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THE

Statutes at Large;

BEING

A COLLECTION

OF ALL THE

LAWS OF VIRGINIA,

FROM THE

FIRST SESSION OF THE LEGISLATURE,

IN THE YEAR 1619.

PUBLISHED PURSUANT TO AN ACT OF THE GENERAL ASSEMBLY
OF VIRGINIA, PASSED ON THE FIFTH DAY OF FEBRUARY,
ONE THOUSAND EIGHT HUNDRED AND EIGHT.

VOLUME IX.

By WILLIAM WALLER HENING.

“The *Laws* of a country are necessarily connected with every thing be-
longing to the people of it: so that a thorough knowledge of *them*, and
of their progress would inform us of every thing that was most use-
ful to be known about them; and one of the greatest imperfections
of historians in general, is owing to their ignorance of law.”

PRIESTLEY'S LECT. ON HIST. VOL. I. pa. 149.

RICHMOND:

PRINTED FOR THE EDITOR.

J. & G. COCHRAN, PRINTERS.

1821.

1771

1962

WE WILLIAM F. PENDLETON, and ALEXANDER L. BOTTS, members of the Executive Council of Virginia, do hereby certify that the Laws contained in the Ninth Volume of *Hening's Statutes at Large*, have been by us examined and compared with the originals from which they were taken, and have been found truly and accurately printed, except as to a list of *Errata* to the number of forty seven, at the end of the volume. The variations from the original, where they have not affected the sense were not noted; nor the errors in the original, where the copy is evidently right. Given under our hands this 21st day of November, 1821.

W. F. PENDLETON;
A. L. BOTTS.

PREFACE

TO THE

Ninth Volume of the Statutes at Large.

THE volume now presented to the public is one of peculiar interest. It commences with the REVOLUTION, and carries us through a period which emphatically "tried mens' souls." The regal government, in the nervous language of the constitution, was TOTALLY DISSOLVED;—no other form had then been adopted;—the militia laws had been suffered to expire;(a)—and the revenues of the crown were in the hands of its late officers, from which they were not extracted until a late period.(b) Thus the fathers of the revolution, when they dared that hazardous enterprize, found themselves without a government,—without men,—and without money. Indeed, they had nothing to support them, in the awful contest, but their own virtue and talents, and a firm reliance on the SOVEREIGN DISPOSER OF ALL EVENTS.(c) The progress of the revolution shews with what facility all these difficulties were surmounted.

One of the first measures adopted by the American people to resist the encroachments of the government of Great Britain, was a system of self-denial, generally called the *Continental Association*, or non-importation agreement.(d) To enforce this, the General Congress had recommended the appointment of *Committees of Safety* in the several colonies.(e) But the number of committeemen as well as their duration in office being unlimited,(e) the Convention of Virginia gave them a more distinct organization. A General Committee of Safety was appointed by the convention,(f) who were invested with the supreme executive powers of government. County committees were elected by the freeholders of the several counties and corporations;(g) from which district committees were deputed. On these committees devolved the appointment of the captains and subaltern officers of the regulars and minute men, and the general superintendence of the recruiting service.(h) So practically useful had the General Committee of Safety been found, that their powers were transferred to the Governor and Council,

(a) See pa 37. (b) See pa 350. (c) See the declaration of the convention in their Journal of the 13th of December, 1775. (d) See pa. 102. (e) See pa. 57. (f) See pa. 49. (g) See pa. 57. (h) See pa. 7, 11, 13, 14, 15, 77, 78, 88, 89, &c.

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and continued long after the adoption of the constitution. *(i)* These committees constituted the *executive* department of the government. The *legislative* was formed by delegates to the convention, annually elected by the freeholders of the several counties, and corporations, by law, entitled to send burgesses to the general assembly. *(k)* A *judiciary*, consisting of three judges appointed by the convention, and five members of each county committee, commissioned by the general committee of safety, was appointed to decide on cases arising under the ordinance "for establishing a mode of punishment for the enemies to America in this colony." *(l)* The *military* was composed of regulars, *(m)* minute-men, or certain portions of the militia, more strictly trained, *(n)* and the main body of the militia, newly organized. *(o)* To provide *money*, emissions of treasury notes, or paper money were authorised. *(p)*

