall have been terminated, the sale to such person shall be void, and the auditor shall proceed immediately to re-sell the same, and should the lot or lots of land not sell for the sum for which it was first stricken off, the purchaser or purchasers so failing to pay as aforesaid, shall pay the difference between the first and second sale, to be recovered by action of debt, in the name of the auditor, for the use of the people of the state; and, moreover, it shall be the duty of the auditor, to cause suit to be instituted against the person or persons failing to pay as aforesaid, and it shall be the duty of the attorney general, or state's attorney prosecuting in the district where suit shall be commenced, to prosecute the same, and all moneys recovered, shall be paid into the state treasury, and form a part of the seminary fund.

Payment not being made sale void and land re-sold

Purchaser to pay the difference between 1st and 2d sale

Auditor to sue for the same

SEC. 5. The auditor shall sell said land in lots of eighty acres each, beginning with the east half of the north-east quarter of each section, and shall confine the sale to each section, if so much there be in the tract, until the whole shall have been sold, or offered for sale; *Provided*, that where there may be fractional quarters or fractional sections, the auditor may sell said fractional

Lands how sold

quarters or fractional sections, as he may deem best; but in no case shall more than eighty acres of land be offered at one time.

Lands which  
have been  
leased

SEC. 6. Where seminary lands are leased, the same shall not be sold, until the time for which the said land may have been leased shall have expired, then the same shall be sold at regular sales, as herein provided.

Pre-emptions  
allowed to  
settlers

SEC. 7. All persons who may have settled on seminary land before the same was selected, their vendees, assignees or legal representatives, that are now in the occupancy or possession of said land, so settled, shall be allowed the right of pre-emption in the purchase of not more than one hundred and sixty acres, including his, her or their improvement: *Provided*, that all such pre-emptions shall run with the sectional lines, or other legal subdivisions: *And provided also*, that where any person or persons shall claim such right of pre-emption, he, she or they shall file a written notice of the same, describing the lands so by him, her or them improved, occupied and possessed, accompanied with an affidavit, taken and certified before a justice of the peace, that he, she or they did improve said land, and settle upon the same, before the said land was located for seminary purposes, or that he, she or they are the lawful owner or occupants of the improvements made as aforesaid, with the auditor of public accounts, on or before the first day of June next; and should such person or persons pay into the treasury one dollar and twenty-five cents per acre, for said land, on or before the first day of October next, the auditor shall make a deed to such person or persons, for said land, as prescribed in other cases: but should such person or persons fail to make payment aforesaid, the auditor shall at the first regular sale of seminary lands herein provided for, proceed to sell said land as is prescribed in other cases in this act.

Who shall  
file a notice  
and affidavit  
with the au-  
ditor

Payment not  
being made  
auditor to sell

Public sales

SEC. 8. No land shall be sold at private sale, until the same shall have been first offered at public sale, except in cases of pre-emption herein provided for. Should all the aforesaid seminary land not be offered at public sale, at the time herein provided for, by reason of any of the same being leased, or otherwise, the auditor shall advertise the said land for sale, so soon as the same can be sold after said leases shall have expired, fixing a time for the sale of said lands and shall proceed in the same manner as is provided for at the first regular sale. All lands not sold at the regular sales, after the same shall have been offered, may be sold at private sale. Persons

Leased lands  
when sold

Private sale

wishing to purchase at private sale, shall file with the auditor of public accounts, a written application, stating his name, place of residence, and the description of the land he may wish to purchase, upon which the auditor shall make out an order to the state treasurer, to receive from such applicant the purchase money for said land; describing in such order, the tract or tracts so applied for, the number of acres, and the amount of money to be paid, together with the name of the purchaser; and upon such person delivering the order aforesaid to the treasurer, and paying said treasurer the purchase money for said land, at one dollar and twenty-five cents per acre, and producing to the auditor the treasurer's receipt for the same, the auditor shall make out and deliver a deed to said purchaser for said land, as herein before provided for, and which deed shall vest in the purchaser the fee simple estate in said land. Said auditor shall file and preserve said treasurer's receipts, and enter in a book, to be kept by him for that purpose, the number and description of all land so sold by him, also the date of each deed and the name of the purchaser. The treasurer shall also enter in a book, by him provided for that purpose, the number and description of each tract so sold by the auditor, the purchaser's name and the sum of money paid for the same, and shall also file and preserve the auditor's order aforesaid.

Deed

Account of sales

And payments

SEC. 9. The moneys arising from the sale of the aforesaid seminary land, shall be paid into the treasury, as all other moneys, but the same shall be charged in a separate account, and shall never be disposed of by the General Assembly to any other use or purpose whatever, than that of Education.

Money to be paid at the treasury

And applied to education

SEC. 10. The governor of the state, the auditor of public accounts, the attorney general and secretary of state, shall be, and they are hereby constituted and appointed commissioners of the seminary fund, who shall have power, and it is hereby made their duty, from time to time, as moneys may be received from the sale of the aforesaid seminary lands, to vest said moneys in some productive fund or stock, such as they may deem most advisable, and upon such interest, and upon the best terms they may be able to obtain; and they are hereby authorized to draw upon the treasurer of the state for said money, for the purpose aforesaid: *Provided also*, that they make report to the General Assembly, at the commencement of each regular session, of their proceedings touching said seminary funds.

Com'rs of seminary fund

To vest said moneys

And report to the General Assembly

Laws repeal-  
ed

SEC. 11. All laws and parts of laws, which authorized seminary lands to be leased, are hereby repealed. This act to take effect from and after its passage.

[Approved, January 12, 1829.]



## SHOWS AND JUGLERS.

AN ACT TO PROHIBIT SHOWS OF WAX FIGURES, TRICKS OF JUGLERS, &c.

IN FORCE,  
MAY 1, 1829.

Shows &c  
for pay pro-  
hibited

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That no person or persons, shall be permitted to exhibit any shows, wax figures, or perform any feats, such as circus riding, or exhibitions, or any thing of the like nature, or perform any tricks, such as are played by persons generally known by the name of thimble players, rope and wire dancers, slight of hand with cards or cups and balls, unless the same be shown and performed by such person or persons, without fee, charge, or compensation therefor, either directly or indirectly; and if any person or persons, shall wish to show, exhibit or perform, as above stated, and charge therefor, he or they shall previously thereto, apply to the treasurer of the county, who shall direct what sum shall be paid therefor, not less than five, nor more than one hundred dollars, for the term of time agreed on, which shall not exceed two weeks in the county; and on payment of the sum required, the treasurer shall give a receipt therefor, which shall be presented to the clerk of the commissioners' court of the county, and on payment of fifty cents fee to said clerk, he shall give a permit to such person, to show, exhibit, and perform as aforesaid, for the time agreed on by the treasurer, and the said clerk shall file said receipt and charge the treasurer with the sum received into the county treasury: and if any person or persons shall exhibit any shows, wax figures, circus

Unless licens-  
ed and taxed

riding performances, or any such thing, or perform and play any such tricks as above described, and shall charge and exact, or in any manner receive compensation therefor, and shall not have obtained a permit so to do, such person or persons, shall forfeit and pay, for each and every such offence, any sum not less than ten, nor more than one hundred dollars, to be recovered by action of debt before any justice of the peace of the county, in the name of the county commissioners, or county treasurer, for the use of the county, with costs of prosecution.

Penalty for showing

SEC. 2. If complaint be made on oath, in writing, by a county commissioner, treasurer, or any citizen of the county, that any person or persons, (naming them) are in the county, and to the best of his belief, violating the law, in the particulars above stated, it shall be the duty of the justice to issue a *capias* or warrant, and if affidavit be not made, a summons shall be issued.

Manner of prosecuting

This act to be in force on the first day of May next.

[Approved, January 23, 1829.]



SLANDER.

AN ACT DECLARING CERTAIN WORDS ACTIONABLE.

IN FORCE,  
DEC. 27, 1822.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That if any person shall falsely use, utter, or publish words, which in their common acceptation shall amount to charge any person with having been guilty of fornication, or adultery, such words so spoken shall be deemed actionable, and he, she or they so falsely publishing, speaking or uttering the same shall be deemed guilty of slander.

Certain words declared actionable

SEC. 2. That it shall be deemed slander, and shall be actionable, to charge any person with swearing falsely, or with having sworn falsely, or for using, uttering or

certain word declared slan

der, whether publishing words of, to, or concerning any person, used in conversation or not of judicial proceeding which in their common acceptation, amount to such charge, whether the words be spoken in a conversation of, and concerning a judicial proceeding, or not.

SEC. 3. That this law shall take effect and be in force from and after its passage.

[Approved, December 27, 1822.]



### STATE BANK.

IN FORCE, AN ACT SUPPLEMENTAL TO "AN ACT MAKING APPROPRIATIONS FOR THE YEAR 1825 AND 1826," APPROVED, JANUARY 13, 1825.  
JAN. 28, 1826.

\* \* \* \* \*

Courts prohibited from scaling debts due the bank

SEC. 5. That the twenty-first section of the "act concerning judgments and executions," approved, January 17, 1825, as well as all other acts or parts of acts which may or can, in any wise be so construed to authorize any court or justice of the peace, to scale any note bond, bill, obligation, mortgage, or other security, which has or may hereafter be made, or executed to the president and directors of the state bank of Illinois, be, and the same is hereby repealed.

A further provision relative to bank debt

SEC. 6. That in all cases where judgments may have been rendered by any court in this state, upon any note, bond, bill, obligation, mortgage, or other security, heretofore made to the state bank of Illinois, by reducing the number of dollars, specified in such note, bond, bill, obligation, mortgage or other security, to their specie value, that the endorsement made upon the record and execution as required in said act, be deemed and taken as part of the execution: and that it shall be the duty of the officer collecting said execution, to collect the same in paper of the state bank, or auditor's war-

rants or specie, at the election of the defendant: or in case of the sale of property to satisfy any such execution, the property shall be sold for state paper, or specie, at the election of the purchaser, which shall be expressed in the advertisement for sale.

How they are  
to be collect.  
ed

\* \* \* \* \*

[Approved, January 28, 1826.]



AN ACT TO REPEAL A PART OF THE ACT ENTITLED "AN ACT IN FORCE, SUPPLEMENTARY TO AN ACT ESTABLISHING THE STATE BANK OF ILLINOIS," APPROVED, JANUARY 10, 1825.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That so much of the third section, of the act entitled "an act supplementary to an act establishing the state bank of Illinois," approved, January 10, 1825, as requires, previous to burning state paper, that the cashier of the principal bank shall make a list of the *numbers, letiers, and date* of said notes, be, and the same is hereby repealed.

[Approved, January 2, 1829.]



AN ACT RELATIVE TO THE CLAIMS OF THE STATE BANK OF ILLINOIS. IN FORCE. JAN. 23, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That Thomas L. Posey, Cashier of the branch of the state bank, at Shawneetown, and the state's attorneys of that circuit, Cases in Shawneetown district between the bank & indi-

viduals may  
be removed  
by appeal &c

Further pow-  
er t cashier  
touching  
judgments al-  
ready render-  
ed

be and they are hereby authorized to remove all cases tried before justices of the peace, in Franklin county, and in all the counties composing said branch bank district, between the said bank and individuals, wherein the judgment may have been reduced to the specie value of the notes sued upon, by appeal, or *certiorari*, or otherwise. And should the said cashier and state's attorney find it impracticable, in their opinion, to succeed in said causes, by such means, then said cashier is hereby authorized to receive all moneys, that have been, or may be collected upon judgments already rendered, and receipts in full for the same, to the person or persons, paying said money.

[Approved, January 23, 1829.]



IN FORCE,  
JAN. 23, 1829.

AN ACT TO AMEND "AN ACT, SUPPLEMENTARY TO AN ACT ESTABLISHING THE STATE BANK OF ILLINOIS," APPROVED, JANUARY 10, 1825.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That every person who is indebted to the state bank of Illinois, or any of its branches, by default at this time, cashiers and collectors excepted, shall be allowed to pay such debt, or debts, in three equal annual instalments, the last to become due on or before the first day of May, 1832, by executing to the said bank a note for each instalment, with such security on each, as the cashier, on the recommendation of the clerk and sheriff of the county, where the debtor resides, shall approve; which notes shall be signed by the security as principal, and be liable as such, and as near as may be in the following form: "\_\_\_\_\_ months after date, we, or either of us, promise to pay the president and directors of the state bank of Illinois, for the use of the people of said state, the sum of \_\_\_\_\_ dollars, it being the instalment of a debt of \_\_\_\_\_ dollars heretofore due the said bank, by (note or judgment,

Debtors to the  
bank allowed  
three years

By executing  
notes

Form of note



as the case may be) payable with interest from the date, for value received. Witness our hands and seals this \_\_\_\_\_day of \_\_\_\_\_18—.” Provided, if any such note shall be paid on or before the day it shall become due, said interest shall be remitted, but if any such note shall not be punctually paid, the same shall be charged and collected: *Provided*, further, where suits may be pending, or judgments already recovered, the costs shall be first paid or satisfied to the bank, or the officers entitled to the same: where there is a mortgage, the same shall not be considered as in any wise affected or impaired by this act, or the proceedings under it.

Interest, when remitted

Costs first paid

Mortgages not included by this act

SEC. 2. There shall be allowed to all bank debtors whose notes are now due, or against whom judgments may have been recovered, until the first day of September next to avail themselves of the provisions of this act, and to all other persons indebted by note, or mortgage, until the next regular call, or discount day: nothing in this act shall be so construed as to prevent the cashiers from proceeding in their collections as heretofore: When any debt shall be so secured, the cashier shall deliver to the debtor any note, and all notes, which he may have in said bank, or any branch; or if any judgment shall have been obtained, to direct the clerk, or proper officer, to enter satisfaction of the same.

Time allowed to have advantage of this act

Notes to be delivered

And satisfaction entered

SEC. 3. Any property that may have been, or that may hereafter be bought in by the bank, or either of its branches, on any sale on either judgments, decrees, or executions, the person owning the same, at the time of such sale, his heirs, or any person who by law may have the right to redeem the same, shall have the privileges extended to him, or her, as is provided in the first and second sections of this act: *Provided*, in all cases where the judgment, decree, or execution, has not been satisfied, the person so claiming shall secure the whole of such amount, and when the amounts of such notes are discharged in full, the cashier shall execute a deed in fee simple, to the person, for the property so paid for.

Person having the right of redemption

SEC. 4. After the first day of September next, so soon as the cashier shall obtain a deed for any property that is not secured according to the foregoing sections, he shall proceed to sell the same at the door of the court house in the county it lies in, by giving four weeks previous notice in a public newspaper, advertising it on the door of the court house wherein such property is to be sold, on a credit of one, two, and three years, in equal instalments, taking bond and security for the amount of

Property bought by the bank how sold

Bond for purchase money

such sales, which bond he is to file in the clerk's office of the county where such property, so sold, is situate, which bond shall have the force and effect of a replevy bond: and when such bond becomes due the clerk may issue execution, and direct it to the proper officer, who shall proceed to collect the same as in other cases. There is hereby declared to exist a lien on all such property, so sold, in favour of the said bank, for the eventual payment of the purchase money, as an additional security therefor; and on full payment being made, the cashier shall execute a deed to the purchaser, his heirs or assigns, in behalf of the bank, with general warranty.

To have the effect of a replevy bond

Execution to issue thereon

Lien on property sold

Deed, when to be made

Bank may appeal

SEC. 5. The said bank may appeal from the judgment of any justice of the peace, to the Circuit Court, at any time within three months after the rendition of such judgment, by the cashier filing with the clerk of the Circuit Court, in the county where such judgment may be, a copy of such judgment, and all appeals heretofore taken by any of the cashiers from the decision of the justices of the peace be, and the same are hereby declared valid; and in all cases where the state bank is liable for fees to any clerk, justice of the peace, sheriff, or constable, the same shall be, if paid in discount or state paper, paid at the rate state paper was paid out at the treasury, at the time the services were rendered. And in all cases it shall be the duty of any officer who may have the collection of any money due the state bank, or any of its branches, to keep an account of the different kinds of money in like manner as is prescribed by the nineteenth section of an act, entitled "An act to provide for raising a revenue," and pay over the same kind to the cashier, of the bank, who shall keep an account of the same, and such cashier shall in his report set forth the different kinds so received by him, and from whom: any officer failing to comply with the provisions herein set forth, or the requisitions of the above recited act, shall be liable to pay one thousand dollars for each neglect.

Appeals heretofore taken

Costs how paid

Account of different kinds of moneys received

Cashier of principal bank abolished

To deliver papers, &c.

SEC. 6. The office of the cashier of the principal bank is hereby abolished, and his duties shall hereafter be discharged by the auditor and state treasurer; and it shall be the duty of the said cashier of the principal bank, on or before the first day of March next, to deliver over to the treasurer all the books, papers, notes, accounts, money, auditor's warrants, and property, in any wise belonging to said institution, and take their receipts for the same: and the treasurer is hereby required to enter a credit, in favour of the said bank, for the amount of war-

rants so received, and proceed to have the same canceled as in other cases.

SEC. 7. The treasurer shall discharge all the duties required of the cashier of said bank by the act establishing the state bank of Illinois, and the cashiers of the different branch banks, annually, are required to pay over to the treasurer all moneys by them collected, in the same manner, and under the same regulations, as are required by the provisions of the above recited act.

Treasurer to perform the duties of cashier  
Payments made to him

SEC. 8. Any person indebted to the state bank, or any of its branches, who shall, by the first day of July, 1830, make full and complete payment for all notes, judgments, and mortgages, that may be held by said bank against them, shall be released and discharged from the payment of all interest with which they are chargeable, and it shall be the duty of the cashiers of the different branch banks, when any person indebted to said bank wishes to take the benefit of the provisions of the first section of this act, by giving additional notes, to calculate the interest with which he is charged, and enter the same in a book, to be kept by him for that purpose; and if any such debtor shall on or before the first day of July, 1830, pay the full amount of the said several notes, he shall be released and discharged from the payment of interest aforesaid; and all persons indebted to the state bank, or either of its branches, who make full payment, on or before the first day of September next, shall be allowed ten per cent. discount and the interest.

Interest released in case of payment by 1830

SEC. 9. That an additional compensation of two and a half per centum be, and is allowed to the attorney general, and the state's attorneys, on all moneys by them collected for the state bank, or its branches. This act to take effect, from its passage.

Per cent. to attorney's for collecting

[Approved, January 23, 1829.]

## STATE HOUSE.

IN FORCE, FEB. 12, 1823.- AN ACT PROVIDING FOR THE SUPERINTENDENCE OF PUBLIC PROPERTY IN THE TOWN OF VANDALIA.

Secretary of State to take care of the public property

SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That the secretary of state be, and he is hereby, authorized and required to take possession of, and cause to be kept in good repair, during each and every recess of the General Assembly, the state house at Vandalia; and the secretary of the senate, and clerk of the house of representatives, are hereby required to have a correct inventory made of all the furniture and other things, that at the rising of each, and every General Assembly, may be found in the state house aforesaid, and thereunto belonging; and deposit the same in the office of the auditor of public accounts.

Clerks of the legislature to give certificate of articles after each session.

[Approved, February 12, 1823.]



IN FORCE, JAN. 23, 1829.- AN ACT TO PROVIDE FOR REPAIRING THE STATE HOUSE, AND BANKING HOUSE, IN VANDALIA, AND FOR OTHER PURPOSES.

State house to be repaired

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That the auditor, treasurer, and secretary of state, or a majority of them, under the direction of the governor, shall cause the state house in Vandalia to be repaired and painted, and such improvements to be made in and about the same, as they shall deem necessary; and the auditor shall issue his warrant on the treasury for the cost of the same: *Provided,* that the expense of the same shall not exceed four hundred dollars.

Directors to have the state house repaired

SEC. 2. The president and directors of the state bank of Illinois are authorized to cause all necessary repairs to be made to the banking house in Vandalia, and to pay for the same out of the funds of that institution: *Provided,* that the expense of such repairs shall not exceed three hundred dollars. The said president and directors are hereby released from any liability to refund the sums expended by their direction, in repairing said banking house, in the year 1828.

[Approved, January 23, 1829.]

**SUITS BROUGHT BY OR AGAINST THE STATE.**

AN ACT DIRECTING THE MODE OF BRINGING SUITS, BY OR AGAINST THE STATE. IN FORCE  
JUNE 1, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That it shall and may be lawful for the auditor of public accounts of the state of Illinois, to sue for any demand which the people of the state may have a right to claim, and to be sued and to sue, to plead and to be impleaded, to answer and be answered, to defend and to be defended, in any court of record, or other place, where justice shall be judicially administered, in the name of the auditor of public accounts, for the people of the state of Illinois: *Provided,* that the auditor shall not be liable to be sued in any other county than that in which the seat of government is situated. And the attorney general of this state shall prosecute and defend all suits brought by, or against, the auditor of public accounts, as is prescribed by law. From all judgments, so rendered, appeals may be taken to the Supreme Court, and it shall be the duty of the auditor to take such appeal, if in his opinion justice has not been done in the court where such judgment has been rendered; nor shall any judgment against the auditor, in his representative capacity, bind him personally, or be conclusive upon the State, until the same shall be examined by the General Assembly. In cases of appeals by the Auditor, he shall not be required to give bond, or security, as in other cases.