It is impossible to read this volume without perceiving what rapid progress was made in military science, and how fitly every measure was adapted to the circumstances of the country. Keeping a steady eye to the great object to be obtained, the friends of the revolution often resorted to the most *efficient* measures to effect their purpose,—taking care to preface every such act with a preamble which fully justified them. Remarkable instances of this kind occur in the "Act for the punishment of certain offences, *(q)*—the act prescribing the oath of allegiance, *(r)*—the act for the encouragement of iron works, *(s)*—the act to confirm the Kentucky election, *(t)*—the act for speedily recruiting the Virginia regiments on continental establishment, *(u)*—the act for indemnifying the governor and council, and others for removing and confining suspected persons, *(v)*—the act for better securing the commonwealth, &c. *(w)*—the act for speedily clothing the troops, *(x)*—the act laying an embargo on provisions, and authorising their seizure for the use of the army, *(y)*—the act to attaint Josiah Philips and his associates, *(z)*—the act for more effectually enforcing embargoes, *(aa)*—the act to supply the inhabitants of this commonwealth with salt, upon reasonable terms, *(bb)*—the act more effectually to guard against counterfeiting, *(cc)*—the act to amend the act for preventing forestalling, &c. *(dd)*—and the act authorising the seizure of grain and flour for the use of our armies and navies, and the French squadron. *(ee)*

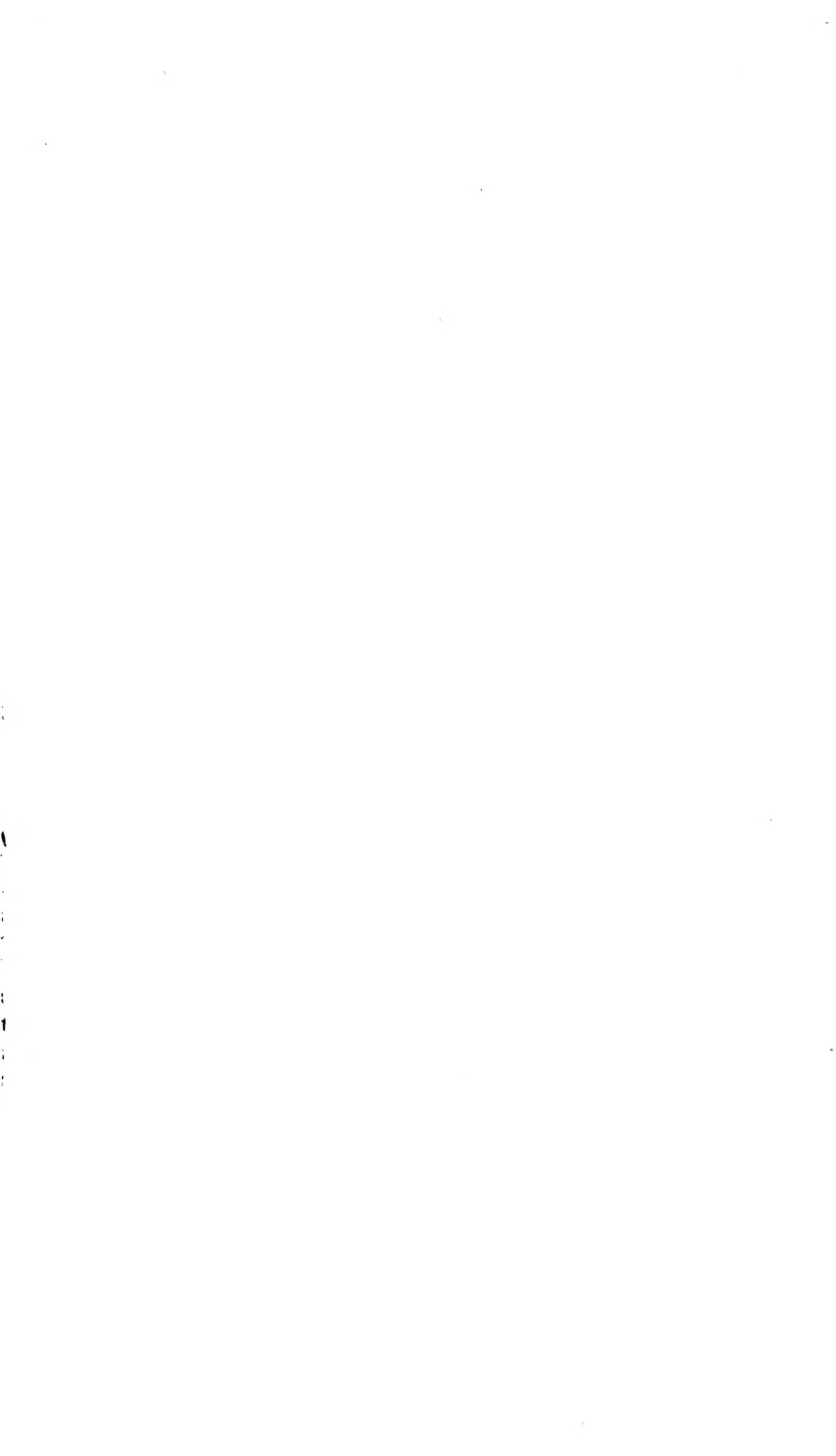
(i) See pa. 121, 178, 309. *(k)* See pa. 59. *(l)* See pa. 101, 102, 103. *(m)* See pa. 7. *(n)* See pa. 10. *(o)* See pa. 27. *(p)* See pa. 67. *(q)* See pa. 170. *(r)* See pa. 280. *(s)* See pa. 303. *(t)* See pa. 316. *(u)* See pa. 388. *(v)* See pa. 373. *(w)* See pa. 374. *(x)* See pa. 375. *(y)* See pa. 385. *(z)* See pa. 468. *(aa)* See pa. 474. *(bb)* See pa. 5, 3. *(cc)* See pa. 511. *(dd)* See pa. 581. *(ee)* See pa. 584.