Auditor to sue and be sued in behalf of the state  
To be sued at the seat of government only  
Duty of attorney general  
Appeals  
Judgment not to bind personally or be conclusive  
General Assembly to examine it

SEC. 2. When judgment shall be rendered against the auditor of public accounts for the state of Illinois, it shall be his duty to forward a copy of such judgment, and proceedings thereon, to the next General Assembly, and if approved by the same, an appropriation shall be made to satisfy the same, or such part thereof as said General Assembly may deem just.

Auditor to report the judgment to Gen. Assembly  
Who may act thereon

SEC. 3. The act, entitled "an act directing the mode of bringing suits, by, and against the state, counties, townships, and other corporate bodies, and for other purposes," approved, March 23, 1819, is hereby repealed. This act to be in force, from and after the first day of June next.

Acts repealed

[Approved, January 3, 1829.]

## SURVEYORS.

IN FORCE,  
JUNE 1, 1829.

AN ACT REGULATING THE APPOINTMENT AND DUTIES OF COUNTY  
SURVEYORS.

- County surveyors how appointed
- And commissioned  
Recess appointments
- Absence from the county
- Oath
- By whom administered
- Duty of surveyor
- Deputies
- SEC. 1. *Be it enacted by the people of the state of Illinois represented in the General Assembly,* That the house of representatives shall nominate to the senate a suitable and fit person, to discharge the functions of surveyor, in each and every county in this state; and if such nomination be confirmed by the senate, it shall be the duty of the governor to commission such person so appointed, to continue in office during good behaviour: *Provided,* that hereafter when the General Assembly shall not be in session, and any vacancy shall happen in the office of county surveyor, by death, resignation, or otherwise, it shall be the duty of the county commissioners' court, of the county in which such vacancy shall happen, to nominate a suitable person to fill such vacancy to the Governor, who shall thereupon issue a commission to the person so nominated: and the person so appointed shall hold his office until the end of the next session of the General Assembly thereafter: *Provided,* that an absence from the county for nine months at any one time, shall be considered a sufficient cause to declare the office vacant unless the surveyor's family continues to reside in the county.
- SEC. 2. Each and every surveyor shall, previous to his entering upon the duties of his office, take an oath that he will in all things, as county surveyor, perform the duties of his office to the best of his skill and judgment, without favor or affection; which oath may be administered by any judge, or justice of the peace, in the county to which such surveyor is appointed, and shall be endorsed on his commission.
- SEC. 3. It shall be the duty of the said county surveyor to make all surveys, within the bounds of his county, that he may be called upon to make, either by himself, or a deputy properly authorized by him, and competent to perform the duty, within a reasonable time after application is made to him.
- SEC. 4. Each and every surveyor may appoint one or more deputies to assist him in the performance of the duties of his office: Each deputy shall take an oath similar to that previously taken by the surveyor himself; and the surveyor shall be responsible for the official acts of his deputy.

SEC. 5. All chainmen necessary shall be employed by the person wanting surveying done: They shall be good and disinterested persons, to be approved of by the surveyor, and they shall be sworn by the surveyor to measure justly and exactly, to the best of their knowledge.

Chainmen to  
be sworn

SEC. 6. It shall be the duty of all county surveyors, previous to their making any survey, under the authority of this act, to furnish themselves with the field notes of the original survey of the lands which they may be called on to survey: and all surveys made by a county surveyor, shall be made agreeably to the original survey of the land. For the purpose of perpetuating every survey, the surveyor shall be required to establish his corners by taking bearing trees, and noting particularly their course, and distance: and where there are no trees within a reasonable distance, the surveyor shall perpetuate his corners by erecting mounds: *Provided*, that in all cases where it shall appear practicable, the surveyor shall require the person having the survey made, to furnish suitable stones; and at each and every corner made and established, a stone shall be permanently placed in the ground, and in such cases it shall not be necessary to erect mounds; and shall moreover furnish the proprietor of every tract of land, with a copy of the original field notes, of every tract of land he may survey. It shall also be the duty of each county surveyor to provide himself with a well bound book, in which he shall carefully and legibly record and note down every survey made by him, giving therein the name of the person, the survey of whose land is so recorded, and describing as near as practicable, the metes and bounds of the land, and noting the date on which the survey was made: and such record shall be subject to the inspection of every person who may think himself interested; and a certified copy thereof, under the hand of the surveyor shall be admitted as *prima facie* evidence in any court of record in this state.

Original field notes  
Surveys to be made agreeably thereto  
Corners bearing trees  
Mounds  
Corner stones  
Proprietor to be furnished with the original field notes  
Record  
What it shall contain  
Shall be subject to inspection  
Made *prima facie* evidence

SEC. 7. It shall be the duty of every county surveyor, or other person having the official record of such surveyor in his possession, to deliver up the said record to his successor, whenever he may be applied to for that purpose; and every person who having possession thereof, will refuse to deliver the same to such successor, when demanded, shall forfeit and pay one dollar and fifty cents for every day he may detain it after demand, to be recovered by any person who will sue for the same, before any justice of the peace of the proper

To be delivered to successor  
Penalty for not doing so  
How recovered

Record not  
conclusive

county, one half to the use of the person suing, and the other half to the use of the county. No act or record by any surveyor or his deputy, as aforesaid, shall be conclusive, but may be reviewed by any competent tribunal, in any case where the correctness thereof may be disputed.

Fees

SEC. 8. The county surveyors respectively, shall be entitled to such compensation, from each person to whom they have rendered their services as surveyors, as may be, or now is allowed by law.

Acts repealed

SEC. 9. The act entitled an "act for the appointment of surveyors for the several counties of this state," approved, January 31, 1821, and the act, entitled "an act supplemental to an act, entitled an act for the appointment of surveyor for the several counties of this state," approved, February 9, 1821, are hereby repealed: but every county surveyor, holding his office under those acts, shall continue in office as if this act had not been passed.

This act to take effect on the first day of June next.

[Approved, January 14, 1829.]



## TOBACCO.

IN FORCE,  
JAN. 12, 1829.

AN ACT ESTABLISHING AND REGULATING THE INSPECTION OF  
TOBACCO IN THIS STATE.

Warehouses

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly, That it shall be the duty of the county commissioners' courts, in the several counties within this state, from time to time, to authorize the erection of warehouses for the reception and inspection of tobacco, at such places within their respective counties, as they may deem necessary and proper. And they shall moreover require the person or*



persons, who shall apply for permission to erect the same to give bond, with sufficient security, in a reasonable penalty, payable to the county commissioners of said county, or their successors in office, for the benefit of the county, with condition to erect such strong and substantial house or houses, as will contain at least one hundred hogsheads of tobacco and as many more as the said county commissioners may think necessary, and also to keep the same in repair as long as it shall continue a public warehouse.

Persons applying for permission to erect them to give bond

SEC. 2. All tobacco which shall be brought to any of the warehouses, established as herein before directed, shall be received, inspected and examined, by one person to be thereunto appointed, who shall be called *Inspector*, and who shall be appointed in the following manner, to-wit: The county commissioners of the several counties wherein any warehouse or warehouses, shall be established according to the provisions of this act, shall, and they are hereby authorized and required, once in every year, at the first term of their courts, or at the next succeeding term, to appoint a person of honest character, and reputed to be skillful in tobacco, as Inspector for each and every warehouse within their respective counties: and in case of death, resignation, or removal of any person so appointed, the said county commissioners shall, at the next succeeding term, upon notice of such death, resignation, or removal, appoint a person, qualified as aforesaid, to act as inspector for that inspection, where the vacancy shall have occurred, until the next regular appointment of inspectors, and every inspector shall continue in office until a successor is appointed: *Provided*, that the county commissioners' court may, if they deem it necessary, appoint one additional inspector to each and every public warehouse within the county.

Duty of inspector

How appointed

Vacancies how filled

Additional inspector

SEC. 3. Every person who shall be appointed inspector by virtue of this act, shall, before he enters upon the duties of his office, give bond, with sufficient security, in the penalty of not less than one thousand dollars, at the discretion of the county commissioners' court payable to the said county commissioners, or to their successors in office, for the benefit of the county, with condition for the true and faithful performance of his duty, while he continues inspector according to the provisions of this act; which bond shall be filed in the clerk's office of the county commissioners' court, and the county treasurer shall commence suit for the recovery of the above on

To give bond

Conditions thereof

How sued upon

Oath of in-  
spector

penalty, against every inspector failing to discharge the duties of his office, agreeably to the provisions of this act, before any tribunal having jurisdiction thereof, within two months after notice of such failure, under the penalty of five hundred dollars. And every inspector shall also take the following oath or affirmation, in open court, at the time he executes his bond, to-wit: "You do solemnly swear, (or affirm, as the case may be,) that you will diligently and carefully view, and examine all tobacco brought to the warehouse, whereof you are appointed inspector; and that you will not receive or pass any tobacco which is not in your opinion sound, well conditioned and merchantable, free from trash, and that in classing the same, you will according to your best skill and judgment, make a true and correct discrimination between the first and second qualities, and that you will not receive, pass, or stamp, any hogshead or cask of tobacco, contrary to the true intent and meaning of the laws in such case made and provided, nor refuse any tobacco that in your judgment is sound, well conditioned and merchantable, and free from trash, and that you will not change, alter, or give out any tobacco, other than such hogsheads, or casks, for which the receipt to be taken was given, but that you will in all things well and faithfully discharge your duty in the office of inspector, according to the best of your skill and judgment, and according to law, without fear, favour or affection, malice, or partiality; So help you God." And if any person shall presume to execute his office of inspector, before he shall have given such bond and taken such oath, aforesaid, he shall forfeit and pay five hundred dollars for the use of the county.

Negligenc<sup>ci</sup> n  
giving bond  
and taking  
oath

Inspector to  
receive and  
deliver tobac-  
co

Penalty for  
not doing so

Book to be  
kept

SEC. 4. The inspectors of tobacco shall attend at their respective warehouses whenever called on (Sundays and sickness excepted) by any shipper or raiser of tobacco, to deliver out for exportation such tobacco as remains in the warehouse, and to inspect any tobacco brought to said warehouse; and every inspector neglecting to attend when requested, as aforesaid, shall forfeit and pay to the party aggrieved, fifty dollars for every neglect, or be liable to an action on the case, at the suit of the party aggrieved, to recover all such damages as he or they, shall have sustained by any such neglect.

SEC. 5. That all persons having tobacco at a public warehouse, may have equal justice, the inspector shall enter in a book, to be kept for that purpose, the marks

and owners' names of all tobacco, brought to their respective warehouses for inspection, in the order in which the same shall be brought in, and such inspector shall view and inspect the same; in due time, as it shall be entered in such book, without favor or partiality, and shall uncase and break, in not less than two places, every hogshead, or cask of tobacco, brought in to be inspected, as aforesaid: and if he shall find the same to be good, well conditioned, merchantable and free from trash he shall then determine whether such tobacco is of the first or second quality, shall weigh the same in scales, with weights of the lawful standard, and shall stamp or mark with a scoring iron, the hogshead or cask, with the name of the owner, and of the person by whom raised, (if known,) the name of the warehouse at which inspected, and also the tare of the hogshead or cask, the quantity of net tobacco therein contained, and whether the same is of first or second quality: he shall also issue a receipt for each hogshead of tobacco he shall pass, if requested by the owner, which receipt shall be in the following form to-wit: " At \_\_\_\_\_ warehouse, county of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ received of \_\_\_\_\_, \_\_\_\_\_ hogsheads of leaf or stemmed (as the case may be) tobacco, of the first or second quality, (as the case may be,) number, mark, and weight as follows:

What it shall contain  
Manner of inspection

Tobacco to be weighed.  
And marked

Receipts to be given  
Form thereof

| <i>Number</i> | <i>Marks</i> | <i>Gross</i> | <i>Tare</i> | <i>Net</i> |
|---------------|--------------|--------------|-------------|------------|
|---------------|--------------|--------------|-------------|------------|

to be delivered to the said \_\_\_\_\_ or order, for exportation, when demanded.

Witness my hand: \_\_\_\_\_."

And no inspector shall presume to issue, under any pretence whatsoever, a receipt for tobacco, other than such as shall be printed, or written in a plain hand, and according to the above form, under the penalty of one hundred dollars, recoverable by any person who will sue for the same.

To be printed or written

SEC. 6. When any tobacco shall be refused by the inspector, the proprietor thereof shall be at liberty to separate the good from the bad for re-inspection, but if he refuse so to do, then it shall be the duty of the said inspector to weigh, prize, and cooper up the same, and mark the gross weight on each cask, and take care of and deliver the same to the owner, for which the inspector shall receive one dollar for every hogshead so delivered, in addition to the inspection fees hereinafter men-

Tobacco refused

How disposed of

Selling refused tobacco

Transferring from one warehouse to another

Fees to inspector

To owner of warehouse

Inspector to make return com. court

tioned: and for the prevention of fraud, the inspector shall grant a manifest or certificate, for each hogshead of tobacco, so refused, coopered and delivered, specifying the weight of the same, and that the same had been inspected and refused: and if any person shall sell refused tobacco, or manufacture the same without such manifest, he shall forfeit and pay the sum of fifty dollars for every hogshead so sold or manufactured, one half to the person suing for the same, and the residue for the benefit of the county, in which the offence shall be committed: but it shall be lawful for any person having a hogshead of tobacco refused, to carry the same with the manifest to any other warehouse, and the inspector thereat, upon viewing the tobacco, if he esteem it of good quality, first destroying the manifest, he may grant a receipt, as is hereinbefore directed, or shall grant another manifest (for which one dollar shall be paid) expressing the review and that it was the second time refused, after which second refusal, the owner shall not be permitted to carry the tobacco to any other warehouse for re-inspection but may either have the same picked, or sell the same as refused tobacco, accompanying it with the manifest.

SEC. 7. Every hogshead of tobacco inspected at any of the warehouses established by virtue of this act, the planter or owner of the same shall pay to the inspector fifty cents, whether the same shall be passed or refused, and pay for every hogshead shipped from any of the warehouses aforesaid, the shipper, or exporter, when he demands the same for exportation, shall pay the inspector the further sum of one dollar in full for coopering and storage, for the first three months, and for each and every month, thereafter, the same remains in the warehouse, he shall be entitled to twenty-five cents, to be paid when the tobacco is taken away; and the said inspector, out of the money arising from inspection and shipment of tobacco, shall in the first instance pay to the owner, or proprietor of the warehouse, seventy-five cents, for every hogshead received thereat, as rent for said warehouse, and shall retain the residue for his own compensation:—  
*Provided*, such compensation shall in no case exceed two hundred dollars per annum: and whenever the net profits of any warehouse shall exceed the sum necessary for paying the sums aforesaid, the surplus shall be paid into the county treasury, by the said inspector, for the benefit of the county. And every inspector shall, once a year, at the March term of the county commissioners' court of his county, return to the said county commissioners'

court a statement of the number of hogsheads of tobacco received at his warehouse during the year, the number passed, and the number refused, and the number delivered for exportation; and shall account to said county commissioners' court for all moneys received by virtue of his office, and all disbursements made; and if any inspector, or keeper of a warehouse, shall make a false return, he shall be liable to indictment, and on conviction shall pay a fine double the amount so kept back, and not accounted for, to go to the use of the county.

SEC. 8. Every inspector shall store away and secure every hogshead of tobacco, which he shall have inspected during the day, and shall, in case of negligence, be liable to the action of the proprietor of such tobacco, for all damages accruing thereto, by reason of such negligence.

Diligence required of inspector

SEC. 9. When any new inspector shall be appointed at any warehouse, such inspector shall, and he is hereby required, to give to the person whom he shall succeed in office, a receipt under his hand, containing the numbers, marks, gross, tare, and net weight of all and every hogshead, or cask, of tobacco, which shall be then remaining at the warehouse at which he is appointed inspector; with the delivery of which hogsheads, or casks, of tobacco, so remaining, he shall thenceforth be chargeable and liable, but he shall in no wise be accountable for the loss of weight or quality of tobacco, contained in any hogshead, or cask, for which receipt was given by him, as aforesaid: and if any hogshead, or cask, of tobacco, be hereafter received by any person whomsoever, and delivered out of any warehouse, for exportation by the inspector attending the same, such inspector, from the time of such delivery, shall be for ever discharged and acquitted from all actions, costs and charges for, or by reason of the tobacco contained in any such hogshead, or cask, being unsound and unmerchantable, or of less quantity, or of different quality, from that specified in the receipt given for the same, any thing herein contained to the contrary notwithstanding.

Successors to receipt to their predecessors

Loss of weight

Unsound

SEC. 10. Inspectors of tobacco, at the several warehouses in this state, shall immediately on the delivery of every hogshead, or cask of tobacco, at the warehouse whereof they are respectively inspectors, give a receipt for such tobacco, if required by the proprietor, or the person bringing the same to the said warehouse, expressing therein that the same is for uninspected tobacco: every inspector refusing so to do, shall forfeit and pay to

Inspectors to give receipts

the owner of said tobacco five dollars; *provided*, such delivery is made during the time inspectors are compelled to attend their warehouses.

Lost receipts

SEC. 11. If any inspector's receipt shall be casually lost, mislaid or destroyed, the person, or persons, entitled to receive the tobacco, by virtue of any such receipt, shall make oath before some justice of the peace of the county where the same is payable, to the number and date of such receipt, to whom and where payable, and for what quality of tobacco the same was given, and that such receipt is lost, mislaid, or destroyed, and that he, she, or they, at the time such receipt was lost, mislaid or destroyed, was lawfully entitled to receive the tobacco therein mentioned, and shall take a certificate thereof from such justice, and shall advertise the loss of such receipt at the court house of the county in which such inspection may be, on the court day, and at the inspection where the tobacco was bought, for four weeks successively, and shall moreover give bond, with sufficient security to indemnify the inspector from loss by the claim of the person who may thereafter produce the original receipt, within twelve months after the notice given of the loss thereof; whereupon the inspector shall grant a duplicate of the same receipt to the person or persons entitled to receive the tobacco, by virtue of the original receipt, and not otherwise, which receipt shall be signed as duplicate: the bond so taken shall be assignable by the inspector taking the same to the person producing the original receipt, who may maintain an action of debt thereupon, and such assignment shall exonerate the inspector from any claim or demand against them, by virtue of the original receipt: *Provided*, nevertheless, that if the principal and security should, at the time of taking such bond, be insufficient, then, in that case, the inspector shall be responsible for the value of the tobacco to the person producing such original receipt; and if any person shall be convicted of making a false oath, or procuring a false certificate, in the case aforesaid, such person shall suffer as in cases of wilful and corrupt perjury.

How supplied

Entry of marks, numbers, &c.

SEC. 12. Every inspector shall carefully enter in a book, to be kept for that purpose, the marks, numbers, gross, tare, and net weight of all tobacco, viewed and stamped by them, as herein before directed, and on what vessel, or boat, the same shall have been shipped; and shall also, with every vessel, or boat load of tobacco, send a list of the numbers, marks, gross, tare, and net weight

of every hogshead, or cask of tobacco then delivered, to be given to the master of the boat, or vessel, in which the same shall be shipped.

SEC. 13. All stemmed tobacco not laid straight, whether the same be packed loose, or in bundles, shall be accounted unlawful tobacco, and no tobacco packed in hogsheads which exceed fifty-four inches in the length of the stave, or thirty-six inches at the head, within the *crow*, making reasonable allowance for prizing (which allowance shall not exceed two inches above the guage) in the prizing head, and which shall be bound with eight hoops, shall be passed, or received, but the owner of such tobacco, packed in hogsheads, or casks, of greater dimensions than above expressed, shall be obliged to re-pack the same, in sizeable casks, before the same shall be passed or stamped by the inspector, nor shall any hogshead be so passed or stamped, unless the net weight thereof shall be at least eight hundred pounds.

Lawful and unlawful tobacco, what

SEC. 14. Any inspector who shall alter, change, or deliver out, any hogshead of tobacco, other than the one for which the receipt to be taken in was given, shall forfeit and pay one hundred dollars for every hogshead so altered, changed, or delivered out; and if any inspector shall fail or refuse to deliver any hogshead of tobacco, when the same shall be demanded for exportation, or shall deliver such tobacco without an order from the owner thereof, he shall in either case forfeit to the owner double the value of the tobacco which he shall so refuse to deliver, or deliver wrongfully.

Tobacco how delivered

SEC. 15. Any inspector who shall take, accept, or receive, directly, or indirectly, any gratuity, fee, or reward, for any thing so done, in pursuance of this act, other than the payments and allowances herein before mentioned and expressed, upon being convicted thereof, shall forfeit and pay the sum of one hundred dollars, to be recovered, with costs, to the use of the county wherein the offence shall have been committed, and shall, moreover, be removed from office: and if any person shall offer any bribe to any inspector, for any thing by him to be done in pursuance of this act, other than the payments and allowances herein before mentioned and expressed, such person so offending, upon being thereof convicted, shall forfeit and pay one hundred dollars, for the use of the county wherein the offence shall have been committed.

Penalty for bribery

For offering bribe

SEC. 16. Any person who shall alter or change the face of a note, for passed or refused tobacco, or who shall alter or cause the stamps or marks on any hogshead of

Forging note, receipt, stamp, &c.

inspected tobacco, whether passed or refused, shall be deemed guilty of forgery, and punished as in other cases of forgery.

Prize to be erected

SEC. 17. Any person who shall erect a warehouse in pursuance of this act, shall, in addition to the requisitions herein before mentioned, be required to erect a strong and sufficient prize within the same, and also to provide a pair of strong scales, or patent balances, and correct weights, to way at least fifteen hundred pounds.