PREFACE.

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The *journals* of convention being so important in themselves, and so closely connected with the *ordinances* that it was once the intention of the editor to have prefixed them to this volume. But, in order to avoid the dividing of the acts of a session, it was found that the volume had so far exceeded the limits of his engagements with the public that he was compelled to abandon the idea.—Should the legislature enable him to complete the sets of the whole work, without delay, and take off the restriction which limits the payments out of the treasury to one volume a year, he will publish all the **JOURNALS OF THE CONVENTION**, in one separate volume, and furnish a copy with each set of the **STATUTES AT LARGE**, without any additional charge to the public, or to individuals.

WILLIAM WALLER HENING:



*A List of Presidents of Convention
and Governors of Virginia, during
the period comprised in this volume.*

PEYTON RANDOLPH, esq. was president of the Conventions of March and July 1775, who dying before the next Convention, held in December, Edmund Pendleton, esq. was appointed president.

Peyton Randolph, esq. President of Convention.

EDMUND PENDLETON, esq. was president of the Conventions of December 1775, and May 1776; at which last, the Constitution of Virginia being adopted, the powers of the convention ceased.

Edmund Pendleton, esq. President of Convention.

PATRICK HENRY, esq. was elected the first Governor of Virginia, under the Constitution, on the 29th of June 1776, the same day on which the Constitution was adopted.

Patrick Henry, esq. first governor of Virginia, under the Constitution.



AT a Convention of Delegates for the Counties and Corporations in the Colony of Virginia, held at Richmond town, in the county of Henrico, on Monday the seventeenth day of July, in the year of our Lord one thousand seven hundred and seventy-five.

Peyton Randolph, esq.
President.

ORDINANCES, &c.

CHAP. I.

*An ordinance for raising and embodying a sufficient force, for the defence and protection of this colony.**

WHEREAS it is found necessary, in the present time of danger, that a number of forces should be immediately raised, and that the militia should be settled under proper arrangements, and be thoroughly disciplined, for the better protection and defence of the country against invasions and insurrections:

Be it therefore ordained, by the delegates and representatives of the several counties and corporations within the colony and dominion of Virginia, now assembled in general convention, and it is hereby ordained by authority of the same, That there shall be forthwith raised, and taken into the pay of this colony, from the time of their enlistment, two regiments complete, to consist of one thousand and twenty privates, rank and file: Five hundred and forty four of whom to be the first regiment, under the command of a colonel, lieutenant-colonel, and a major, eight captains, sixteen lieutenants, eight ensigns, twenty four serjeants, eight drummers,

Preamble.

Two regiments of regulars to be raised.

Number.

Officers.