And weights provided

Commissioner of warehouses

SEC. 18. The county commissioners' court of counties wherein one or more warehouses shall be erected, shall, at the term whereat the appointment of inspector is made appoint a discreet householder, of ability and integrity, to act as commissioner of warehouses, for one year, whose

His duty

duty it shall be to see that the warehouses in his county are kept in good repair, that proper scales and weights are provided, kept in repair, examined and compared with the standard weights of the county; once in six months, at least, to visit every warehouse in his county, and see that the tobacco therein is properly stowed away and secured, and that the inspectors diligently discharge their duties; and if he shall discover, in any inspector,

To report delinquent inspectors

any negligence or breach of his duty, he shall report the same to the county commissioners' court at the next term thereof; whereupon said inspector shall be proceeded against according to law; and the commissioner so appointed shall be allowed two dollars for every day he shall be necessarily employed in performing the duties prescribed by this act, to be paid out of the county treasury: *Provided*, that such compensation shall not exceed thirty dollars in one year.

His compensation

Inspectors exempted from militia duty, &c.

SEC. 19. The inspectors of tobacco under this act shall be, and they are hereby exempted from militia duty, except in case of actual invasion and insurrection, and also from serving on juries.

Mode of recovering penalties

SEC. 20. All penalties and forfeitures in this act contained, the mode of recovery and application of which are not specially set forth, shall be recovered by action of debt at the suit of the county treasurer, and shall be applied to lessening the county tax.

Private warehouses and inspectors

SEC. 21. If before the erection of a public warehouse in any county, the quantity of tobacco raised or brought therein shall, in the opinion of the county commissioners' court, require the appointment of one or more inspectors, the same shall be appointed, and when appointed may proceed to examine and inspect any tobacco which may be lodged in any private warehouse, and



shall pass or refuse the same, and do all other acts that are required by this act, in case of inspection in public warehouses, and such inspection shall be to all intents and purposes legal. The owner of such private warehouse shall not suffer any tobacco to be removed after inspection, unless by order of the inspector, who shall have as complete control over the same as if it were stored in a public warehouse, and shall be responsible in the same manner to the owner thereof; and any proprietor or owner of a private warehouse, in which tobacco has been inspected and stored, who shall deliver or suffer the same to be removed without an order from the inspector, as aforesaid, shall forfeit double the value of the tobacco so delivered or suffered to be removed, to be recovered by the inspector for the benefit of the owner of such tobacco; *Provided*, that there shall be no tobacco inspected in a private warehouse, where there is a public one erected in the same county, and prepared for the reception and inspection of tobacco: *Provided*, also, that it shall be lawful for any citizen of this state, who wishes to export tobacco without inspection, to do so, any law to the contrary notwithstanding.

SEC. 22. If the owner of any tobacco, deposited in any warehouse, shall suffer the same to remain there for a longer time than two years, without paying the fees for storage and keeping the same, it shall and may be lawful for the inspector, or keeper of the warehouse, to advertise the same, either in some newspaper, the nearest printed in the state, or by setting up six advertisements in writing in the most public places in the county, for six weeks previous, fairly to expose and sell the same for the best price that can be had in cash, and the overplus, if any, after paying all fees and costs, to be returned to the owner, if called for within five years from the day of sale; if not called for, the same to go to the county: and if any person shall suffer any property, other than tobacco to remain in any warehouse established under this act, or any public or private warehouse now established, or which may hereafter be established, for a longer term of time, than fifteen months, from the time of depositing the same, without paying the fees for storage, the keeper, or inspector, may, in like manner, advertise and sell the same, for what the same will bring in cash; and the surplus, if any, to be paid over to the owner, or county, as above stated. This act to be in force, from and after the passage thereof.

Tobacco not to be removed, unless, &c

Proviso

Owners not removing tobacco

To be advertised

And sold

Costs and fees paid

Balance returned to the owners

Other property remaining more than fifteen months may be sold

[Approved, January 12, 1829.]

## TOWN PLATS.

IN FORCE,  
JAN. 4, 1825.

AN ACT TO PROVIDE FOR THE RECORDING OF TOWN PLATS.

The proprie-  
tors of towns  
to cause a  
plat thereof to  
be recorded

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That the county commissioners of any county, or any other person or persons, his, her, or their legal representatives, who may hereafter lay off any town, addition or subdivision, of out lots, within this state, shall previous to the sale of any lots therein, cause to be recorded in the recorder's office of the county wherein the same may lie, or be laid off, a correct and true plat of said town, addition, or subdivision, with the public ground, (if any there be,) streets and alleys, with their respective names and widths properly marked, and the lots regularly numbered in numerical order, and the size of the lots marked by reference to the plat of said town, addition or subdivision.

Donations &  
how consider-  
ed as a war-  
ranty

SEC. 2. That every donation or grant to the public or any individual or individuals, religious society or societies, or to any corporation or bodies politic, marked or noted as such, on such plat, wherein any donation or grant may have been made, shall be considered to all intents and purposes, as a general warranty against such donor or donors, their heirs and representatives, to the said donee or donees, grantee or grantees, for his, her or their use, for the purposes intended by the donor or donors, grantor or grantors aforesaid.

Plats to be  
acknowledg-  
ed before a  
judge &c

SEC. 3. That the county commissioners, and every person or persons whose duty it may be to comply with the foregoing requisitions, shall at or before the time of offering such plat or other paper or papers for record, acknowledge the same before a justice of the supreme court, justice of a circuit court, or a justice of the peace in the county where the land lies, a certificate of such acknowledgment shall be (by the officer taking the same) endorsed on such plat or other paper, and recorded therewith, and form a part of said record.

SEC. 4. That where any town, addition or subdivision of out lots, have heretofore been laid out and lots sold, in this state, either by county agents, commissioners, or other persons, and a plat of the same has not been acknowledged and recorded as contemplated in this act, it shall be the duty, and it is hereby required of the present county commissioners, or a majority of them, in such county, or other person or persons, who have laid

out the same, or his, her, or their legal representatives, to have the same fairly, fully and clearly made out, acknowledged and recorded, in the proper county where the land lies, on or before the first day of August next: and if any county commissioner or commissioners, or other person or persons, whose duty it is to comply with the requisitions of this act, who shall neglect or refuse so to do, he or they shall forfeit and pay the sum of one hundred dollars for each and every month he or they shall delay a compliance: to be recovered by action of debt, in the name of the treasurer of the proper county, with costs, to be for the use and go towards supporting a school or schools, as the case may be, in said town; and if there should not be any in or near the place, the same is to remain in the treasury until there be a school: *Provided*, that this act shall not be construed to compel any commissioners, agents, or other persons to have any town plat recorded, which has been laid off where the whole of the lots sold have reverted back, or which may be again wholly vested in the original proprietors, before the first day of August next. This act to take effect and be in force from and after its passage.

Plats to be recorded on or before the 1st of August

For failure shall forfeit &c

Proviso

[Approved, January 4, 1825.]



## TRESPASSING.

AN ACT TO PREVENT TRESPASSING, BY CUTTING TIMBER.

IN FORCE,  
FEB. 27, 1819.

SEC. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, and it is hereby enacted by the authority of the same,* That every person who shall cut, fell, box, bore or destroy, or carry away 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 lands, shall forfeit and pay for 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. 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 are alleged to have been cut, felled, boxed, bored or destroyed, and shall forthwith give good and sufficient security to prosecute his claim or 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 state, 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. 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 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. 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, wild cherry, blue ash, yellow or black locust, chesnut, coffee or sugar tree, or sapling, standing or growing upon any lands within the state, 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 or bore or destroy any other tree or sapling, not herein above named and enumerated, standing or growing upon any lands within the state, reserved, appropriated or intended for the use 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.

SEC. 5. 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 county, 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 county in which such tree or sapling shall have been cut, felled, boxed or bored, or destroyed; and it shall be the duty of the 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 township, or upon his or their view or knowledge of such trespass, forthwith to institute an action against the trespasser for the 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.

SEC. 6. That no part of the said recited act, shall be so construed as to effect such inhabitants in the said state, 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 herein specified.

[Approved, February 27, 1819.]



## VANDALIA.

IN FORCE, JAN. 22, 1829. AN ACT TO AUTHORIZE THE AUDITOR OF PUBLIC ACCOUNTS TO SELL LOTS IN THE TOWN OF VANDALIA, AND FOR OTHER PURPOSES.

More time allowed to purchasers of lots  
Lots not paid for by Aug. to be sold

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That all the benefits of an "act for the relief of purchasers of town lots in Vandalia," approved, February 14, 1827, be extended to all persons who are indebted to the state for in or out lots, until the first day of August next: and all lots, upon which full payment may not be made, on or before that day, shall be declared forfeited to the state; and the auditor shall, as soon as may be, cause all such lots to be re-valued by three disinterested freeholders and sold in the manner provided for by law.

Other lots to be laid off  
And valued  
And sold

SEC. 2. The auditor of public accounts shall, on or before the first of May next, or as soon thereafter as may be, cause the remaining parts of the land, granted to the state for the benefit of the seat of government, to be surveyed into twelve acre lots, corresponding, as near as may be, with the plat of the in and out lots of the town of Vandalia, on record in the auditor's office. So soon as said survey shall be completed and returned to the auditor, he shall cause all such lots to be valued in the manner provided for by the first section of this act; and after the valuation shall be made and filed in the auditor's office, the auditor shall give public notice that he will, on a certain day, to be fixed upon by him, offer all the lots so valued, to the best bidder, for prompt payment: *Provided,* that the auditor shall, in no case, sell lots for a less price than the value assessed.

SEC. 3. All the out-lots which may hereafter be surveyed and offered for sale, as provided for in the second section of this act, and remain unsold, may be entered at the auditor's office, in the manner provided for by the "act for the relief of the purchasers of town lots in Vandalia," approved, February 14, 1827. Out lots may be entered with the auditor

SEC. 4. Judgments against the state, for Perryville lots, shall be received at the same rate as state paper, in payment for lots in Vandalia, heretofore sold, or hereafter to be sold. Perryville judgments

SEC. 5. Any person who was the lawful owner, at the time of its forfeiture, of any in-lot or out-lot, in the town of Vandalia, upon which at least one-tenth part of the purchase money has been paid, and who is desirous of retaining such lot, may file his declaration to that effect, at any time before the first day of May next, in the office of the auditor of public accounts, who shall thereupon cause the same to be valued according to the provisions of an act entitled "an act for the relief of purchasers of town lots in the town of Vandalia," approved, February 14, 1827; and whatever payments have been made heretofore on such lot, shall be credited to such applicant in the purchase thereof. Every such applicant shall pay the auditor one dollar, as his compensation for causing such lot to be valued. Lots forfeited how redeemed

SEC. 6. All persons who have been securities for purchasers of Vandalia lots, sold by the commissioners appointed to locate the seat of government, are hereby released from any liabilities on account of such securityship. Securities released

SEC. 7. The auditor shall cause the north half of the public square, in the town of Vandalia, to be laid off into in-lots of fifty feet eight inches, fronting on the public square, by one hundred and sixty feet deep, so as to make six lots fronting on the public square; and the same number of lots to be laid off north of the lots fronting on the public square; and he shall cause the same to be valued and sold, in the manner provided by law for the valuation and sale of other lots in said town. Public square

SEC. 8. All the actual expenses of said surveying, and effecting the sale of lots, shall be paid out of the fund arising from the sale of the lots so surveyed, upon the warrant of the auditor. Expenses of surveying

This act to take effect from its passage.

[Approved, January 22, 1829.]

## WEIGHTS AND MEASURES.

IN FORCE,  
MARCH 22,  
1819.

AN ACT REGULATING WEIGHTS AND MEASURES.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That it shall be the duty of the county commissioners, in each and every county within this state, as soon as practicable after they are qualified to office, to procure, at the expense of their respective counties, one measure of one foot, or twelve inches, English measure, so called; also, one measure of three feet, or thirty-six inches, English measure as aforesaid; also, one gallon, liquid or wine measure, which shall contain two hundred and thirty-one cubic inches; one measure that shall contain one-fourth part; one measure that shall contain one-eighth part; one measure that shall contain one-sixteenth part of the aforesaid liquid gallon, denominated quart, pint and gill, each of which shall be made of some proper and durable metal; also, one half bushel measure for dry measure, which shall contain eighteen quarts, one pint and one gill, of the above liquid or wine measure, the solid contents of which, is equal to one thousand and seventy-five cubic inches, and fifty-nine hundredths of a cubic inch; likewise, one measure that shall contain one-fourth part of the aforesaid half bushel, or one gallon dry measure, which said half bushel and its fourth, shall be made of copper or brass; also, a set of weights of one pound, one half pound, one fourth pound, one eighth pound, and one sixteenth pound, made of brass or iron; the integer of which, shall be denominated one pound avoirdupois, and shall be equal in weight to seven thousand and twenty grains, troy or gold weight: which measures and weights shall be kept by the clerk of the county commissioners for the purpose of trying and sealing the measures and weights used in their counties, for which purpose the said several clerks shall be provided with a suitable seal or seals, with the name or initials of their respective counties inscribed thereon.

SEC. 2. That as soon as the county commissioners shall have furnished the measures and weights as aforesaid, they shall cause notice thereof to be given at the court house door, one month in succession immediately thereafter; and any person thereafter, who shall knowingly buy or sell any commodity whatsoever, by measures or weights in their possession, which shall not cor-



respond with the county measures and weights, shall, for every such offence, being legally convicted thereof, forfeit and pay the sum of twenty dollars, for the use of the county where such offence shall have been committed, and costs of suit, to be recovered before any justice of the peace of said county. Every person desirous of having their measures and weights tried by the county standard, shall apply to the clerk of the county commissioners, and if he find it correspond with the county standard, shall seal the same with the seal provided for that purpose; and said clerk is allowed to demand and receive such fees as now are, or hereafter may be allowed by law.

This act to be in force from and after its passage.

[*Approved, March 22, 1819.*]



## WILLS, TESTAMENTS, &amp; C.

AN ACT RELATIVE TO WILLS AND TESTAMENTS, EXECUTORS AND ADMINISTRATORS, AND THE SETTLEMENT OF ESTATES. IN FORCE. JULY 1, 1829.

SEC. 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That every person aged twenty one years if a male, or eighteen years if a female, or upwards, and not married, being of sound mind and memory, shall have power to devise all the estate, right, title and interest, in possession, reversion, or remainder, which he or she hath, or at the time of his or her death shall have, of, in, and to any lands, tenements, hereditaments, annuities, or rents, charged upon, or issuing out of them; or goods and chattels, and personal estate of every description whatsoever, by will or testament: all persons of the age of seventeen years, and of sound mind and memory, married women excepted, shall have power to dispose of their personal estate, by will or testament: and married women shall have power to dispose of their separate estate, both real and personal, by will or testament, in the same manner as other persons.

Who may  
make a will

To be reduced  
to writing and  
attested

SEC. 2. All wills, testaments and codicils, by which any lands, tenements, hereditaments, annuities, rents, or goods and chattels, are devised, shall be reduced to writing, and signed by the testator, or testatrix; or by some person in his or her presence, and by his or her direction; and attested in the presence of the testator or testatrix, by two or more credible witnesses; two of whom, declaring on oath or affirmation, before the court of probate for the proper county; that they were present and saw the testator or testatrix, sign said will, testament or codicil, in their presence; or acknowledged the same to be his or her act and deed; and that they believed the testator or testatrix, to be of sound mind and memory, at the time of signing or acknowledging the same; shall be sufficient proof of the execution of said will, testament or codicil, to admit the same to record: *Provided*, That no proof of fraud, compulsion, or other improper conduct be exhibited, which, in the opinion of the court of probate, shall be deemed sufficient to invalidate or destroy the same; and every will, testament, or codicil, when thus proven to the satisfaction of the court of probate, shall be recorded by the judge thereof, in a book to be provided by him for that purpose; and shall be good and available in law, for the granting, conveying, and assuring the lands, tenements and hereditaments, annuities, rents, goods and chattels therein, and thereby given, granted and bequeathed.

Proviso against fraud

Will to be recorded in the court of probate

Witnesses to appear

Failing to do so, court may punish by fine and imprisonment

SEC. 3. It shall be the duty of each and every witness to any will, testament or codicil, made and executed in this state as aforesaid, to be, and appear before the court of probate, on the regular day for the probate of such will, testament, or codicil, to testify of, and concerning the execution and validity of the same; and the said court of probate shall have power and authority to attach, and punish by fine, and imprisonment, or either, any witness who shall, without a reasonable excuse, fail to appear when duly summoned for the purpose aforesaid: *Provided*, The said punishment by imprisonment shall in no case exceed the space of twenty days; nor shall a greater fine be assessed for any such default, than the sum of fifty dollars.

Witness residing out of the state, court may issue a *delictus*

SEC. 4. When any will, testament or codicil shall be produced to the court of probate, for probate of the same, and any witness attesting such will, testament or codicil, shall reside without the limits of this state, it shall be lawful for the judge of probate to issue a *delictus potestatem*, or commission, annexed to such will, tes-

tament or codicil, directed to some judge, justice of the peace, mayor, or other chief magistrate of the city, town, corporation, or county, where such witness may be found, authorizing the taking and certifying of his or her attestation in due form of law. And if the person to whom any such commission shall be directed, shall certify, in the manner that such acts are usually authenticated, that the witness personally appeared before him, and made oath, or affirmation, that the testator or testatrix signed and published the writing annexed to such commission, as his or her last will and testament; or that some other person signed it by his or her direction; that he or she was of sound mind or memory; and that he or she subscribed his or her name as a witness thereto, in the presence of the testator or testatrix, and at his or her request; such oath or affirmation shall have the same operation, and the will shall be admitted to probate in like manner as if such oath or affirmation had been made in the court of probate from whence such commission issued.

SEC. 5. When any will, testament or codicil shall be exhibited in the court of probate, for probate thereof, as aforesaid, it shall be the duty of the court to receive probate of the same without delay; and to grant letters testamentary thereon to the person or persons entitled, and to do all other needful acts, to enable the parties concerned to make settlement of the estate, at as early a day as shall be consistent with the rights of the respective persons interested therein: *Provided however*, That if any person interested shall, within five years after the probate of any such will, testament or codicil, in the court of probate as aforesaid, appear, and, by his or her bill in chancery, contest the validity of the same, an issue at law shall be made up, whether the writing produced be the will of the testator, or testatrix, or not; which shall be tried by a jury in the circuit court of the county wherein such will, testament or codicil shall have been proven, and recorded as aforesaid, according to the practice in our courts of chancery in similar cases; but if no such person shall appear within the time aforesaid, the probate as aforesaid shall be forever binding and conclusive on all the parties concerned; saving to infants, *femes covert*, persons absent from the state, or *non compos mentis*, the like period after the removal of their respective disabilities. And in all such trials by jury, as aforesaid, the certificate of the oath of the witness, at the time of the first probate, shall be admitted as evi-

Will to be admitted to probate

May be contested within five years

dence, and to have such weight as the jury shall think it may deserve.

Hand writing of any deceased or absent witness may be proved

SEC. 6. In all cases where any one or more of the witnesses to any will, testament or codicil, as aforesaid shall die or remove to some distant country, unknown to the parties concerned, so that his or her testimony cannot be procured, it shall be lawful for the judge of probate, or other court having jurisdiction of the subject matter, to admit proof of the hand writing of any such deceased or absent witness as aforesaid, and such other secondary evidence as is admissible in courts of justice to establish written contracts, generally in similar cases; and may thereupon proceed to record the same, as though such will, testament or codicil had been proved by such subscribing witness or witnesses, in his, her or their proper persons.

Wills made out of this state may be admitted to record

SEC. 7. All wills, testaments and codicils, or authenticated copies thereof, proven according to the laws of any of the United States, or the territories thereof, or of any country out of the limits of the United States, and touching or concerning estates within this state accompanied with a certificate of the proper officer or officers that said will, testament, codicil or copy thereof, was duly executed, and proved, agreeably to the laws and usages of that state or country, in which the same was executed, shall be recorded as aforesaid, and shall be good and available in law, in like manner as wills made and executed in this state.

Nuncupative wills

SEC. 8. A nuncupative will shall be good and available in law for the conveyance of personal property thereby bequeathed, if committed to writing within twenty days, and proven before the court of probate by two or more credible, disinterested witnesses, who were present at the speaking and publishing thereof, who shall declare on oath or affirmation, that they were present and heard the testator pronounce the said words, and that they believed him to be of sound mind or memory; and that he or she did at the same time, desire the persons present, or some of them, to bear witness that such was his or her will, or words to that effect, and that such will was made in the time of the last sickness of the testator or testatrix: and it being also proven by two disinterested witnesses, other than those hereinbefore mentioned, that the said will was committed to writing within ten days after the death of the testator or testatrix; and no proof of fraud, compulsion, or other improper conduct be exhibited, which, in the opinion of

said court, shall be sufficient to invalidate or destroy the same; and all such wills when proven and authenticated as aforesaid, shall be recorded by the judge of probate in like manner as other wills are directed to be recorded by this act: *Provided*, that no letters testamentary shall be granted on such will until the expiration of sixty days after the death of the testator or testatrix.

When proven & authenticated to be recorded  
And letters testamentary granted after sixty days

SEC. 9. In all cases where a nuncupative will shall be proved and recorded as aforesaid, the court of probate shall issue a citation to the heirs and legal representatives of the testator or testatrix, if they reside in the county, if not, then said court shall cause an advertisement to be inserted in some one of the newspapers printed in this state, notifying the said heirs and legal representatives of the testator or testatrix, at what time and place letters testamentary will be granted upon such will, requiring them and each of them, to appear and shew cause, if any they have, why such letters testamentary should not be granted: and if no sufficient cause be shown, letters shall be granted thereon as in other cases.

Citation to be issued to the heirs &c if residing in the county; if not to be notified by advertisement.

SEC. 10. If any beneficial devise, legacy or interest, shall be made or given, in any will, testament or codicil, to any person subscribing such will, testament or codicil, as a witness to the execution thereof, such devise, legacy or interest shall, as to such subscribing witness, and all persons claiming under him, be null and void, unless such will, testament or codicil be otherwise duly attested by a sufficient number of witnesses exclusive of such person according to this act; and he or she shall be compellable to appear and give testimony on the residue of such will, testament or codicil, in like manner as if no such devise or bequest had been made. But if such witness would have been entitled to any share of the testator's estate, in case the will, testament or codicil was not established; then so much of such share shall be saved to such witness as shall not exceed the value of the said devise or bequest made to him or her, as aforesaid.

When a subscribing witness is a devisee see &c.

SEC. 11. In no case hereafter, within this state where any testator or testatrix shall by his or her will appoint his or her debtor to be his or her executor or executrix, shall such appointment operate as a release or extinguishment of any debt due from such executor or executrix, to such testator or testatrix; unless the testator or testatrix shall, in such will, expressly declare his or her intention to devise, bequeath, or release such debt; nor even in

If a person indebted to the estate be an executor, such appointment not to operate as a release

that case, unless the estate of such testator or testatrix is sufficient to discharge the whole of his or her just debts, over and above the debt due from such executor or executrix.

**SEC. 12.** If after making a last will and testament, a child, or children, shall be born to any testator or testatrix, and no provision be made in such will for such child or children, the will shall not on that account be revoked; but unless it shall appear by such will, that it was the intention of the testator or testatrix, to disinherit such child, or children; the devises and legacies by such will granted and given, shall be abated in equal proportions, to raise a portion for such child or children, equal to that which such child or children would have been entitled to receive out of the estate of such testator or testatrix, if he or she had died intestate.

Children born  
after will is  
made

**SEC. 13.** Whenever a devisee, or legatee, in any last will and testament, being a child, or grand-child of the testator or testatrix, shall die before such testator or testatrix, and no provision shall be made for such contingency, the issue, if any there be, of such devisee or legatee, shall take the estate devised or bequeathed, as the devisee or legatee would have done, had he or she survived the testator or testatrix; and if there be no such issue at the time of the death of such testator or testatrix, the estate disposed of by such devise or legacy shall be considered, and treated, in all respects, as intestate estate.

Devisee or legatee dying  
before testator

**SEC. 14.** No will, testament or codicil shall be revoked otherwise than by burning, cancelling, tearing or obliterating the same by the testator himself, or in his presence, by his direction and consent; or by some other will, testament or codicil in writing declaring the same, signed by the testator or testatrix, in the presence of two or more witnesses, and by them attested in his or her presence: And no words spoken shall revoke or annul any will, testament or codicil in writing, executed as aforesaid, in due form of law.

How will, &c.  
may be revoked

**SEC. 15.** The courts of probate in each county in this state shall have jurisdiction and authority to hear and determine all causes, matters and controversies testamentary, which shall be brought before them, touching the proof of wills, testaments and codicils; and may grant probate thereof; and shall hear and determine the right of administration of estates of persons dying intestate; and to do all other things touching the granting of letters testamentary, and of administration, and the settlement

Jurisdiction  
of courts of  
probate

SEC. 16. All originals wills, after probate thereof, shall be recorded, and remain in the office of the judge of probate of the proper county; and authenticated copies thereof, certified under the hand and seal of the said judge, shall be admitted as evidence in any court of law or equity in this state.

Authenticated copies of wills to be admitted as evidence

SEC. 17. If any testator or testatrix shall have a mansion house, or known place of residence, his or her will shall be proved in the court of probate of the county wherein such mansion house or place of residence shall be: if he or she has no place of residence, and lands be devised in his or her will, it shall be proved in the court of probate of the county wherein the lands lie, or in one of them, where there shall be lands in several different counties; and if he or she have no such known place of residence, and there be no lands devised in such will, the same may be proved either in the county where the testator or testatrix shall have died, or that wherein his or her estate, or the greater part thereof, shall lie.

In what county to be proved

SEC. 18. Any person or persons, who may have in his or her possession, any last will or testament of another for safe keeping, or otherwise, shall immediately upon the death of the testator or testatrix, deliver up the said will to the court of probate of the proper county, and upon a failure or refusal so to do, the court of probate may issue attachments, and compel the production of the same; and the person or persons thus withholding any such will, testament or codicil as aforesaid, shall forfeit and pay twenty dollars per month from the time the same shall be thus wrongfully withheld, to be recovered by action of debt, for the use of the estate, by any person who will sue for the same, in any court having jurisdiction thereof: and if any person to whom a will, testament or codicil hath been, or shall be delivered by the party making it, for safe custody, as aforesaid, shall alter or destroy the same without the direction of the said party, or shall wilfully secrete it for the space of six months after the death of the testator or testatrix shall be known to him or her, the person so offending shall, on conviction thereof, be sentenced to such punishment as is, or shall be inflicted by law in cases of larceny.

Court may compel production of will

SEC. 19. All persons named as executors in any will, testament or codicil as aforesaid shall, after the same shall be proved and admitted to record as before directed, be entitled to letters testamentary thereon; and where there shall be no executors named in such will, testament or codicil, or the executors named therein shall die,

If executors die, or refuse to act, letters of administration to be granted

refuse to act, or be otherwise disqualified, letters of administration, with the will annexed, shall be granted to such person or persons as may be entitled thereto. In all which cases copies of such wills, testaments or codicils shall go out with the letters.

In what time will to be proved

SEC. 20. It shall be the duty of the executor or executors of the last will and testament of any person deceased, knowing of his, her or their being so named or appointed, within thirty days next after the decease of the testator or testatrix, to cause such will to be proved and recorded in the proper county as aforesaid; or to present said will and declare his or her refusal to accept of the executorship: and every such executor or executrix so neglecting his trust and duty as aforesaid without just excuse for such delay to the satisfaction of the judge of probate, shall forfeit the sum of twenty dollars per month, from and after the expiration of the said term of thirty days, until he shall cause probate of said will to be made, or present the same as aforesaid, to be recovered by action of debt for the use of the estate, by any person who will sue for the same, in any court having jurisdiction thereof.

Penalty for neglect

To whom administration may be granted

SEC. 21. Upon the refusal of the executor or executors to administer the estate, or upon disqualification as aforesaid, the court of probate shall commit the administration of the estate of the deceased, with a copy of the will annexed, unto the widow, or next of kin to the deceased; and upon their refusal, neglect, or incapacity to act, may grant such administration to one or more of the principal creditors; and on their refusal, to such other person or persons as the court shall think fit.

Executor of an executor

SEC. 22. The executor of an executor shall not, in consequence thereof, be executor of the first testator.

Who may be executors

SEC. 23. Persons of the age of seventeen years, of sound mind and memory, may be appointed executors; but should any person under the age of twenty one years be appointed an executor or executrix, the court of probate shall appoint some competent person to manage and control the estate, under the direction of the court, until such executor or executrix appointed by the will shall attain the full age of twenty one years; and all such persons appointed to take charge of the estate during the minority of any such executor or executrix shall, for the time being, give bond with security as in other cases.

Power of executor before probate

SEC. 24. The power of the executor or executors over the testator's estate before probate of the will, and obtaining letters testamentary, shall extend to the burial of the



deceased, the payment of necessary funeral charges, and the taking care of the estate; but in all such cases, if the will shall be rejected when presented for probate, and such executor thereby never qualify, he shall, in no wise, be liable as an executor of his own wrong, unless upon refusal to deliver up the estate to the person or persons authorized to receive the same: *Provided*, That this section shall not be construed to exempt any such person claiming to be executor as aforesaid, for any waste or misapplication of such estate.

SEC. 25. Where two or more executors are appointed, in, and by the same will, and one or more of the persons named as such shall die, refuse to take upon himself or herself such executorship, or be otherwise disqualified, letters testamentary shall be granted thereon to the other person or persons so named, not renouncing as aforesaid, and not disqualified.

If one executor die, &c. letters testamentary to be granted to the other

SEC. 26. Every executor or administrator with the will annexed, at the time of proving the will and granting letters testamentary or of administration as aforesaid, shall take and subscribe, before the judge of probate, the following oath, to wit:—"I do solemnly swear, (or affirm,) that this writing contains the true last will and testament of the within named A. B. deceased, so far as I know, or believe; and that I will well and truly execute the same, by paying first the debts, and then the legacies mentioned therein, as far as his goods and chattels will thereunto extend, and the law charge me; and that I will make a true and perfect inventory of all such goods and chattels, rights, and credits as may come to my hands, or knowledge, belonging to the estate of said deceased, and render a fair and just account of my executorship, when thereunto required by law, to the best of my knowledge and abilities, so help me God." Which said oath shall be administered by the judge of probate, and be attached to, and form a part of the probate of said will.

Oath to be taken by executor or administrator

SEC. 27. All executors hereafter to be appointed, unless the testator or testatrix shall otherwise direct in the will, and all administrators with the will annexed, shall, before entering upon the duties of their executorships, and administrations, respectively, enter into bond with good and sufficient security, to be approved by the court of probate, in a sum double the value of the estate, and payable to the people of the state of Illinois, for the use of the parties interested, in the following form, to wit:—

Bond

" Know all men by these presents, that we A B, C D, and E F, of the county of \_\_\_\_\_ and state of Illinois, are

held, and firmly bound unto the people of the state of Illinois, in the penal sum of \_\_\_\_\_ dollars, current money of the United States, which payment well and truly to be made and performed, we, and each of us, bind ourselves, our heirs, executors, and administrators, jointly, severally, and firmly by these presents:—Witness our hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 18 \_\_\_\_\_

Condition

“The condition of the above obligation is such, that if the above bound A B, executor of the last will and testament of G H, deceased, (or administrator, with the will annexed, of G H, deceased, as the case may be,) do make, or cause to be made, a true and perfect inventory of all and singular the goods and chattels, rights and credits, lands, tenements and hereditaments, and the rents and profits issuing out of the same, of the said deceased, which have, or shall come to the hands, possession, or knowledge of the said A B, or into the possession of any other person for him, and the same so made do exhibit in the court of probate for the said county of \_\_\_\_\_ as required by law; and also make, and render a fair and just-account of his actings and doings, as such executor, (or administrator,) to said court, when thereunto lawfully required, and to well and truly fulfil the duties enjoined upon him in, and by the said will; and shall moreover pay, and deliver to the persons entitled thereto, all the legacies and bequests contained in said will, so far as the estate of the said testator will thereunto extend, according to the value thereof, and as the law shall charge him; and shall, in general, do all other acts which may from time to time be required of him by law, then this obligation to be void, otherwise to remain in full force and virtue.”

To be filed in  
the court of  
probate

Which said bond shall be signed and sealed by the said executor, (or administrator) and his securities, attested by the judge of probate, and filed in his office.

When execu-  
tor not oblig-  
ed to give  
security

SEC. 28. Where any testator, or testatrix, shall leave visible estate, more than sufficient to pay all his or her debts, and by will shall direct, that his or her executors shall not be obliged to give security, in that case, no security shall be required, unless the court of probate shall see cause, from their own knowledge, or the suggestions of creditors, or legatees, to suspect the executors of fraud, or that the personal estate will not be sufficient to discharge all the debts, such court may require security, and the same shall be given before letters testamentary shall be granted, notwithstanding any directions to the contrary in said will.

SEC. 29. If any person named as an executor, or executrix, in any last will and testament, shall be, at the time when administration ought to be granted, under the age of seventeen years, or of unsound mind, or convicted of any crime rendering him or her infamous, or shall be a married woman, letters of administration, or testamatory, (as the case may require,) may be granted, in the same manner as if such person had not been named as such, in such will, unless in the case of a married woman, her husband shall give bond with her, as aforesaid, with two or more sufficient securities, to be filed as aforesaid, for her faithful performance as such executrix; and on all questions touching such disqualifications, the court of probate shall receive the like testimony as would be admissible in a court of law or equity, in similar cases.

When executor or executrix disqualified

SEC. 30. During any contest, in relation to the probate of any will, testament or codicil, before the same shall be recorded, or until a will which may have once existed, but shall be destroyed or concealed, shall be established, and the substance thereof committed to record, with the proof thereupon taken, or during any contest in regard to the right of executorship, or to administer the estate of any person dying either testate or intestate, or whenever any other contingency may happen, which shall be productive of great delay, before letters testamentary or of administration can be issued upon the estate of such testator or intestate, to the person or persons having the legal preference to the same, the court of probate may appoint any person or persons as administrators, to collect and preserve the estate of any such decedant, until probate of his will, or until administration of his estate be granted, taking bond and security for collecting the estate, making an inventory thereof, and safe keeping and delivering up the same when thereunto required by the said court of probate, to the proper executors or administrators, whenever they shall be admitted and qualified as such.

Pending any contest, court may appoint administrators to preserve the estate

SEC. 31. The form of the letters to be granted, to the person or persons so appointed to collect and preserve the estate of the decedant, as aforesaid, shall be as follows, viz: "The people of the state of Illinois, to all to whom these presents shall come, greeting:— Know ye, that whereas A B, late of the county of \_\_\_\_\_ and state of Illinois, deceased, as it is said, had, at his (or her) decease, personal property within this state, the administration whereof cannot be immediately grant-

Form of letters of administration

ed to the persons by law entitled thereto, but which, if speedy care be not taken, may be lost, destroyed or diminished; to the end therefore, that the same may be preserved for those who shall appear to have a legal right or interest therein, we do hereby request, and authorize C D, (and E F, if two shall be appointed,) of the county of \_\_\_\_\_ and state aforesaid, to collect and secure the said property, wheresoever the same may be in this state, whether it be goods, chattels, debts or credits, and to make, or cause to be made, a true and perfect inventory thereof, and to exhibit the same, with all convenient speed, to the court of probate of the said county of \_\_\_\_\_ together with a reasonable account of his collection, acts and doings in the premises aforesaid. Witness, G H, judge of probate, in and for the said county of \_\_\_\_\_ at his office in \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

A. D. 18 \_\_\_\_\_

[Seal.]

G H, judge of probate.

SEC. 32. Before letters of administration to collect shall be granted, as aforesaid, the person or persons so appointed as aforesaid, shall give bond, with good and sufficient security, to be approved by the court of probate, in the following form, to wit:

Bond

“Know all men by these presents, that we, C D, E F and J K, of the county of \_\_\_\_\_ and state of Illinois, are held and firmly bound unto the people of the state of Illinois in the penal sum of \_\_\_\_\_ dollars, current money of the United States, for the payment of which, well and truly to be made and performed, we bind ourselves, our heirs, executors, administrators and assigns, jointly, severally and firmly by these presents; witness our hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_. The condition of the above obligation is such, that if the above bounden C D shall well and honestly discharge the duties appertaining to his appointment as administrator to collect of the estate of A B, late of the county of \_\_\_\_\_ deceased; and shall make, or cause to be made, a true and perfect inventory of such of the goods, chattels, debts and credits of the said deceased, as shall come to his or her possession or knowledge; and the same in due time return to the office of the judge of probate of the proper county; and shall also deliver to the person or persons authorized by the said court of probate as executors or administrators to receive the same, all such goods, chattels and personal estate, as shall come to his or her possession as aforesaid, and shall, in the general, perform such other duties as shall be required of him

Condition

(or her) by law; then the above obligation to be void: otherwise to remain in full force and virtue." Which said bond shall be signed and sealed by such administrator, and his (or her) securities, attested by the judge of probate, and filed in his office.

SEC. 33. Before any administrator to collect shall enter upon the duties of his appointment as aforesaid, he or she shall take and subscribe the following oath or affirmation, before the judge of probate, to wit: "I do solemnly swear (or affirm) that I will well and honestly discharge the trust reposed in me as collector, or administrator to collect, of the estate of A B, deceased, according to the tenor and effect of the letters granted to me by the judge of probate of the said county of \_\_\_\_\_ to the best of my knowledge and ability, so help me God;" which said oath shall be reduced to writing, subscribed by the party making it, and filed in the office of the judge of probate before whom the same shall be taken.

Oath

SEC. 34. Every collector so appointed as aforesaid, shall have power to collect the goods, chattels and debts of the said deceased, according to the tenor of the said letters, and to secure the same at such reasonable and necessary expense as shall be allowed by the court of probate; and the said court may authorize him or her, immediately after the inventory and appraisement of such estate, to sell such as shall be perishable, or may be injured by delay, and to account for the same; and for the whole trouble incurred by such collector, the court of probate may allow such commission on the amount of the said personal estate, as shall be actually collected and delivered to the proper executor or administrator as aforesaid, as said court may deem just and reasonable, provided the same shall not exceed six per cent. on the amount stated in such inventory, or bill of appraisement as aforesaid.

Duties of such adm'r.

Commission allowed

SEC. 35. Every collector appointed as aforesaid, shall have power to commence suits for debts due to the decedant, and to release the same on payment thereof; and no such suit shall abate by the revocation of the letters of such administrator to collect or collector; but the same may be prosecuted to a final decision by the executor or executors, administrator or administrators, to whom letters testamentary, or of administration may be granted as aforesaid.

Power to sue, &amp;c

SEC. 36. On the granting of letters testamentary or of administration as aforesaid, the power of any such

To deliver  
property to  
successor

collector as may have been so appointed, shall cease; and it shall be his duty to deliver, on demand, all the property and money of the deceased, which shall have come to his hands or possession, (saving such commission as may be allowed by the judge of probate as aforesaid) to the person or persons obtaining such letters; and in case any such collector or administrator shall refuse or neglect to deliver over such property and money to his successor, when legal application shall be made therefor, such person or persons, so neglecting or refusing, shall be liable to pay twenty per cent. over and above the amount of all such property or money, as shall come to his hands by virtue of his said administration; and shall moreover forfeit all claim to any commission for collecting and preserving the estate; which said twenty per cent. together with all damages which may be sustained by reason of the breach of any bond, which may at any time be given by any such collector, may be sued for and recovered by the person or persons to whom letters testamentary, or of administration may be granted as aforesaid, for the use of the estate of such decedant.

Penalty for  
neglect

Estate not de-  
vised

SEC. 37. All such estate, both real and personal, as is not devised or bequeathed in the last will and testament of any person, shall be distributed in the same manner as the estate of an intestate: but in all such cases, the executor or executors, administrator or administrators with the will annexed, shall have the preference in administering on the same.

Creditor may  
be a witness

SEC. 38. If any lands, tenements or hereditaments, shall be charged with any debt or debts, by any will, testament or codicil, and the creditor whose debt is so secured, shall attest the execution of the same, such creditor shall, notwithstanding, be admitted as a witness to the execution thereof.

Devise to  
wife shall bar  
dower

SEC. 39. Every devise of land, or any estate therein, or bequest of personal estate, to the wife of the testator, shall be a bar of her dower in lands, or share of the personal estate, unless it be otherwise expressed in the will, testament or codicil.

Dower barred  
after six  
months

SEC. 40. A widow shall be debarred of her right of dower in the estate of her deceased husband, in all cases where any provision shall be made for her in the testator's will as aforesaid; unless within six months after the authentication, or probate of the will, she shall deliver or transmit to the court of probate of the proper county, a written renunciation, which may be in the following form, to wit; "I, A B, widow of C D, late of

Form of re-  
nunciation

the county of \_\_\_\_\_ and state of \_\_\_\_\_ do hereby renounce, and quit all claim to any bequest or devise made to me by the last will and testament of my said deceased husband, which has been exhibited and proved according to law; and I do elect to take in lieu thereof, my dower, or legal share of the estate of my said husband." Which said letter of renunciation shall be filed in the office of the judge of probate, and shall operate as a complete bar against any claim which such widow may afterwards set up to any provision which may have been thus made for her in the will of any such testator; and by thus renouncing all claims to a devise or bequest as aforesaid, such widow shall thereupon be entitled to the one-third part of the real estate of her said deceased husband, for life, and one-third part of the personal estate forever, which shall remain after the payment of all just debts and claims against the estate of such testator.

To be filed

Widow then entitled to one-third of the real and personal estate

SEC. 41. In all cases where a widow shall renounce all benefit under the will, and the legacies and bequests therein contained, to other persons, shall, in consequence thereof, become diminished or increased, in amount, quantity or value, it shall be the duty of the court of probate, upon the settlement of such estate, to abate from, or add to such legacies and bequests in such manner as to equalize the loss sustained, or advantage derived thereby, in a corresponding ratio to the several amounts of such legacies and bequests according to the intrinsic value of each.

If by widow's renunciation legacies be diminished or increased; court to abate from, or add to such legacies

SEC. 42. If the widow commit waste in the lands and tenements, or of the personal estate of the deceased, she shall be liable to an action by the heir or devisee, or his or her guardian, if of real estate; or by the executor or administrator, if of personal estate; and if she marry a second husband, he shall be answerable with her in damages, for any waste committed by her as aforesaid, before such second marriage, or by the husband himself, after such marriage.