* In the original, the title of this ordinance is wanting; nor are any of the chapters numbered. The title is here inserted from the Chancellors' Revisal, edi 1785, p. 30, and the late edition of the Ordinances of 1816, p. 29.

and eight fifiers; and the second regiment to consist of four hundred and seventy six, under the command of a colonel, lieutenant-colonel, major, seven captains, fourteen lieutenants, seven ensigns, twenty one serjeants, seven drummers, and seven fifiers; to each of which regiments there shall be allowed a chaplain, a paymaster (who is also to act as muster-master) an adjutant, quarter-master, one surgeon, two surgeons mates, and a serjeant-major.

Staff.

Officers how appointed.

And for the better and more orderly appointment of the officers, *Be it farther ordained*, That the several field-officers shall from time to time be appointed, or approved, by the general convention of delegates; that the deputies of each district herein after described, excepting the counties of Accomack and Northampton, shall appoint one captain, two lieutenants, and one ensign, to command the company of men to be raised in such district: that the chaplain to each regiment be appointed by the field-officers and captains of such regiment; that the adjutant, quarter-master, and serjeant-major, be appointed by the commanding-officer of the regiment, the surgeon by the field-officers and captains, and the surgeons mates by the surgeon him-self, with the approbation of the commanding officer of the regiment.

Colonel of 1st regiment allowed a secretary.

And be it farther ordained, That the commanding-officer of the first regiment shall be allowed a secretary, to be appointed by him, who shall be allowed four shillings a day for his services.

Enlistments, to be in districts.

And that the levy of the soldiers may be made general throughout the colony, and the better to avoid irregularity and confusion, *Be it farther ordained*, That the deputies of each district, except the counties of Accomack and Northampton, having appointed one captain, two lieutenants, and one ensign, as aforesaid, the said officers shall proceed, with the utmost expedition, to enlist within their respective districts their several companies, which are to consist of sixty eight men each; but the said officers shall not go into any other district to complete their company, until the officers in such other district have made up their company, nor, in that case, without the permission, in writing, of the committee of the county first had and obtained.

Regulations for mustering and inspecting.

And as well to prevent the enlistment of such men as are unfit for service, as to fix the rank of such officers, *Be it farther ordained*, That the deputies of each dis-

trict shall appoint one certain place of rendezvous within their district, whither the captain of each company, as soon as it is complete, shall resort with his men, and shall give immediate notice thereof to the chairman of the committee of deputies, who is required forthwith to summon all the members of the said committee, who, or a majority of them, being present, shall either proceed themselves to review the said company, or appoint any number of their members, not under three, for that purpose: And if it shall appear to such committee of deputies that the company is complete, of able and proper men, and that they have been regularly enlisted, according to the terms and regulations prescribed by this ordinance, the said deputies shall order and direct the captain immediately to march with his company to the place of general rendezvous, hereafter to be appointed, and, moreover, shall grant to the said captain a certificate of the day when the said company first appeared complete, at the particular place of rendezvous in the district; which certificate being produced to the general committee of safety, the said committee shall cause the same to be entered in a book to be kept for that purpose, and shall cause the like certificates, from all the other district committees, to be entered in the same manner: And when all such certificates shall be returned, the same committee of safety, or the majority of those present, shall, and they are hereby required, to grant commissions, under their hands, to the officers of the several companies, according to their several appointments, fixing their ranks of seniority and precedence according to the priority of the completion of their several companies, certified as aforesaid; and if it shall appear, upon the examination of such certificates, that two or more of the companies appeared at the district rendezvous on the same day, the said committee of safety shall, in such case, determine the right of seniority and precedence amongst the several officers, by a fair and impartial ballot.

Commissions and ranks of officers according to priority in completing their companies.

And be it further ordained, That in case any vacancies shall happen, by deaths or otherwise, amongst the commissioned officers, the same shall be supplied, from time to time, by regular succession, in course of seniority, in the respective regiments and companies; and in case of a defect of officers to supply such succession, the commanding-officer of the regiment shall appoint

Vacancies in officers how supplied.

the most proper person, in his opinion, to supply such vacancy, to be approved by the committee of safety.

In privates.

And that the companies may be kept complete from time to time, *Be it further ordained*, That if vacancies should happen among the private men, the commanding-officer of the regiment shall supply the same by new recruits, in the best and most expeditious manner he may be able.

Terms of enlistment.