Widow liable for waste

SEC. 43. Estates both real and personal, of resident or non-resident proprietors, in this state, dying intestate, or whose estates or any part thereof shall be deemed and taken as intestate estate, and after all just debts and claims against such estates shall be paid as aforesaid, shall descend to and be distributed to his or her children and their descendants, in equal parts; the descendants of a deceased child, or grand-child taking the share of their deceased parent in equal parts among them: and

Descents

Widow's ex-  
clusive estate

when there shall be no children of the intestate, nor descendants of such children, and no widow, then to the parents, brothers and sisters of the deceased person, and their descendants, in equal parts among them; allowing to each of the parents if living, a child's part, or to the survivor of them, if one be dead, a double portion, and if there be no parent living, then to the brothers and sisters of the intestate and their descendants; when there shall be a widow and no child or children or descendants of a child or children of the intestate, then the one half of the real estate, and the whole of the personal estate, shall go to such widow, as her exclusive estate forever; subject to her entire and absolute disposition and control, to be governed in all respects by the same rules and regulations, as are, or may be provided in cases of estates of femes sole: if there be no children of the intestate, or descendants of such children, and no parents, brothers, or sisters, or descendants of brothers and sisters, and no widow, then such estate shall descend in equal parts to the next of kin to the intestate, in equal degree, computing by the rules of the civil law: and there shall be no representation among collaterals, except with the descendants of the brothers and sisters of the intestate; and in no case shall there be a distinction between the kindred of the whole, and the half blood, saving to the widow, in all cases, her dower of one third part of the real for life, and the one third part of the personal estate forever.

Widow's  
dower.

SEC. 44. The widow, in all cases, shall be allowed to have, and retain, as her sole and separate property, one bed and bedding, the wearing apparel of herself and family, one milch cow and calf, her saddle and bridle, one horse of the value of forty dollars, household and kitchen furniture sufficient for herself and family, and provisions for the same for one year: Said property shall be retained by the widow, and set apart to her, by the executor or administrator, and shall in no case be subject to the payment of the debts of the deceased.

Property to  
be retained  
by widow

And not sub-  
ject to debts  
of the deceas-  
ed

SEC. 45. Where any of the children of a person dying intestate, or their issue, shall have received from such intestate, in his or her lifetime, any real or personal estate, by way of advancement, and shall desire to come into the partition or distribution of such estate with the other parceners or distributees, such advancement, both of real and personal estate, shall be brought into hotchpot, with the whole estate, real and personal, of such

Hotchpot—  
proceedings  
thereon



intestate; and every such person so returning such advancement, as aforesaid, shall thereupon be entitled to his or her just proportion of said estate.

SEC. 46. If any man shall have one or more children by any woman whom he shall afterwards marry, such child or children, if acknowledged by the man, shall, in virtue of such marriage and acknowledgment, be thereby legitimated, and capable in law to inherit and transmit inheritance, as if born in wedlock.

Children born before marriage provided for

SEC. 47. If any single or unmarried woman, having estate either real or personal in her own right, shall hereafter die, leaving one or more children, deemed in law illegitimate, such child or children, shall not on that account be disinherited, but they, and each of them, and their descendants, shall be deemed able and capable in law, to take and inherit the estate of their deceased mother, in equal parts among them, to the exclusion of all other persons: *Provided*, That if there shall be no such child or children, or their descendants, then, and in such case, the estate of the intestate shall be governed by the rules of descent, as in other cases, where illegitimates are excluded.

Children of unmarried women to inherit the estate of their deceased mothers

SEC. 48. All foreigners, whether aliens, denizens, or naturalized citizens, may take and hold real and personal estate in this state, either by purchase or descent, and alienate, and transmit the same to their heirs or assigns, whether such heirs or assigns be citizens of the United States or not, in the same manner as natural born citizens of the United States, or of this state, may or can do; and the children, or next of kin of any such person dying intestate, and leaving estate, either real or personal, in this state, whether such children or kindred be citizens of the United States or not, shall be deemed and taken to come within the rule of descents hereinbefore described; and shall inherit such estate accordingly, saving to the widow of such alien, denizen, or naturalized citizen, in all cases, such dower, provision, and privileges as is, or may be allowed by law in other cases.

Aliens may hold real estate, &c. &c. transmit the same to heirs, &c.

SEC. 49. Equitable estates shall be subject to the widow's dower, and all real estate of every description, contracted for by the husband in his lifetime, the title to which may be completed after his decease.

Equitable estates, &c. subject to dower

SEC. 50. In all cases where any person shall die intestate, leaving real or personal estate in this state, and a child or children, commonly called posthumous children, shall be born unto him after his decease, within the usual time prescribed by law, such child or children

Posthumous children of persons dying intestate

shall come in for their just proportion of said estate, in all respects, as though he, she, or they, had been born in the lifetime of the intestate.

Relations not applying, adm'n may be granted to creditors

SEC. 51. Administration shall be granted to the husband, upon the goods and chattels of his wife, and to the widow, or next of kin of the intestate, or some of them, if they will accept the same, and are not disqualified, but in all cases the widow shall have the preference, but if no widow or other relative of the intestate, shall apply within sixty days from the death of such intestate, the court of probate may grant administration to any creditor or creditors who shall apply for the same; and in case no such application be made by any creditor or creditors, within fifteen days next ensuing the lapse of the said term of sixty days as aforesaid, administration may be granted to any person or persons whom the judge of probate may think will best manage the estate; and in all cases where such intestate shall have been a non-resident, or without a widow, next of kin, or creditors in this state, but having property within the state, administration shall be granted to the public administrator of the proper county, and to no other person:—*Provided*, that no administration shall, in any case, be granted, until satisfactory proof be made before the court of probate, to whom application for that purpose shall be made, that the person on whose estate letters of administration are requested, is dead, and died intestate so far as they have knowledge and believe.

Non-resident intestates Adm'n to be granted to public adm'r

Governor to nominate public administrators

SEC. 52. The governor of this state shall nominate, and by and with the advice and consent of the senate, appoint in each county in this state, where such appointments have not already been made, or as often as any vacancies may occur in the appointments which have heretofore been made under the existing laws, a suitable person, to be known by the name of the public administrator, for such counties respectively, whose office, power, and duties shall be prescribed by law.

In what cases administration shall be granted to public administrator

SEC. 53. That whenever any person shall die intestate in any county in this state, or when any non-resident shall die intestate, leaving goods and chattels, rights and credits, or either, in this state, and no widow, or next of kin, or creditor or creditors, shall be living within this state, administration of the goods and chattels, rights and credits of such intestate, shall be granted to the public administrator of the county in which such intestate died, or in which the goods and chattels, rights, credits and effects shall be found, in case such intestate shall have been a non-resident, and his successors in office.

SEC. 54. Each and every public administrator, who may at any time be appointed as aforesaid, shall, before entering upon the duties of his office, take and subscribe the following oath, to wit: "I, A B, public administrator in and for the county of \_\_\_\_\_ and state of Illinois, do solemnly swear, (or affirm,) that I will well and truly perform all such duties as may be required of me by law, as such administrator, to the best of my knowledge and abilities, so help me God." Which said oath shall be taken before the judge of probate of the proper county, reduced to writing and subscribed by the public administrator, and filed in the office of the said judge.

SEC. 55. It shall also be the duty of any such public administrator as aforesaid, before entering upon the duties of his office as aforesaid, to enter into bond, with good and sufficient security, to be approved by the judge of probate, in the penal sum of five thousand dollars, conditioned for the due administration according to law, of all such goods and chattels, rights, credits and assets as may belong or appertain to the several estates upon which administration may be granted to him as aforesaid, which said bond shall be in the following form, to-wit: "Know all men by these presents, that we, A, B, C, D, and E, F, of the county of \_\_\_\_\_ and state of Illinois, are held and firmly bound unto the people of the state of Illinois in the penal sum of five thousand dollars, current money of the United States, which payment well and truly to be made and performed, we, and each of us, bind ourselves, our heirs, executors, administrators and assigns, jointly, severally and firmly by these presents: as witness our hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 18\_\_\_\_. The condition of the above obligation is such, that whereas the said A B has been appointed public administrator in and for the said county of \_\_\_\_\_; Condition Now, if he the said A B, as such public administrator, shall well and truly administer all such goods, chattels, rights, credits and assets as shall come to his hands or possession, or to the possession of any other person for him, and which may belong to the estate or estates of any person or persons upon which administration may at any time be granted to him by the court of probate of the said county of \_\_\_\_\_ and do make, or cause to be made, a true and perfect inventory of the goods, chattels, rights, credits and assets of all such deceased persons, the administration of whose estates shall be committed to him as aforesaid; and the same so made, doth exhibit in the said court of probate, when he shall thereunto be

required by law; and do make and render a just and true account of all his actings and doings as such, in each separate estate, to the court of probate of the proper county, when required so to do; and shall in general do and perform all such other duties as may, from time to time, be required of him by law, then the above obligation to be void, otherwise to remain in full force and virtue." Which said bond shall be signed and sealed by the said public administrator and his securities, and attested by the judge of probate, and filed in his office.

Administra-  
tion may be  
revoked

SEC. 56. In all cases where administration shall have been granted to any public administrator as aforesaid, and it shall afterwards appear that there is, or are, a widow, or next of kin, or creditor or creditors of the deceased, entitled to the preference of administration by this act, it shall be the duty of the court of probate to revoke the letters granted to such public administrator, and to grant the same to such widow, next of kin, creditor or creditors, as shall or may be entitled thereto:—

On applica-  
tion to the  
court within  
six months

*Provided,* That application shall be made to the court of probate of the proper county, by such person or persons within six months after letters shall have been granted to the public administrator as aforesaid; saving to such administrator in all cases, all such sum or sums of money as may be due to him from such estate on account of commission and expenses, due to, and incurred by him, in the management of said estate.

Balance of in-  
testate's es-  
tate

SEC. 57. If any balance of any such intestate's estate as may at any time be committed to any public administrator as aforesaid, shall remain in the hands of such administrator, after all just debts and charges against such estate shall have been fully paid, which shall have come to the knowledge of such public administrator, for two years after the administration of such estate shall have been committed to him as aforesaid, such administrator shall cause the amount thereof, with the name of the intestate, the time and place of his or her decease, to be published in some one of the public newspapers printed in this state for eight weeks successively, notifying all persons having claims or demands against such estate, to exhibit the same, together with the evidence in support thereof, before the court of probate of the proper county, within six months after the date of such notice, or that the same will be forever barred; and if no such claim be presented for payment or distribution within the said time of six months as aforesaid, such balance shall be

Amount  
thereof, with  
other particu-  
lars, to be  
published

paid into the public treasury of said county; and the county shall be answerable for the same, without interest, to such person or persons as shall thereafter appear to be legally entitled to the same, if any such shall ever appear.

Not claimed within six months, to be paid into county treasury

SEC. 58. Upon the death of any person intestate, not leaving a widow, or next of kin, or creditor or creditors within any county in this state, it shall and may be lawful for the public administrator of the county wherein such person may have died as aforesaid, or wherein the goods and chattels, rights and credits of such decedant shall be in case such person shall have been a non-resident, to take such measures as he may deem proper for the protecting and securing the property and effects of such intestate from waste or embezzlement, until administration thereon shall be granted to the person entitled thereto as aforesaid; the expenses whereof shall be paid to such public administrator, upon the allowance of the court of probate, in preference to all other demands against such estate, funeral expenses excepted.

Public admr. to secure the property of intestates from waste

SEC. 59. All letters testamentary, letters of administration, either with or without the will annexed, letters of administration to collect, and de bonis non; writs, summonses, citations, subpoenas, and all other processes which may at any time be made or issued by the judge of probate, in the discharge of his official duties, shall be made and issued in the name of the people of the state of Illinois, bear teste in the name of such judge, and be sealed with the seal of the said court of probate.

Letters of adm<sup>n</sup>istration, &c. to issue in the name of the people & with the seal of the court

SEC. 60. Upon every application for letters of administration, upon the goods and chattels, rights and credits of any person dying intestate, by any person not entitled to the same, as husband, widow, next of kin, creditor or creditors, or public administrator, the court of probate to which such application shall be made shall, before the granting of administration to any such applicant or applicants, cause such applicant or applicants to produce satisfactory evidence that the person or persons having the preference have relinquished their prior right thereto: *Provided*, Such application shall be made within the space of seventy-five days next ensuing the death of any such intestate as last aforesaid; but if such application be made after the expiration of seventy-five days, it shall not be necessary to make such proof; and the judge of probate may proceed to grant letters to such applicant or applicants, or any other person or persons, as he may think fit.

Before granting admr. in certain cases, evidence to be produced

If application made within seventy-five days

SEC. 61. All letters testamentary to be hereafter issued to executors under this law, shall be in the following form, to wit:

Form of letters testamentary

*State of Illinois,* }  
*County of* } Sct.—The people of the state of Illinois, to all to whom these presents shall come, greeting: Know ye, That whereas A B, late of the county of \_\_\_\_\_ and state of \_\_\_\_\_ died, on or about the day of \_\_\_\_\_ A. D. 18\_\_\_\_, as it is said, after having duly made and published his last will and testament, a copy whereof is hereunto annexed, leaving at the time of his death, property in this state, which may be lost, destroyed, or diminished in value, if speedy care be not taken of the same; and inasmuch as it appears that C D has been appointed executor in and by the said last will and testament to execute the same; and to the end that the said property may be preserved for those who shall appear to have a legal right or interest therein, and that said will may be executed according to the request of the said testator; we do hereby authorize him the said C D as such executor, to collect and secure all and singular the goods and chattels, rights and credits which were of the said A B at the time of his decease, in whosoever hands or possession the same may be found in this state; and well and truly to perform and fulfil all such duties as may be enjoined upon him by the said will, so far as there shall be property, and the law charge him; and in general, to do and perform all other acts, which now are, or hereafter may be required of him by law. Witness, E F, judge of probate of the said county of \_\_\_\_\_ at his office in \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 18\_\_\_\_. [Seal] E F, judge of probate.

SEC. 62. The form of letters of administration hereafter to be issued in this state shall, (as near as may be,) be as follows, to wit:

Of letters of administration

*State of Illinois,* }  
*County of* } Sct.—The people of the state of Illinois, to all to whom these presents shall come, greeting: Know ye, That whereas A B, of the county of \_\_\_\_\_ and state of \_\_\_\_\_ died intestate, as it is said, on or about the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 18\_\_\_\_, having at the time of his decease personal property in this state, which may be lost, destroyed, or diminished in value, if speedy care be not taken of the same; to the end therefore, that said property may be collected, and preserv-

ed for those who shall appear to have a legal right or interest therein, we do hereby appoint C D, of the county of and state of Illinois, administrator of all and singular the goods and chattels, rights and credits, which were of the said A B, at the time of his decease; with full power and authority to secure and collect the said property and debts, wheresoever the same may be found in this state; and in general, to do and perform all other acts which now are, or hereafter may be required of him by law.

Witness, E F, judge of probate in and for the said county of at his office in this day of

A. D. 18 [Seal.] E F, judge of

probate. And in all cases where letters of administration with the will annexed, letters of administration de bonis non, or letters of administration to any public administrator, shall hereafter be issued by any court of probate in this state, the same shall be issued in conformity with the foregoing forms, as nearly as may be, taking care to make the necessary variations, additions or omissions, to suit each particular case.

SEC. 63. The court of probate shall, in all cases, upon granting administration of the goods and chattels, rights and credits of any person dying intestate, require the administrator or administrators, (public administrators excepted,) to take and subscribe the following oath, to wit: "I do solemnly swear, (or affirm,) that I will, well and truly, administer all and singular the goods and chattels, rights, credits and effects, of A B, deceased, and pay all just claims and charges against his estate, so far as his goods, chattels, and effects shall extend, and the law charge me; and that I will do and perform all other acts required of me by law, to the best of my knowledge and abilities." Which said oath shall be reduced to writing, subscribed by the person taking the same, before the said judge of probate, and filed in his office.

Oath to be taken by administrator

SEC. 64. Each and every administrator, except as is hereinbefore provided for, shall before entering upon the duties of his office, enter into bond, with good and sufficient security, to be approved by the judge of probate, in a sum double the value of the estate, and payable to the people of the state of Illinois, for the use of the parties interested, in the following form, to wit: "Know all men by these presents that we, A B, C D, and E F, of the county of and state of Illinois, are held and firmly bound unto the people of the state of Illinois, in the penal sum of dollars, current money of the United States, which payment, well and truly to be made and

Bond

performed, we, and each of us, bind ourselves, our heirs, executors, administrators, and assigns, jointly, severally, and firmly by these presents. Witness our hands and seals, this            day of            A. D. 18 .

Condition

“The condition of the above obligation is such, that if the said A B, administrator of all and singular the goods and chattels, rights and credits of J K, deceased, do make, or cause to be made, a true and perfect inventory of all and singular the goods and chattels, rights and credits, of the said deceased, which shall come to the hands, possession, or knowledge of him the said A B, as such administrator; or to the hands of any person or persons for him, and the same so made, do exhibit, or cause to be exhibited, in the court of probate for the said county of            agreeably to law, and such goods and chattels, rights and credits, do, well and truly administer according to law, and all the rest of the said goods and chattels, rights and credits, which shall be found remaining upon the account of the said administrator, the same being first examined and allowed by the court of probate, shall deliver and pay unto such person or persons, respectively, as may be legally entitled thereto; and further, do make a just and true account of all his actings and doings therein, when thereunto required by the said court; and if it shall hereafter appear, that any last will and testament was made by the deceased, and the same be proved in court, and letters testamentary or of administration be obtained thereon, and the said A B, do, in such case, on being required thereto, render and deliver up the letters of administration granted to him as aforesaid; and shall in the general, do and perform all other acts which may at any time be required of him by law; then this obligation to be void, otherwise to remain in full force and virtue.” Which said bond shall be signed and sealed by the said administrator, and his securities, attested by the judge of probate, and filed in his office. And in all cases where bonds shall be taken from any administrator de bonis non, or in any other case, where a form shall not be prescribed in this act, the same shall be made, as nearly as may be, in conformity with the form above prescribed, with corresponding variations to suit each particular case.

In other cases  
bonds to be  
made in same  
form

Bonds may be  
put in suit

SEC. 65. All bonds which may at any time be given by any executor or executors, administrator or administrators, either with or without the will annexed, or de bonis non, to collect, or public administrator may be put in suit, and prosecuted, against all, or any one or more



of the obligors named therein, in the name of the people of the state of Illinois, for the use of any person or persons who may have been injured by reason of the neglect or improper conduct of any such executor or administrator as aforesaid; and such bonds shall not become void on the first recovery thereon, but may be sued upon from time to time, until the whole penalty shall be recovered:

*Provided*, that the person or persons for whose use the same may at any time be prosecuted, shall be liable for all costs which may accrue in the prosecution of the same; and certified copies of all such bonds, under the seal of the court of probate, shall be received as evidence to authorize such recovery in any court of law or equity having jurisdiction thereof in this state.

Certified copies, under seal of the court, to be received as evidence

SEC. 66. The judges of the courts of probate, respectively, shall make, keep and preserve complete records of all wills, testaments and codicils, and the probate thereof; all letters testamentary and of administration, either with or without the will annexed, de bonis non, or to collect; all bonds taken of executors or administrators; all inventories, appraisements and sale bills, and all other exhibits presented to, and allowed by said courts, appertaining to the administration and settlement of estates; with an alphabet of reference to the page, names of parties, and amount of such exhibits, inventories, appraisements and sale bills; and shall docket the same from time to time, upon their books of record, all matters and controversies that shall arise for a decision or adjudication before any of said courts, with the names of the parties litigant, the evidence adduced thereon, and the opinion or decision of the court; in order that there may be no difficulty in taking appeals therefrom: they shall record all letters testamentary and of administration before they are delivered out of their offices respectively, and shall certify at the foot, or on the back thereof, that the same have been recorded according to law: they shall preserve all original wills, testaments, codicils, oaths, bonds, inventories, appraisements and sale bills, accounts current, and transcripts of settlements, in proper order on file, in their offices respectively; and copies of any of the aforesaid papers, or of such records, duly certified by the judge of probate, under the seal of said court, shall have the same force and effect as the originals, in all courts of judicature in this state: *Provided*, it shall not be necessary to make a complete record of the proceedings, except on request of one of the parties, who shall pay for the same.

Complete records to be preserved of all wills, bonds, &c.

The party requesting record of proceedings to pay for same

Ad'm'n revoked on production of will, and letters testamentary granted

SEC. 67. If at any time after letters of administration have been granted, a will of the deceased shall be produced, and probate thereof granted according to law, such letters of administration shall be revoked and repealed; and letters testamentary, or of administration with the will annexed, shall be granted in the same manner as if the former letters had not been obtained.

If will set aside, letters to be repealed and adm'n de bonis non granted

SEC. 68. In all cases where a will, testament or codicil shall have been proved, and letters granted thereon as aforesaid; and such will shall thereafter be set aside or annulled by due course of law, the letters granted thereon shall be revoked and repealed, and administration *de bonis non* granted of the goods and chattels unadministered.

Letters testamentary &c granted to persons who may become insane &c to be revoked

SEC. 69. The court of probate shall have power to revoke and repeal all letters testamentary or of administration, granted to persons who shall become insane, lunatic, or of unsound mind, habitual drunkards, who may be convicted of any infamous crime, who waste or mismanage the estate, or who conduct themselves in such a manner as to endanger their co-executors, co-administrators or securities. In all which cases, the court shall summon the person or persons charged to be in default, or disqualified as aforesaid, to show cause why such revocation should not be made; and when made, the reasons therefor shall be stated at large upon the record, and other letters granted to the next person or persons who shall according to law be entitled to the same.

In other cases may be revoked

SEC. 70. If any executor of any last will or testament, or administrator of an intestate estate, residing out of this state at the time of taking upon himself the execution of such trust, or after having done so, shall remove beyond the limits of this state, and shall refuse or neglect, after due notice from the court of probate, to render his accounts and make settlement of such estate, with creditors, legatees or heirs, or their legal representatives, the said court may, in like manner, revoke such letters, and grant other letters thereon, to such person or persons as may be entitled to the same, and as to the said court shall seem meet.

SEC. 71. Where the letters of one of several executors or administrators are revoked, or one or more of the executors or administrators shall die or become disqualified, the court of probate may, in their discretion, join others in their stead or place, and require additional bonds from such new administrator or administrators, or the survivor or survivors, or such as shall not have their powers revoked, shall proceed to manage the estate, and

in case the letters of all of them shall be revoked, or all of said executors or administrators shall depart this life, before final settlement and distribution of the estate shall have been made, administration with the will annexed, or as the case may require, shall be granted to the persons next entitled thereto; and in all cases where any such executor or administrator shall have his letters revoked as aforesaid, he shall nevertheless be liable on his bond, to such subsequent administrator or administrators, or to any other person or persons aggrieved, for any mismanagement of the estate thus committed to his care as aforesaid, and such subsequent administrator or administrators, may have and maintain actions of trover, debt, detinue, account, and on the case, against such former executor or administrator, for all such goods, chattels, debts and credits, as shall have come to the possession of him or her, and which shall be withheld, or may have been wasted, embezzled or misapplied, and no satisfaction made for the same.

In cases of revocation, &c court may appoint executors, or grant adm'n to others

Former executor or adm'r nevertheless liable

SEC. 72. All the provisions in this act relative to an executor or administrator, shall apply and extend to an executrix or administratrix, or executors or administrators, and *vice versa*, unless otherwise expressly provided for; and whenever any party in the singular number, or a male party is mentioned, the rule shall apply to a female, or two or more having a joint interest, so far as the rule can be with propriety applied, and so far as is not otherwise directed.

Application of this act

SEC. 73. No executor or administrator, or security for an executor or administrators shall be chargeable beyond the assets of the testator or intestate, by reason of any omission or mistake in pleading or false pleading of such executor or administrator.

Ex'rs &c not liable for misleading

SEC. 74. If any court of probate shall hereafter grant letters testamentary or of administration, of the estate of any person deceased, without taking good security for the same as aforesaid; or if the security so taken shall afterwards become insufficient, and in all cases where such security has been heretofore taken, and now has, or shall hereafter become insufficient as aforesaid, it shall be lawful for the said court, on the application of any person entitled to distribution, a creditor, or otherwise interested in such estate, to require such executor or administrator to give other and sufficient security, and in default thereof, the letters testamentary or of administration shall be revoked, and administration granted to the person entitled to the same, according to the rules hereinbefore prescribed in the

When ex'rs &c required to give further security

In default, letters to be revoked

case of an administrator de bonis non; and all acts done and performed, according to law, by the executor or administrator, whose letters testamentary or of administration may be revoked as aforesaid, prior to such revocation shall be valid and effectual.

Securities  
may petition  
for counter  
security

SEC. 75. When securities for executors or administrators, or their representatives, may conceive themselves in danger of suffering by the mismanagement of such executors or administrators, and petition the court of probate for relief, in writing, setting forth the cause of such apprehension; the said court shall examine such petition, and if the judge thereof shall deem the causes therein stated and set forth, sufficient to entitle such petitioner or petitioners to relief, if true, he shall summon such executor or administrator, to shew cause against such petition, and may thereupon dismiss the same, or direct such executor or administrator, in his discretion, either to give good counter security to save such petitioner or petitioners harmless, or to give a new bond in the like penalty as the first; and such new bond shall have relation back to the time of granting letters testamentary or of administration, and shall be as effectual in every respect, as if the same had been executed before such letters had been granted; and upon refusal or neglect to give bond de novo, or counter security, as aforesaid, the letters granted to such executor or administrator may be revoked, and letters of administration with the will annexed, or de bonis non, granted thereon as aforesaid.

New bond  
may be taken

On refusal or  
neglect letters  
to be revoked

Condition

SEC. 76. In all cases where a new bond shall be required to be given, by an executor or administrator, as aforesaid, the formal part of the bond shall be as heretofore prescribed, with a condition thereto, in the following form, to-wit: "The condition of the above obligation is such, that whereas the above bound A B, executor of the last will and testament of J K, deceased, (or administrator of the goods and chattels, rights and credits, of J K, deceased,) has heretofore executed a bond, payable to the people of the state of Illinois, and conditioned for the discharge of his duties as executor (or administrator,) as aforesaid, which said bond bears date on the            day of            A. D. 18            ; and whereas by an order of the court of probate, made on the            day of            A. D. 18            other bond and security has been required of the said executor (or administrator,) now, therefore, if the said executor, (or administrator,) shall well and truly have kept and performed, and shall well and truly keep and perform, the condition of the bond first given as aforesaid, in all respects,

according to law, and shall in all respects have performed; and shall continue to perform the duties of his office aforesaid, then this obligation to be void, otherwise to remain in full force and virtue." Which bond shall be signed, sealed, attested, and filed in all other respects as aforesaid.

SEC. 77. In every case wherein letters testamentary, of administration or of collection are granted, it shall be the duty of the executor or administrator to make out a full and perfect inventory of all such real and personal estate, or the proceeds thereof, as shall be committed to his superintendance and management, and as shall come to his hands, possession or knowledge, whether the same shall consist in lands, tenements, hereditaments, annuities, or rents, or in goods and chattels, and rights and credits, particularly specifying the nature and amount of each, or both, as the case may require, and noting distinctly the amount in money on hand, the nature of each debt due to the deceased, and whether the same be sperate, doubtful, or desperate; which said inventory shall be returned to the office of the judge of probate within three months from the date of the said letters testamentary or of administration as aforesaid.

Inventories  
how taken  
and returned

SEC. 78. On granting any letters testamentary, or of administration as aforesaid, a warrant or warrants shall issue, under the seal of the court of probate, authorizing three persons of discretion, not related to the deceased, nor interested in the administration of the estate, to appraise the goods, chattels, and personal estate of the deceased, known to them, or to be shewn by the executor or administrator, which warrant shall be in the following form, to-wit: "The people of the state of Illinois to A B, C D, and E F, of the county of

Appraisers  
appointed

Form of war-  
rant

and state of Illinois, Greeting: This is to authorize you, jointly, to appraise the goods, chattels, and personal estate of J K, late of the county of and state of deceased, so far as the same shall come to your sight and knowledge, each of you having first taken the oath (or affirmation) hereto annexed; a certificate whereof you are to return, annexed to an appraisement bill of said goods, chattels, and personal estate, by you appraised, in dollars and cents, and in the said bill of appraisement you are to set down in a column or columns, opposite to each article appraised, the value thereof. Witness, L M, judge of probate for the said county of at his office in this day of

A. D. 18

[Seal.]

L M, judge of probate.

For which said warrant the judge of probate shall receive the sum of twenty-five cents, and no more. And on the death, refusal to act, or neglect of any such appraiser, another warrant, in form as aforesaid, may forthwith issue in its stead.

**Oath to be taken by appraisers**      SEC. 79. The appraisers, before they proceed to the appraisement of the estate, shall take the following oath (or affirmation,) to be annexed to, or endorsed on the warrant of appointment as aforesaid, before any person authorized to administer an oath, viz: "You, and each of you, do solemnly swear, (or affirm,) that you will well and truly, without partiality or prejudice, value and appraise the goods, chattels and personal estate of J K deceased, so far as the same shall come to your sight and knowledge; and that you will in all respects perform your duty as appraisers to the best of your skill and judgment." After which the said appraisers shall

**Their duty** proceed as conveniently as may be to the discharge of their duty, and shall set down each article with the value thereof; in dollars and cents as aforesaid. All the valuations shall be set down on the right hand side of the paper in one or more columns, in figures, opposite to their respective articles of property, and the contents of each column shall be cast up, and set at the foot of each column respectively.

**Appraisement certified, with certificate of oath annexed**      SEC. 80. When the bill of appraisement shall be completed, the appraisers shall certify the same under their hands and seals, with a certificate of the oath (or affirmation,) to be taken by them, thereto annexed; and shall deliver the same into the hands of the executor or administrator, to be by him returned into the office of the judge of probate, within three months from the date of his letters testamentary, or of administration.

**When to be returned**  
**Inventories, &c. may be given in evidence**      SEC. 81. Inventories and bills of appraisement, and authenticated copies thereof, may be given in evidence in any suit, by or against the executor or administrator, but shall not be conclusive for, or against him, if any other testimony be given, that the estate was really worth, or was *bona fide* sold for more or less than the appraised value thereof.

**Inventory of further assets how to be returned.**      SEC. 82. Whenever personal property of any kind, or assets, shall come to the possession or knowledge of any executor or administrator, which shall not have been mentioned and included in the inventory and bill of appraisement as aforesaid, an account or inventory of the same shall be returned to the office of the judge of probate, appraised by three disinterested sworn apprais-

ers as aforesaid, within three months after discovery shall be made of the same.

SEC. 83. Each and every appraiser appointed under this act, shall be entitled to the sum of seventy-five cents per day for each day's necessary attendance in making all such appraisements, and bills thereof, as aforesaid, to be allowed by the judge of probate, and paid upon his order by the executor or administrator, and charged to the account of the estate.

Compensation to appraisers

SEC. 84. When the estate of any testator or intestate shall have been appraised, and the same shall be ascertained to be entirely solvent, and free from debt or incumbrance; or where there shall be a sufficiency of money or assets in the hands of the executor to pay such debts, independent of the property mentioned in such inventory and bill of appraisement, it shall be lawful for the widow to make her election, whether she will take that part of the personal estate to which she may be entitled by right of dower, or otherwise, out of the articles mentioned in such bill of appraisement according to the appraised value thereof, or the amount thereof in money, whenever the same shall be sold, and the money collected therefor; or she may take a part in property and a part in money, as she may prefer. And in all such cases it shall be the duty of the executor or administrator to notify the widow as soon as such appraisement shall be made, and to set apart to her such article or articles of property, not exceeding the amount to which she may be entitled, and as she may prefer or select, within thirty days after written application shall be made for that purpose by such widow: and if any such executor or administrator shall neglect or refuse to comply with the foregoing requisition, when application shall be made for that purpose, he shall forfeit and pay for the use of such widow the sum of twenty dollars per month, for each month's delay to set apart said property so selected, after the said term of thirty days shall have elapsed, to be recovered in the name of the people of the state of Illinois, for the use of such widow, in any court having jurisdiction of the same.

Widow may take her part out of the articles appraised, or the amount thereof in money

Or part in property, and part in money

To make application in writing for such property as she may select

SEC. 85. Executors and administrators shall, in addition to the inventory and bill of appraisement required to be made as aforesaid, make a further inventory from time to time, of all moneys, judgments, bonds, promissory notes, open accounts, or other evidences of debts; also, of his titles to estates, both real and personal, as well equitable as legal, specifying the kind, quantity;

Further inventory to be made from time to time

quality, situation and value of such real estate, by what title held, and from whom purchased, if known, the debts appearing to be due, or to become due to such testator or intestate, the names of the persons by whom owing, date of the contracts, and amount of interest accruing on the same, with such other and further description of the said estate, the books, papers, and evidences of title, so as to make the same as full and perfect as possible; which said inventory, when made, shall be filed in the office of the judge of probate, as is required in other cases by this act.

And filed

Court may cite persons to appear and be examined touching the concealment of any goods, &c.

SEC. 86. If any executor or administrator, or other person interested in any estate, shall state upon oath to any court of probate, that they believe that any person has in possession, or has concealed or embezzled any goods, chattels, moneys, or effects, books of account, papers, or any evidences of debt whatever, or titles to land, belonging to any deceased person, the court shall require such person to appear before them by citation, and may examine him or her on oath, touching the same, and if such person shall refuse to answer such proper interrogatories as may be propounded by the court, or person interested as aforesaid, or shall refuse to deliver up such property or effects as aforesaid, upon a requisition being made for that purpose by an order of the said court of probate, such court may commit such person to jail, until he or she shall comply with the order of the court therein.

On refusal to answer, or deliver up property, court may commit them to jail

Accounts subject to inspection

SEC. 87. The books of account of any deceased person shall be subject to the inspection of all persons interested therein.

To what extent ex'rs and adm'rs shall be chargeable

SEC. 88. Executors and administrators shall be chargeable with so much of the estate, whether real, personal, or mixed, or the proceeds thereof, of their testator or intestate as they, after due and proper diligence, shall recover and receive.

Sales of real estate under the will to be valid

SEC. 89. In all cases where power is or may be given in any will, to sell and dispose of any real estate, or interest therein, and the same be sold and disposed of in the manner, and by the persons appointed in such will, the sales shall be good and valid; and where one or more executors shall depart this life before such sales be made, the survivor or survivors shall have the same power, and their sales shall be good and valid as though they all joined in such sale.

If ex'r &c remove property out of the

SEC. 90. No executor or administrator shall, under any pretence whatever, remove any property whatsoever



wherewith such administrator or executor may be charged by virtue of his letters, beyond the limits of this state; and in case any such executor or administrator shall remove such property, it shall be the duty of the judge of probate, forthwith, to revoke his letters, and to cause a suit to be instituted, on his bond, against him and his securities, for the use of the persons interested in said estate; and the jury trying such cause shall, on satisfactory evidence of the removal of the property as aforesaid, render a verdict against the offender or offenders and his securities, for the full value thereof, and such other damages as the parties interested may have sustained by reason thereof; and letters of administration on said estate shall issue to the next person or persons entitled, as in other cases.

SEC. 91. The executor or administrator shall, as soon as convenient, after making the inventory and appraisal, as hereinbefore directed, sell at public sale all the personal property, goods and chattels of the testator or intestate, not reserved to the widow as aforesaid, and also excepting specific legacies and bequests, where the estate is sufficient to discharge the debts over and above such specific legacies and bequests, upon giving three weeks notice of the time and place of such sale, by at least four advertisements, set up in the most public places in the county where the sale is to be made, or by inserting an advertisement in the nearest or most public newspaper printed in this state to the place of such sale, at least four weeks successively, previous thereto, upon a credit of not less than six nor more than twelve months, by taking bond with good security of the purchasers at such sale, *Provided*, That such executor or administrator may make it a part of the condition of such sale, that purchases under the sum of five dollars shall be paid in hand: *And provided further*, That if any testator shall direct that his estate shall not be sold, the same shall be preserved in kind, and distributed accordingly, unless such sale should become absolutely necessary for the payment of the debts and charges against the estate of such testator.

SEC. 92. If any executor or administrator shall be of opinion that it would be of advantage to the estate of the testator or intestate to dispose of the crop growing at the time of his or her decease, the same shall be inventoried, appraised, and sold, at the same time, and in the same manner, as is directed in the preceding section; but if such executor or administrator shall believe that

state, letters  
to be revoked  
and suit in-  
stituted  
against him

Sale of per-  
sonal property

Notice to be  
given

Proviso

Further  
proviso

Crop growing,  
when and  
how it may be  
sold

it would be of more advantage to the estate to go on and finish the same, previous to such sale, he shall be authorized so to do, and the proceeds of such crop, after deducting all necessary expenses for cultivating, gathering and making sale of the same, shall be assets in the hands of such executor or administrator, and subject to the payment of debts and legacies, and to distribution as aforesaid.

Clerks and  
crier may be  
employed

SEC. 93. In all public sales of property, made in pursuance of this act, as aforesaid, the executor or executors, administrator or administrators, may employ the necessary clerks and a crier, who shall be allowed such compensation, not exceeding two dollars per day, as the court of probate may judge reasonable, to be paid by such executors or administrators, and charged to the estate. All such sales shall be made between the

Their com-  
pensation

Sales to be  
made between  
10 A. M. and  
5 P. M.

hours of ten o'clock in the forenoon, and five o'clock in the afternoon of each day; and any such as shall be made before, or after the time herein limited, shall be void.

Sale bill to be  
certified, and  
return made

SEC. 94. All executors and administrators shall, immediately after making such sales as aforesaid, make, or cause to be made, a bill of the sales of said estate, describing particularly each article of property sold, to whom sold, and at what price; which sale bill, when thus made, and certified by the clerk of such sale, and the crier thereof, as true and correct, shall be returned into the office of the judge of probate, in the like time as is required in cases of inventories and appraisements.

Persons hav-  
ing claims  
against dec'd  
to be notified  
by advertise-  
ment to ex-  
hibit same

SEC. 95. It shall be the duty of all executors and administrators, as soon as they are qualified as such, to cause an advertisement to be published in the nearest newspaper printed in this state, for four weeks successively, notifying and requesting all persons having claims against the deceased, to exhibit the same to such executor or administrator, or to the court of probate for the proper county, for settlement within nine months from the date of such advertisement, in order that such executor or administrator may certainly know the number and amount of claims against said estate, preparatory to the liquidation and payment of the same, and also to enable him to ascertain whether the estate be insolvent or not: *Provided*, That if the appraised value of any such estate shall not exceed the sum of one hundred and fifty dollars, the notice aforesaid may be given by putting up advertisements in four of the most public places in the county.

Proviso

Sec. 96. Any creditor, whose debt or claim against the estate is not due, may nevertheless present the same for allowance and settlement, and shall thereupon be considered as a creditor under this act, and shall receive a dividend of the said testator's or intestate's estate, after deducting a rebate of interest for what he shall receive on such debt, to be computed from the time of the actual payment thereof, to the time such debt would have become due, according to the tenor and effect of the contract.

Debt not due  
may be exhib-  
ited

SEC. 97. No action shall be maintainable against any executor or administrator, for any debt due from the testator or intestate, until the expiration of one year after the taking out of letters testamentary or of administration, except as is herein excepted; nor shall any person, suing after that time, recover costs against such executor or administrator, unless a demand be proved before the commencement of such suit; but in all other cases, both executors and administrators shall be liable to pay costs as other persons.

When action  
may be  
maintained  
against exec-  
utor or adm'r

SEC. 98. When any executor or administrator, whose testator or intestate shall have died seized of any real estate in this state, shall discover or suspect that the personal estate of such testator or intestate is insufficient to pay the just claims against his or her estate, such executor or administrator shall, as soon as conveniently may be, make a just and true account of the said personal estate and debts, as far as he or she can discover the same, and shall make out a petition to the circuit court of the county in which administration shall have been granted, stating therein what real estate the said testator or intestate died seized of, or so much thereof as will be necessary to pay his or her debts as aforesaid, and request the aid of the said court in the premises; and it shall also be the duty of such administrator or executor, to give at least thirty days notice of the time and place of presenting such petition, by serving a written notice of the same, together with a copy of said account and petition on each of the heirs or their guardians, or devisees of said testator or intestate, or by publishing a notice in the nearest newspaper, for three weeks successively, commencing at least six weeks before the presenting of said petition, of the intention of presenting the same to the circuit court, for the sale of the whole, or so much of the real estate of said testator or intestate as will be sufficient to pay his or her debts, and requesting all persons interested in said real estate to

When person-  
al estate in-  
sufficient,  
land to be sold

Petition to  
the Circuit  
Court

Notice there-  
of

shew cause why it should not be sold for the purposes aforesaid.

Circuit court  
may order  
sale of the  
whole, or a  
part

SEC. 99. It shall be the duty of the said circuit court, at the time and place specified in the notice aforesaid, or at such other time as the said court shall appoint, to hear and examine the allegations and proofs of such executor or administrator, and of all such other persons interested in said estate, as may think proper to resist such sale; and if, upon due examination, the said circuit court shall ascertain that the said personal estate of such testator or intestate, is not sufficient for the payment of his or her debts; the said court shall order and direct the whole, if necessary; but if not, then so much of the said real estate from time to time as will be sufficient to pay such debts, to be sold as is hereinafter directed; and when a part only of such estate is ordered to be sold, such order shall specify as particularly as may be, the part so ordered to be sold: *Provided, always,* That where any houses and lots, or other real estate are so situated that a part thereof cannot be sold without manifest prejudice to the heirs, or devisees, such court may in its discretion, order the sale of the whole, or such part thereof as shall not be necessary for the payment of debts; and the overplus arising from such sale shall be distributed among the heirs and devisees, or such other person or persons as may be entitled thereto.

Proviso, as to  
houses and  
lots

Deed to be  
made by ex.  
or admr.

SEC. 100. All sales of any such real estate directed to be made as aforesaid, shall be made, and conveyances executed for the same by the executor or administrator applying for such order; which said conveyances shall set forth such order at large, and shall be valid and effectual against the heirs and devisees of such testator or intestate and all other persons claiming by, through, or under him, her, or them.