And be it further ordained, That the soldiers to be raised shall be enlisted on the terms following, to wit: That they shall continue in the service of the publick so long as may be judged necessary by the general convention, but not be compelled to continue more than one year, provided any soldier, or soldiers, do give the commanding-officer three months previous notice, in writing, of his or their desire to be discharged at the end of such period; and if it shall be judged necessary to disband the army before the expiration of twelve months, that each soldier discharged within that time shall be entitled to, and shall receive, six weeks pay in advance. That the pay of each captain, lieutenant, and ensign, shall commence the days of their appointment by the district committees; of the chaplain, and all the subaltern officers, on the days of their respective appointments; of the common soldiers, on the days of their enlisting; and that the pay of the several field and staff officers shall commence on the day of their being called into duty by the general committee of safety; and that the several recruiting officers may advance to each soldier, upon his enlisting, any sum he may think necessary, not exceeding one month's pay.

Pay when to commence.

Who may not be enlisted.

Provided always, That no recruiting officer shall be allowed to enlist into the service any servant whatsoever, unless he be an apprentice, bound under the laws of this colony, nor any such apprentice, unless the consent of his master be first had in writing.

Arms and accoutrements, how furnished.

And be it further ordained, That the soldiers to be enlisted shall, at the expense of the publick, be furnished each with one good musket and bayonet, cartouch box, or pouch, and canteen; and, until such musket can be provided, that they bring with each of them the best gun, of any other sort, that can be procured; and that such as are to act as rifle-men bring with them each one good rifle, to be approved by their captain, for the use of which he shall be allowed at the rate of twenty shillings a year; that each common soldier, not already

sufficiently provided, in the opinion of his commanding-officer, shall be furnished with sufficient clothing, at the expense of the publick, to be deducted out of his pay.

And be it farther ordained, That the companies to be raised in the districts of Pittsylvania, Fincastle, Bedford, and Botetourt, and of Berkeley, Frederick, Dunmore, and Hampshire, Augusta, Albemarle, Buckingham, and Amherst, Culpeper, Fauquier, and Orange, shall consist of expert rifle-men; and shall be, by the committee of safety, allotted two to each regiment, to be employed as light infantry. Rifle-men.

And be it farther ordained, That proper medicine chests, and necessary surgeons instruments, be provided at the expense of the publick. Medicines, &c. provided by publick.

And for the better protection and defence of the inhabitants on the frontiers of this colony, *Be it farther ordained, by the authority aforesaid,* That there shall be appointed and raised, exclusive of the regiments before-mentioned, two companies, consisting each of one captain, three lieutenants, one ensign, four serjeants, two drummers, and two fifiers, and one hundred men rank and file, to be stationed at Pittsburg; of which the company ordered by this convention to garrison fort Pitt, under the command of captain John Neavill, shall be one; also one other company, consisting of a lieutenant, and twenty five privates, to be stationed at fort Fincastle, at the mouth of Weeling; the other company, of one hundred men, and the twenty five men to be raised in West Augusta, also one other company, consisting of one captain, three lieutenants, one ensign, four serjeants, two drummers, and two fifiers, and one hundred privates, to be raised in the county of Botetourt, and stationed at Point Pleasant, at the mouth of the great Kanawah; and one other company, consisting of the same number of officers and men as the last, to be raised in the county of Fincastle, and stationed at such posts as may, from time to time, be ordered and directed by the committee of that county. Two companies for protection of western frontiers.

And be it farther ordained, That the committees of the district of West Augusta, and of the counties of Botetourt and Fincastle, shall appoint the officers to the men in each to be raised; and the several companies last mentioned shall be enlisted in the same manner, and under the same regulations, as are before prescribed for the regiments, except that such companies are Officers how appointed.

not to march to the general rendezvous which may be appointed for the said regiments.

Chief in
command.

And be it further ordained, That the commanding-officers to be stationed at Point Pleasant, and Fort Fincastle, shall be under the direction of, and subject to, such orders as they may from time to time receive from the commanding officer at Fort Pitt.

Pay of offi-
cers and pri-
vates.