Sale to be at  
public vendue  
and between  
the hours of  
ten and five

SEC. 101. No lands or tenements shall be sold by virtue of any such order of the circuit court as aforesaid, unless such sale be at public vendue, and between the hours of ten o'clock in the forenoon and five o'clock of the afternoon of the same day; nor unless the time and place of holding such sale shall have been previously published for the space of six weeks successively, by putting up notices thereof, in at least four of the most public places in the county where such real estate shall be sold; and also by causing a similar notice thereof to be published in the nearest newspaper in this state, nor unless such real estate shall be described with common certainty in the said advertisements: and if any executor or adminis-

trator so ordered to make sale of any real estate as aforesaid, shall sell the same contrary to the provisions of this act, he shall forfeit and pay the sum of five hundred dollars, to be recovered by action of debt, in the name of the people of the state of Illinois, for the use of any person interested who may prosecute for the same: *Provided*, That no such offence shall be deemed to affect the validity of such sale: *And provided further*, That it shall be lawful for such executor or administrator to sell the same on a credit of not less than six, nor more than twelve months, by taking bond with good security for the payment of the purchase money, and by taking a mortgage on said land.

Terms of sale

SEC. 102. No part of the real estate of any testator or intestate shall be ordered to be sold, unless the executor or administrator applying for such order, shall have made and filed an inventory, appraisement bill and sale bill, in the office of the judge of probate; nor unless such executor or administrator shall have first applied the personal estate, or proceeds thereof, or such part thereof as shall have come to his possession, towards the payment of the debts of the said testator or intestate.

Inventory, &c to be filed before sale of real estate

SEC. 103. In all cases where a petition shall be presented for the sale of any real estate, and one or more of the devisees or heirs of the testator or intestate shall be infants, and without a guardian resident in the county in which such petition shall be preferred, the circuit court to which the same shall be presented shall appoint some discreet person as guardian ad litem, for the purpose of appearing for, and defending the interest of such infant or infants in the proceedings therein.

Circuit court to appoint guardians for infant heirs or devisees

SEC. 104. Any person or persons claiming to be aggrieved by any judgment, decree or order, for the sale of any such real estate as aforesaid, may appeal from the same to the supreme court of this state: *Provided*, Such appeal be entered during the term in which such judgment, decree or order shall be made.

Persons aggrieved by any decree, &c. for the sale of real estate may appeal

SEC. 105. When any real estate shall at any time be ordered to be sold, the moneys arising from such sales shall be received by the executor or administrator applying for such order, and shall be considered as *assets*, in his or her hands for the payment of debts; and shall be applied in the same manner as assets arising from the sale of personal property.

Moneys arising from sales to be assets for the payment of debts

SEC. 106. In all cases where any testator or intestate now deceased, or shall hereafter die seized of any lands, the payment whereof has not been completed to the United States, and the estate of such decedant is or shall

Lands purchased of the U. S. and not paid for

Certificates  
may be sold

be unable to make complete payment therefor with advantage to such estate, it shall be lawful for the administrator, executor, or other legal representatives of such deceased, to sell or dispose of the certificate or certificates of entry, or further credit of the same, in such manner as they may deem most advisable for the interest of such estate; and the money arising from such sales shall be assets in the hands of such executor or administrator, as in other cases.

But if estate  
solvent, pay-  
ment may be  
completed for  
such lands

SEC. 107. But in all cases where the estate of any such testator or intestate shall be solvent, and such lands as aforesaid may be patented without prejudice to the estate, it shall be the duty of the executor or administrator to complete the payment for the same, by relinquishment or out of the proceeds of the personal property, as the case may require, in the name of the heirs, or legal representatives of the decedant, entitled thereto; and he shall be allowed a credit for the amount of such payments, and all reasonable expenses incurred in making the same, upon final settlement of such estate: *Provided*, That the provisions of this and the preceding section shall, in no wise, interfere with the provisions of any last will or testament as aforesaid.

If lands or de-  
posits have  
been forfeited  
to the U. S.

SEC. 108. In all cases where the lands, or certificates of entry or purchase, of any testator or intestate, on which partial payments shall have been made as aforesaid, have or shall hereafter become forfeited to the United States for the non-payment thereof; or where any deposit or deposits, or payments of money by way of entry or purchase of any such lands, or securing the preference of purchase thereof, shall have been made by such testator or intestate, at any of the land offices in this state, and the same have, or shall at any time hereafter, become forfeited to the United States, for the non-payment of the residue, due, or to become due on said lands; and where the congress of the United States has, or shall hereafter make provision for a further extension of credit, or for the repayment of the sums thus forfeited to the payors thereof, or to their legal representatives, either by the issuing of script, granting of lands, or by the actual return of the money thus paid as aforesaid; or shall in any other manner, provide for the relief of such purchaser or purchasers, it shall be lawful for the executor or administrator, or the legal representatives of such testator or intestate to avail themselves of such provision or relief, for the use of the estate, in like manner as such testator or intestate might or could do, if living at the time, and all such

Ex. or adm.  
to avail them-  
selves of such  
relief, as may  
be afforded by  
congress

sums of money as may be produced by the sale of any such forfeited certificates or deposits, or such script as may be received in lieu thereof, and all such sums as shall be repaid in money as aforesaid, on account of any such forfeitures, shall be considered as assets in the hands of such executor or administrator, and shall be accounted for accordingly.

SEC. 109. Whenever an estate is found to be insolvent, it shall be so entered of record by the judge of probate; and after such order so made, no action shall be maintained against the executors or administrators, except at the costs of the party suing: but persons entitled shall receive their proportions of said estate, in the manner herein provided for; and whenever the real estate shall be required to be sold for the payment of debts, no suit shall be maintained until the money is received for such real estate, and an order made by said court, directing the executor or administrator to pay out the same, as required in this act, and the court of probate may make all necessary orders to coerce the executor or administrator to make immediate application to the circuit court for the sale of such real estate.

Proceedings when estate shall be insolvent

SEC. 110. All demands against the estate of any testator or intestate shall be divided into classes in manner following, to wit: 1st. All funeral and other expenses attending the last sickness, shall compose the first class.— 2d. All expenses of proving the will, and taking out letters testamentary or of administration, and settlement of the estate and the physician's bill in the last illness of the deceased shall compose the second class. 3d. Where any executor, administrator or guardian has received money as such, his executor or administrator shall pay out of his estate the amount thus received and not accounted for, which shall compose the third class. 4th. All other debts and demands of whatsoever kind, without regard to quality or dignity, which shall be exhibited within two years from the granting of letters as aforesaid, shall compose the fourth and last class. And all demands, not exhibited within two years as aforesaid, shall be forever barred, unless such creditor shall find other estate of the deceased, not inventoried or accounted for by the executor or administrator; in which case his claim shall be paid *pro rata*, out of such subsequently discovered estate; saving, however, to *femes covert*, infants, persons of unsound mind, or imprisoned, or beyond the seas, the term of two years after their respective disabilities be removed, to exhibit their claims.

Demands against the estate divided into classes

Not exhibited within two years, to be forever barred

Proviso

In what manner claims may be exhibited

SEC. 111. The manner of exhibiting claims against the estate of any testator or intestate, may be by serving a notice of such claim on the executors or administrators, or presenting them the account, or filing the account, or a copy thereof with the judge of probate.

Powers of courts of probate

SEC. 112. The courts of probate in their respective counties shall have concurrent power with the circuit courts of adjudicating and allowing or rejecting claims exhibited against estates, not exceeding one hundred dollars, and on all sums above twenty dollars either party may have a jury; and for that purpose shall have power to summon witnesses, to grant orders for taking depositions in the manner prescribed in courts of law, and to make all such other orders in the premises, as may be necessary, and persons having claims as aforesaid, upon giving the executor or administrator ten days' notice of the time they intend to present the same to said court, the court upon examination shall allow or reject such claims: *Provided*, The court may allow further time for either party to produce other or further evidence in his favor: *Provided, also*, That judgments regularly obtained, and a copy thereof duly certified and filed with the court of probate shall be taken as duly proven; and all instruments in writing, signed by the testator or intestate, if the hand writing be proven, and nothing be shewn to the contrary, shall be deemed duly proved.

Claim not to be proved by the oath of the party

SEC. 113. In no case shall any person making a claim against the estate of any testator or intestate be permitted to prove the same by his or her own oath.

Claims, when allowed to be classed and

SEC. 114. All claims and demands against estates, when allowed by the court of probate as aforesaid, shall be classed and paid by the executor or administrator in the manner provided in this act, commencing with the first class, and when the estate is insufficient to pay the whole of the demands, such demands in any one class shall be paid *pro rata*, whether the same shall be due by judgment, writing obligatory, or otherwise, except in such cases as shall be herein excepted.

Paid accordingly

Demand of any executor or admr. to be filed in court of probate

SEC. 115. When any executor or administrator shall have any demand against his testator or intestate's estate, he shall be required to file his demand with the court of probate, as other persons, and the court shall appoint some discreet person to appear and manage the defence for the estate, and upon a final hearing, said court shall allow said demand, or such part thereof as shall be legally established, or reject the same, as to said court shall appear just. Should an executor or administrator appeal,



in such case, the court of probate shall appoint some person to defend as aforesaid.

SEC. 116. The court of probate shall make an entry of all demands allowed against estates, and file and preserve the papers belonging to the same, and shall also class said demands as is required by this act, and when any executor or administrator shall pay any claim, before the same is allowed as aforesaid, said court shall require such executor or administrator to establish the validity of such claim, by the like evidence as is required in other cases, before the same is classed and he credited therewith.

Court to make entry of, and class demands

SEC. 117. The judges of the courts of probate shall provide well bound books, and enter therein the accounts of executors and administrators, so as to make the same a complete record of all accounts allowed, and all settlements of estates made in said court.

To provide books

SEC. 118. All executors and administrators shall exhibit accounts of their administration for settlement, to the court of probate from which the letters testamentary or of administration were obtained, at the first term thereof which shall happen after the expiration of one year after the date of their letters as aforesaid; and in like manner every twelve months thereafter, or sooner if required, until the duties of their administration be fully completed.

Admn. accounts to be exhibited to the court, at the first term after the expiration of one year

SEC. 119. Upon each and every settlement of the accounts of any executor or administrator, as provided by this act, it shall be the duty of the court to ascertain the whole amount of moneys which shall have come into the hands of such executor or administrator, belonging to the estate of the deceased, and the whole amount of debts established against such estate, and if there be not sufficient to pay the whole of the debts, the moneys aforesaid shall be appropriated among the several creditors, *pro rata*, according to their several rights, as established by this act, and thereupon the court shall make an order, directing such executor or administrator to pay the claims which have been allowed by the court, according to such apportionments; and the court, upon each and every settlement, shall proceed in like manner, until the whole debts be paid or the assets exhausted.

When moneys are insufficient to discharge the debts, creditors to be paid *pro rata*

SEC. 120. Whenever it shall appear that the personal estate of any person deceased, is insufficient to discharge the debts of such estate, and there is real estate belonging to the same, the court of probate shall make out such an abstract, from its records, of the debts and

When personal estate is insufficient, court to prepare an abstract of lands

& c. to be presented to the circuit court

Land to be sold

Proceedings against delinquent executors or adm'rs

When assets are sufficient, court to order payment of all legacies

Money &c. before paid to heir, to be taken into account

Proviso

Bonds to be given by legatees or distributees

credits of such estate, and of the lands owned by such testator or intestate, from the inventory of such estate, whether the title be complete or not; which abstract shall be presented to the Circuit Court, by the executor or administrator, who may then obtain an order to sell the same, in the manner hereinbefore directed, and the proceeds of such sales shall be assets in the hands of such executor or administrator, for the payment of debts, and be subject to the same order by the court of probate in the payment of debts, as other assets.

SEC. 121. If any executor or administrator shall fail, or refuse to pay over any moneys or dividend to any person entitled thereto, in pursuance of the order of the court of probate, lawfully made, within thirty days after demand made for such moneys or dividend, the court of probate, upon application made, shall attach such delinquent executor or administrator, and may cause him to be imprisoned until he shall comply with the order aforesaid, or until such delinquent is discharged by due course of law; and moreover, such failure or refusal on the part of such executor or administrator, shall be deemed and taken in law to amount to a *devastavit*, and an action upon such executor's or administrator's bond, and against his or their securities, may be forthwith instituted and maintained; and the failure aforesaid to pay such moneys or dividend shall be a sufficient breach to authorize a recovery thereon.

SEC. 122. Whenever it shall appear that there are sufficient assets to satisfy all demands against the estate, the court of probate shall order the payment of all legacies mentioned in the will of the testator, the specific legacies being first satisfied.

SEC. 123. Where any heir of an intestate has received money, goods, chattels, or real estate from such intestate, if the amount so received shall be charged to such heir by said intestate, the same shall be taken into computation in making distribution of the estate upon being brought into hotchpot as aforesaid: *Provided*, That an heir who has received from the intestate more than his share, shall in no case be required to refund.

SEC. 124. Executors and administrators shall not be compelled to pay legatees or distributees until bond and security be given by such legatees or distributees to refund the due proportion of any debt which may afterwards appear against the estate, and the costs attending the recovery thereof; such bond shall be made payable to such executor or administrator and shall be for his indemnity, and filed in the court of probate.

SEC. 125. Where, at any time after the payment of legacies or distributive shares, it shall become necessary that the same or any part thereof be refunded for the payment of debts, it shall be the duty of the court of probate, on application made, to apportion the same among the several legatees or distributees, according to the amount received by them, except the specific legacies, which shall in no case be required to be refunded, unless the residue be insufficient to satisfy such debts; and if any distributee or legatee shall refuse to refund, according to the order of the court of probate, made as aforesaid, within sixty days thereafter, and upon demand made such refusal shall be deemed a breach of his bond given to the executor or administrator as aforesaid, and an action may be instituted thereon to the use of such party entitled; and in all cases where there may be no bond, an action of debt may be maintained against such distributee or legatee, and the order of the court of probate shall be evidence of the demand.

In what cases moneys shall be refunded by legatees or distributees

SEC. 126. Where there are two or more executors or administrators of an estate, and any one of them take all or a greater part of such estate, and refuse to pay the debts of the testator or intestate, or refuse to account with the other executors, or administrators in such case the executor or administrator so aggrieved may have his action of account, or suit in equity, against such delinquent executor or administrator, and recover such proportionate share of said estate as shall belong to him; and every executor being a residuary legatee, may have an action of account, or suit in equity, against his co-executor or co-executors, and recover his part of the estate in his or their hands, and any other legatee may have the like remedy against the executors: *Provided*, That before any action shall be commenced for legacies as aforesaid, the court of probate shall make an order directing them to be paid.

Action by one adm'r or ex'r against another

SEC. 127. Actions of trover, detinue, or replevin, shall survive for and against executors and administrators, and may be maintained in the same manner and with like effect as such actions could be for or against their testator or intestate, if living.

Actions that survive

SEC. 128. When the mortgagee of any lands or tenements shall die, leaving minor heirs, the executors or administrators of such mortgagee shall be, and they are hereby authorized, on receiving the amount due the estate of such deceased mortgagee, to release to the mort-

Mortgagee leaving minor heirs, his executor &c. to release the legal title

gagor the legal title of the said mortgaged premises, and such deed of release shall be valid.

iteal estate  
may be mort-  
gaged or leas-  
ed by ex'rs or  
guardians

SEC. 129. Real estate may be mortgaged or leased by executors or guardians: *Provided* Such mortgage or lease shall not be for a longer term than until the heir entitled to such estate shall attain the age of twenty-one years if a male, or eighteen years if a female.

Under the au-  
thority of the  
court of pro-  
bate

SEC. 130. Before any mortgage or lease shall be made as aforesaid, the executors or guardians shall petition the court of probate for an order authorizing such mortgage or lease to be made, and which the court may grant, if the interests of the estate may require it: *Pro- vided*, That the executor or guardian making applica- tion as aforesaid, upon obtaining such order, shall enter into bond with good security, faithfully to apply the mo- neys to be raised upon such mortgage or lease to the payment of the debts of the testator, or for the benefit of the ward or wards of such guardian: and all moneys so raised, shall be assets in the hands of such executor, for the payment of debts, and shall be subject to the or- der of the court of probate, in the same manner as other assets, or shall be applied to the use of such ward or wards, where the same shall be received by a guar- dian as aforesaid.

Ex'r &c. to  
give bond

Moneys so  
raised to be  
assets

Compensa-  
tion to ex'rs  
and adm'rs

SEC. 131. Executors and administrators shall be al- lowed as a compensation for their trouble a sum not ex- ceeding six per centum on the whole amount of person- al estate, and not exceeding three per cent. on the money arising from the sales or letting of land, with such addi- tional allowances for costs and charges in collecting and defending the claims of the estate and disposing of the same as shall be reasonable.

Action may  
be maintained  
against ex'r.  
admr. or secu-  
rities, or both

SEC. 132. If any executor or administrator shall fail to comply with the provisions of this act, or shall fail to comply with any or all of the covenants in his bond, an action may be forthwith instituted and maintained upon such bond against the principal or securities, or both; and the failure aforesaid shall be a sufficient breach to authorize a recovery in the same manner as though a *destitavit* had been previously established against such executor or administrator.

Appeals al-  
lowed from  
the court of  
probate

SEC. 133. Appeals shall be allowed from all judg- ments, orders, or decrees, of the court of probate to the circuit court, in favor of any person who may consider himself or herself aggrieved by any judgment, order or decree of the court of probate as aforesaid, and from the circuit court to the supreme court as in other cases.

SEC. 134. Appeals from the court of probate shall be taken within ninety days from the rendition of the judgment, or order appealed from, and not thereafter. The party appealing shall make out, and tender to the judge of probate, within the time aforesaid, a statement, in the nature of a bill of exceptions, setting forth each item, opinion or decision objected to, and the order, judgment, or decree of the court thereon, and the judge of probate shall sign and seal the same; and he shall thereupon make out a transcript of the record, and proceedings relative to the items, opinions or decisions so excepted to and appealed from, and transmit the same to the clerk of the circuit court, who shall docket the same.

Within ninety days from rendition of judgment

Bill of exceptions

Transcript of record, &c.

SEC. 135. When an appeal shall be taken to the circuit court as aforesaid, the court of probate shall suspend all proceedings upon such claim, or matter in controversy, until a decision shall be had thereon; the circuit court in all cases of appeal, shall proceed *de novo*, as to the judgments and orders appealed from; and claims for debts may be tried by a jury as in other cases. Where the judgment of the court of probate shall be affirmed, upon such appeal, the clerk of the circuit court shall certify the same to the court of probate. Where the judgment aforesaid shall be reversed, the circuit court shall proceed to give such judgment as the court of probate ought to have given, and the same shall be certified to the court of probate, and said court shall enter the same upon its records, and shall proceed therein agreeably to the order or decision of the circuit court.

When an appeal shall be taken, court to suspend proceedings

If judgment affirmed, cl<sup>k</sup> of cir. co. to certify

If reversed court of probate to proceed agreeably to the decision

SEC. 136. The party appealing as aforesaid shall, at the time of taking such appeal, file with the judge of probate a bond with good security, payable to the people of the state, conditioned to prosecute his appeal, and to pay all costs, should the judgment be affirmed; and said bond may be put in suit by, and for the use of the party entitled to such costs.

Party appealing to give bond

SEC. 137. The courts of probate respectively, shall have power to enforce due observance of all orders, decisions, judgments, and decrees, which shall at any time be made in the discharge of their official duties, and may issue attachments for any contempt offered such court, or its process, by any executor, administrator, witness or other person or persons, and may fine and imprison, or either, all such offenders, in the same manner as the circuit courts may or can do, in all similar cases, except in such cases as have been hereinbefore provided for; and

Power of court to enforce observance of orders, decisions, &c.

*provided*, that the fine inflicted in such cases shall in no instance exceed the sum of fifty dollars, nor shall any such imprisonment be extended beyond the term of twenty days.

Proviso, as to fine, &c.

Sheriff to attend the court when required

And serve process

His compensation

SEC. 138. For the purpose of enabling the courts of probate respectively to execute the powers vested in them by this act, it shall be the duty of the sheriff of each county in which such courts shall be held, when required by the judge of probate, to attend all regular and special sittings of said court, either by himself or deputy, and to keep and preserve good order in the same; and also to serve and execute all writs of attachment, summonses, subpoenas, citations, notices and other processes, which may at any time, be legally issued by such judge of probate, and to make due return thereof. And all such sheriffs shall be entitled to the same fees and compensation as is, or may be allowed, for the time being, for the performance of similar services in the circuit courts, to be taxed, and allowed by the court of probate, against the county, party liable, or delinquent, (as near as may be applicable,) according to the rules, and practice in said circuit courts respectively.

Administrations not completed when this act takes effect, to be deemed within the provisions of it, as far as applicable

SEC. 139. In all cases where executors and administrators have been heretofore appointed, and who shall not have completed their respective administrations, or executorships, before this act takes effect; such executors or administrators shall be deemed to be within the provisions of this act, in relation to the revocation of their powers, giving of new or additional bonds, bonds to save securities harmless, and in relation to the payment of debts to creditors, and the remainder of the estate to the distributees, and in relation to the performance of their duties generally, wherever the provisions of this act shall be deemed applicable; and the courts of probate in such cases shall cause the settlements to be made, and the administrations completed according to the rules and regulations herein prescribed without delay: *Provided*, That no executor or administrator shall be liable for any act done or performed by him as such in conformity with the existing laws, or such laws as may be in force at the time this act takes effect.

Proviso

Laws repealed

SEC. 140. The act entitled "An act to regulate administrations, and the descent of intestates' estates, and for other purposes," approved March 23, 1819; "An act to authorize executors and administrators to sell real estate in certain cases," approved January 28, 1823; "An act to amend an act entitled 'an act regulating administrations, and the descent of intestates' estates, and for

other purposes," approved February 12, 1823; "An act to authorize the appointment of public administrators," approved January 10, 1825; "An act to authorize executors and administrators to sell real estate in certain cases, approved February 7, 1827; "An act to enable aliens to hold real estate," approved February 7, 1827; and all other laws and acts, or parts of laws and acts, conflicting with any of the provisions of this act, be, and the same are hereby repealed: *Provided*, That no rights acquired under the provisions of any of the acts hereby repealed, shall be construed to be invalidated or be affected by the provisions of this act; and the parties concerned in said rights shall be permitted to prosecute the same, as though this act had never been passed. Rights saved

This act to take effect from and after the first day of July next.

[*Approved, January 23, 1829.*]

X\*

## RESOLUTION.

*Resolved by the General Assembly of the State of Illinois, that the following laws of this state be printed in the volume, containing the acts of a general and permanent nature, passed by the present General Assembly, to wit:—*

“An act declaring what laws are in force in this state,” approved Feb. 4, 1819.

“An act to provide for all seals that may be necessary in the several official departments of the state of Illinois,” approved Feb. 19, 1819.

“An act to regulate the enclosing and cultivating of common fields,” approved Feb. 23, 1819.

“An act concerning occupying claimants of land,” approved Feb. 23, 1819, except the preamble.

“An act regulating the interest of money,” approved March 2, 1819, as corrected in the errata.

“An act regulating weights and measures,” approved March 22, 1819.

“An act establishing the courts of county commissioners,” approved March 22, 1819, except the 10th section.

“The act of congress relative to fugitives from justice, and persons escaping from the service of their masters,” approved Feb. 12, 1793.

“An act to amend an act entitled ‘An act for the relief of the poor,’ (passed March 5, 1819,)” approved February 6, 1821.

“An act declaring certain words actionable,” approved December 27, 1822.

“An act requiring the several clerks of this state to keep their respective offices at the county seat,” approved January 11, 1823.

The first section of “An act providing for the superintendance of public property, in the town of Vandalia,” approved Feb. 12, 1823.

The first, second, third, fourth, fifth, and seventh sections of “An act regulating the estates of idiots, lunatics, and persons distracted, and for other purposes,” approved Feb. 12, 1823.

“An act establishing the line between the state of Illinois and Indiana,” approved Feb. 17, 1823.

“An act to prevent cattle from being injured in the vicinity of salines,” approved Dec. 14, 1824.

“An act to provide for the recording of town plats,” approved January 4, 1825.



“An act providing stationary and firewood for the use of the General Assembly,” approved January 6, 1825.

“An act for the benefit of mechanics, &c.” approved January 12, 1825.

“An act concerning the revival of statutes,” approved January 19, 1826.

“An act providing for the just compensation of the sheriff of Fayette county, for attending on the supreme court of the state of Illinois,” approved January 23, 1826.

“An act to prevent trespassing by cutting timber,” approved February 27, 1819.

“An act authorizing courts of chancery to decree conveyances, in certain cases,” approved Dec. 27, 1824.

“An act providing for the relief of securities in a summary way, in certain cases,” approved March 24, 1819.

“An act concerning judgments and executions,” approved Jan. 17, 1825.

Sections five and six of an act, entitled “An act supplemental to ‘An act making appropriations for the years 1825 and 1826,’ (approved Jan. 18, 1825,)” approved Jan. 28, 1826.

And resolved, that the above acts be arranged under proper heads, in alphabetical order, according to their subject matter, omitting all the enacting clauses, except that of the first section of each law.

THOMAS MATHER,

*Speaker of the House of Representatives.*

WILLIAM KINNEY,

*Speaker of the Senate.*

January 23, 1829.

## LIST OF PRIVATE ACTS.

LIST OF ACTS OF A PRIVATE OR TEMPORARY NATURE, PASSED BY THE GENERAL ASSEMBLY, AT THE SESSION OF 1828-9.

An act making partial appropriations, approved Dec. 19, 1828.

An act for the relief of James A. Whiteside, of Pope county,—approved Dec. 19, 1828.

An act supplemental to an act, entitled 'an act making appropriations for building certain bridges on the bounty lands,'—approved Jan. 1, 1829.

An act to authorize John Foley to establish a ferry on Fever river,—approved Jan. 1, 1829.

An act allowing certain appropriations to the county of Morgan,—approved Jan. 2, 1829. In force June 1, 1829.

An act for the relief of Matthew Duncan,—Approved January 1, 1829.

An act to remove the seat of justice of Wabash county,—Approved Jan. 1, 1829.

An act to enable Henry Davis to erect a mill dam across the north fork of Sangamon river,—approved Jan. 2, 1829.

An act to provide for the erection of a court-house and jail in Morgan county,—approved Jan. 3, 1829.

An act for the permanent location of the county seat of Perry county,—approved Jan. 5, 1829.

An act for the relief of Samuel Houston,—approved Jan. 8, 1829.

An act for the relief of William Russel,—approved Jan. 8, 1829.

An act for the relief of Isaac Sinclair,—approved Jan. 10, 1829.

An act authorizing the county commissioners' court of Lawrence county to levy an additional tax,—approved Jan. 10, 1829. To continue in force two years.

An act to incorporate the Kaskaskia bridge company,—approved Jan. 13, 1829.

An act for the relief of Samuel Whiteside,—approved Jan. 13, 1829.

An act authorizing William Orendorff and William H. Hodge to establish a ferry on the Illinois river,—approved Jan. 16, 1829.

An act to enable Thomas Clark to build a water grist mill on the sixteenth section of township sixteen, north of range six, west,—approved Jan. 16, 1829.

An act for the relief of the sheriff of Jo Daviess county—approved Jan. 16, 1829.

An act for the benefit of Thomas L. Posey,—approved Jan. 16, 1829.

An act to incorporate the Sangamon bridge company,—approved Jan. 16, 1829.

An act for the relief of Philip Vinyard,—approved Jan. 17, 1829.

An act to authorize Stephen Phelps and Thomas Beard to establish a ferry on Rock river,—approved Jan. 19, 1829.

An act authorizing John Woodrome to build a bridge across Big Muddy river, in Franklin county,—approved Jan. 19, 1829.

An act for the removal of the seat of justice of Washington county,—approved Jan. 19, 1829.

An act authorizing Thomas Stout and John Edmondson to build mills in Fayette county,—approved Jan. 19, 1829.

An act to amend an act, entitled 'an act concerning the town of Shawneetown,' approved Jan. 10, 1825,—approved Jan. 22, 1829.

An act for the relief of Hosea Pearce,—approved Jan. 22, 1829.

An act authorizing the county commissioners of Green county to levy a tax, and for other purposes,—approved Jan. 23, 1829.

An act authorizing Francis Prince to establish a ferry on the waters of the Ohio river,—approved Jan. 23, 1829.

## FUGITIVES FROM ONE STATE TO ANOTHER.

AN ACT RESPECTING FUGITIVES FROM JUSTICE, AND PERSONS  
 ESCAPING FROM THE SERVICE OF THEIR MASTERS.

SEC. 1. *Be 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 northwest or south of the river Ohio, shall demand any person as 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 person 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 further enacted,* That when a person held to labor in any of the United States, or either of the territories on the northwest or south of the river Ohio, under the laws thereof, shall escape into any other of the said states or territories, 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 district 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.

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 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.

[*Approved, February 12, 1793.*]



**REPORTS**  
OF THE  
**AUDITOR AND TREASURER,**  
TO THE  
**GENERAL ASSEMBLY,**  
DECEMBER, 1828.



**AUDITOR'S REPORT.**

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AUDITOR'S OFFICE. }  
*Vandalia, 8th December, 1828.* }

SIR :—

The Auditor of Public Accounts has the honour of submitting to the General Assembly of the State of Illinois, the enclosed statements, numbered 1, 2, and 3, containing a concise account of the Receipts and Expenditures at the Treasury, during the two preceding years, ending with the last day of November, 1828.

I am, Sir,

Very respectfully,

Yr. mo. obt. st.

E. C. BERRY, *Auditor.*

To the Hon.

*The Speaker of the Senate.*

*Total amount of Receipts and Expenditures at the Treasury, from the 30th of November, 1826, to the 30th day of November, 1828.*

| <i>On what account received.</i>   | <i>Dolls. &amp; cts.</i> | <i>Dolls. &amp; cts.</i> |
|--|--------------------------|--------------------------|
| Amount remaining in the Treasury on the 30th Nov. 1826, - - -  | 20,824 02                |                          |
| Amount received from non-residents, from the 30th Nov. 1826, to the 15th Feb. 1827.  | 24,004 00                |                          |
| Amount received from the Ohio Saline, during the same time, - - -  | 1,033 48                 |                          |
| Amount received from the sales of Vandalia lots, during the same time, -   | 157 60                   |                          |
| Amount received from sheriffs, during the same time, - - - -   | 4,446 79                 |                          |
| Balance of redemption money in the Treasury, on the 15th February, 1827,   | 1,475 61                 |                          |
|  |                          | 51,941 50                |
| Amount received from non-residents, from the 15th Feb. 1827, to the 30th Nov. 1828,  | 59,172 28                |                          |
| Amount received from the Ohio Saline, during the same time, - - -  | 200 50                   |                          |
| Amount received from the sale of lots in the town of Vandalia, - - -   | 3,129 50                 |                          |
| Amount received from sheriffs, during the same time, - - - -   | 2,487 18                 |                          |
|  |                          | 64,989 46                |
|  |                          | 116,930 96               |
| From this sum, deduct the amount of interest paid on state paper, and warrants, and money refunded, in 1825, '26, and '27,   | 5,558 31                 |                          |
| Also deduct the amount of Audited warrants paid at the Treasury, interest paid on state paper and warrants, and money refunded, from the 15th Feb. 1827, to the 30th November, 1828, - - - | 84,561 09                |                          |
|  |                          | 90,119 40                |
|  |                          | 26,811 56                |
| From this sum, deduct the amount due from Abner Field, late Treasurer, -   |                          | 19,491 70                |
| Leaving a balance in the treasury, on the 30th November, 1828, of - - -  |                          | 7,319 86                 |
| Amount of redemption money received,   |                          |                          |



|   | Dolls. & cts. | Dolls. & cts. |
|---|---------------|---------------|
| from the 15th February, 1827, to the 30th November, 1828.   | 9,128 81      |               |
| From which, deduct the amount of redemption money paid out during the same time,  | 7,210 62      |               |
| Leaving redemption money in the treasury, on the 30th November, 1828, of  |               | 1,918 19      |
| Amount of audited warrants drawn upon the treasury from the 30th November, 1826 to the 30th November, 1828, for the current expenses of the government, and charged to the following accounts, viz: |               |               |
| The General Assembly, session of '26-'27,   | 23,296 55     |               |
| The Judiciary,  | 13,579 77     |               |
| The Governor,   | 2,984 71      |               |
| The Secretary of State,   | 1,539 07      |               |
| The Auditor and Clerks,   | 3,435 22      |               |
| The Treasurer,  | 2,382 56      |               |
| Attorney General,   | 1,143 61      |               |
| Circuit Attorneys,  | 2,299 91      |               |
| Road Commissioners,   | 3,228 56      |               |
| Special appropriations,   | 7,564 73      |               |
| Contingent Fund,  | 6,850 70      |               |
| The Militia,  | 1,161 83      |               |
| Appropriation for wolves,   | 549 72        |               |
| State House,  | 155 33        |               |
| Postage,  | 206 75        |               |
| Counties for non-resident land tax,   | 358 13        |               |
| Revenue to the Military Tract,  | 2,938 00      |               |
| Judgments against the Auditor,  | 228 51        |               |
| Judgments to be discharged in Vandalia lots   | 1,182 87      |               |
| Appropriations for bridges,   | 880 00        |               |
| Agent of the Ohio Saline,   | 1,735 00      |               |
| Incidental expenses,  | 1,514 86      |               |
| Town of Vandalia, for the excess over 10 per cent. on lots relinquished to the State,   | 307 87        |               |
|   |               | 79,524 26     |
| Amount of outstanding warrants,   |               | 53,319 50     |
| To meet which, there is a balance in the treasury of  |               | 7,319 86      |
| Leaving a balance against the Treasury, on the 30th of November, 1828, of   |               | 45,999 64     |
| The following are the sums due to the State, viz:   |               |               |

|  | <i>Dolls. &amp; cts</i> | <i>Dolls. &amp; cts.</i> |
|--|-------------------------|--------------------------|
| From non-resident delinquent list now advertised for sale, - - - | 16,240 70               |                          |
| From sheriffs on Military Tract, &c.                             | 1,240 80                |                          |
| From Vandalia lots, on sales by the Commissioners, - - -         | 6,173 53                |                          |
| From Vandalia lots, on sales by the auditor,                     | 2,222 60                |                          |
| From A. Field, late treasurer, - - -                             | 19,491 70               |                          |
| From the Ohio Saline, - - -                                      | 3,826 55                |                          |

E. C. BERRY, *Auditor.*

*State of Illinois, Auditor's Office,  
Vandalia, 8th December, 1828.*

NO. 2.

*A Statement of the Receipts and Expenditures at the Treasury, from the 30th of November, 1826, to the 15th of February, 1827.*

|   |           |              |
|---|-----------|--------------|
| Amount of cash received from the 30th November, 1826, to the 15th Feb. 1827,                                | 29,641 87 |              |
| To this add the amount remaining in the treasury on 30th Nov. 1826, - - -                                   | 20,824 02 |              |
| To this, add the balance of redemption money in the treasury on the 15th of February, 1827, - - -           | 1,475 61  |              |
|   |           | 51,941 50    |
| From this sum, deduct the following amounts, viz:   |           |              |
| By amount of interest paid on state paper, and warrants, and money refunded, in 1825, 1826, and 1827, - - - | 5,558 31  |              |
| By amount paid over to the present Treasurer, - - - - -   | 2,800 00  |              |
| By amount paid over to the present Treasurer, by Abner Field, late Treasurer, and his securities, - - - -   | 24,091 49 |              |
|   |           | 32,449 80    |
| Leaving a balance due to the State, from A. Field, late Treasurer, of - - -                                 |           | \$ 19,491 70 |

The late Treasurer claims a credit for moneys received by James Kelly, late Cashier of the State Bank, of \$2,958 17; which amount the Auditor has not been authorized to extend to his credit.

E. C. BERRY, *Auditor.*

*Auditor's Office, Vandalia, 8th December, 1828.*

## NO. 3.

*Receipts and Expenditures at the Treasury, from the 15th February, 1827, to the 30th of November, 1828.*

|   |           |            |
|---|-----------|------------|
| Amount paid into the Treasury from non-residents, - - - - -   | 59,172 28 |            |
| Amount received from the sales of lots in the town of Vandalia, - - -   | 3,129 50  |            |
| Amount received from sheriffs, - - -  | 2,487 18  |            |
| Amount received from the agent of the Ohio Saline, - - - - -  | 200 50    |            |
| Amount received from Abner Field, late Treasurer, and his securities, - - -   | 26,891 49 |            |
|   |           | 91,880 95  |
| From this sum, deduct the amount of audited warrants paid at the Treasury, money refunded, and interest paid on state paper and warrants, - - - |           | 84,561 09  |
| Leaving a sum in the Treasury, on the 30th November, 1828, of - - - - -   |           | \$7,319 86 |

E. C. BERRY, Auditor.

*Auditor's Office, Illinois,  
Vandalia, 8th December, 1828.*

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## TREASURER'S REPORT.



TREASURER'S OFFICE,  
Vandalia, December 8, 1828. }

SIR:—

In conformity with the law requiring a biennial report from the State Treasurer, I have the honor to submit to the General Assembly, a statement of the monthly receipts and disbursements at the Treasury, from the date of my appointment up to the 30th of November last, and an account current shewing the balance in the Treasury on the latter day.

The balance reported on hand by the Treasurer, is less than the balance reported by the Auditor, in consequence of my having made a charge for clerk hire, which not being provided for by any existing law, must necessarily be submitted directly to the decision of the General Assembly. In relation to that charge, I respectfully offer the following explanation. The salary of the State Treasury is \$800 a year; but the amount actually received by me, has been reduced by the depreciation of state paper, to a sum between \$650 and \$700 per year. The duties of the Treasurer's office require the constant service of two competent clerks, with the occasional assistance of a third, and as this amount of labor could not be paid for out of the sum appropriated to me, without absorbing nearly the whole of my own compensation, I was under the unpleasant necessity of choosing between two evils, viz: of neglecting a portion of the duties of my office, or of employing a sufficient number of clerks on my own responsibility, and depending on the justice and liberality of the General Assembly, for repayment of the sum thus expended. I adopted the latter course: and I now respectfully lay the subject before the General Assembly, with a request that, on examination, they will make such disposition of it as may be right.

I have the honor to be, Sir,  
Your obedient servant,

JAMES HALL.

*The Speaker of the Senate.*

*Report of the Receipts and Payments at the Treasury of the state of Illinois, in the years 1827 and 1828.*

| RECEIPTS. |        |                  | PAYMENTS. |        |                  |
|-----------|--------|------------------|-----------|--------|------------------|
| 1827      | Feb.   | 4,689 29         | 1827      | Feb.   | 3,787 52         |
|           | March  | 2,511 13         |           | March  | 2,646 63         |
|           | April  | 176 10           |           | April  | 211 23           |
|           | May    | 206 52           |           | May    | 328 62           |
|           | June   | 1,327 40         |           | June   | 1,199 16         |
|           | July   | 4,082 60         |           | July   | 3,573 14         |
|           | August | 5,840 66         |           | August | 6,367 47         |
|           | Sept.  | 1,777 06         |           | Sept.  | 811 57           |
|           | Oct.   | 2,335 72         |           | Oct.   | 2,538 65         |
|           | Nov.   | 2,384 52         |           | Nov.   | 1,998 73         |
|           | Dec.   | 28,112 86        |           | Dec.   | 27,396 97        |
|           |        | <u>53,441 86</u> |           |        | <u>50,859 69</u> |
| 1828      | Jan.   | 13,556 94        | 1828      | Jan.   | 10,834 82        |
|           | Feb.   | 400 09           |           | Feb.   | 480 00           |
|           | March  | 249 08           |           | March  | 248 39           |
|           | April  | 847 25           |           | April  | 957 59           |
|           | May    | 1,354 83         |           | May    | 1,045 66         |
|           | June   | 2,065 26         |           | June   | 1,982 34         |
|           | July   | 5,754 37         |           | July   | 4,037 15         |
|           | August | 9,844 61         |           | August | 5,804 46         |
|           | Sept.  | 1,116 90         |           | Sept.  | 1,595 83         |
|           | Oct.   | 818 68           |           | Oct.   | 779 76           |
|           | Nov.   | 2,431 08         |           | Nov.   | 2,358 19         |
|           |        | <u>38,439 09</u> |           |        | <u>30,123 65</u> |
|           |        | <u>91,880 95</u> |           |        | <u>80,983 34</u> |
|           |        |                  |           |        | <u>1,065 11</u>  |
|           |        |                  |           |        | <u>2,512 64</u>  |
|           |        |                  |           |        | <u>84,561 09</u> |

Money refunded in 1827 and 1828,

1,065 11

Interest paid on state paper and warrants,

2,512 64

84,561 09

JAMES HALL, *Treasurer.*

## REPORT.

*James Hall, State Treasurer, in account with the State of Illinois.*  
DR.

|  |             |
|--|-------------|
| To amount of taxes paid into the Treasury from Feb. 16th, 1827, to Nov. 30th, 1828, inclusive, - - - | 59,172 28   |
| “ cash received from sheriffs within the above dates, - - -  | 2,487 18    |
| “ cash received for Vandalia lots within the above dates, - - -                                      | 3,129 50    |
| “ cash received from Salines within the above dates, - - -   | 200 50      |
| “ cash received from A. Field, late Treasurer, - - -   | 10,801 49   |
| “ cash received from the securities of A. Field, - - -   | 16,000 00   |
|  | <hr/>       |
|  | 91,880 95   |
|  | <hr/> <hr/> |

## CR.

|   |             |
|---|-------------|
| By amount of warrants paid at the Treasury from the 16th Feb. 1827, to the 30th Nov. 1828, inclusive, - - - | 80,983 34   |
| “ Money refunded within the above dates, - - -  | 1,065 11    |
| “ Interest paid on state paper and warrants, - - -  | 2,512 64    |
| “ cash paid for clerk hire in the Treasurer's office in 1827 and 1828, - - -                                | 1,200 00    |
| Balance, - - -  | 6,119 86    |
|   | <hr/>       |
|   | 91,880 95   |
|   | <hr/> <hr/> |

**REDEMPTION FUND.**

|                                     |             |
|-------------------------------------|-------------|
| Cash received for Redemption, - - - | 9,128 81    |
| Cash paid for Redemption, - - -     | 8,210 62    |
|                                     | <hr/>       |
|                                     | 1,918 19    |
|                                     | <hr/> <hr/> |

JAMES HALL, Treasurer.

*Vandalia, November 30th, 1828.*

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