And for settling the pay of the officers and soldiers to be appointed and levied as before directed, the same is declared to be as followeth, to wit: To a colonel, twenty five shillings per day; lieutenant-colonels, twelve shillings and sixpence; to a major, ten shillings; a captain, six shillings; a lieutenant, four shillings; an ensign, three shillings; chaplain, ten shillings, an adjutant, holding no other office, six shillings; if in other office, three shillings; to a quarter-master, holding, or not holding, any other office, the same as to an adjutant; to a serjeant-major, to be appointed from amongst the most expert serjeants, by the commanding-officer of the regiment, two shillings and sixpence; to a serjeant, two shillings; a corporal, drummer, and fifer, each one shilling and eightpence; to each private soldier, one shilling and four pence; to a surgeon, ten shillings; and to a surgeon's mate, five shillings per day.

Pay of staff.

Tents.

And be it further ordained, That every commissioned and staff officer shall be allowed a tent, and every two serjeants shall have the same allowance, and every two corporals the same; and that for every six private men there shall be provided a proper and sufficient tent; and that one bell tent for each company shall also be provided, at the public expense.

Pensions.

And for the greater encouragement and farther promotion of the service, *Be it ordained,* That if any person enlisted by virtue of this ordinance shall be so maimed or disabled as to be rendered incapable of maintaining himself, he shall, upon his discharge, be supported at the expense of the publick.

Camp equi-
page, provi-
sions, &c.
how provi-
ded

And to the end that the forces to be raised may be well and speedily supplied with waggons, tents, bedding, arms, accoutrements, clothes, provisions, and all other necessaries, *Be it further ordained,* That the committee of safety shall, and they are hereby required, to appoint some fit person, or persons, to provide arms and accoutrements, clothes, waggons, tents, and bedding, upon the best and cheapest terms, and also to appoint one or more commissaries or contractors; who

are hereby required to use all possible despatch in purchasing such provisions as shall be necessary for the army, and in laying of the same in such convenient place, or places, as may best suit their different stations and marches.

And for the more regular pay of the army, the said committee of safety shall appoint one or more paymasters; and it shall and may be lawful for the said committee, from time to time, to issue their warrants to the treasurer, appointed by or pursuant to an ordinance of this convention, for the paying the several recruiting officers, commissioners, commissaries, or contractors, and paymasters, by them appointed; and to all expresses, and other persons by them employed in lesser services, so much money as the said committee shall judge necessary for their several purposes, taking proper security for the due disbursement and application thereof, and making a proper and reasonable allowance to the several persons so to be appointed for their trouble and expenses in conducting either branch of business to him or them assigned. And the said committee shall have full power and authority to displace and remove from his office any person so by them appointed, either for misconduct or neglect of duty. And the said treasurer is hereby required to pay all such sums as he may be directed by such warrant, out of the publick money in his hands.

Paymasters, their appointment and duty.

And be it farther ordained, That the said committee of safety shall have full power and authority, at such times and places as they may think convenient and necessary, to call all persons, who may receive any publick money for carrying into execution the purposes of this ordinance, to a strict account; and upon examining their accounts, and finding them justly stated, to certify the same, and, if necessary, to give proper acquittals and discharges.

Power of committee of safety

And whereas it may be necessary, for the public security, that the forces to be raised by virtue of this ordinance should, as occasion may require, be marched to different parts of the colony, and that the officers should be subject to a proper controul, *Be it ordained, by the authority aforesaid,* That the officers and soldiers under such command, shall in all things, not otherwise particularly provided for by this ordinance, and the articles established for their regulation, be under the con-

Army subject to controul of general committee of safety.

troul, and subject to the order, of the general committee of safety.

Minute men
how organ-
ized, out of
the militia.

And whereas it is judged necessary, for the better protection of the country in times of imminent danger, that certain portions of the militia throughout the whole colony should be regularly enlisted, under the denomination of minute-men, and more strictly trained to proper discipline than hath been hitherto customary, and, to this end, that the whole colony should be divided into proper and convenient districts:

Colony di-
vided into
districts.

Be it therefore ordained, by the authority aforesaid, That this colony be immediately formed and divided into sixteen districts, in the following manner, to wit: One district to include the counties of Accomack and Northampton; one other, the counties of Princess Anne, Norfolk, the borough of Norfolk, and the counties of Nansemond and Isle of Wight; one other, the counties of Southampton, Sussex, Surry, Brunswick, Prince George, and Dinwiddie; one other, the counties of Mecklenburg, Lunenburg, Charlotte, Halifax, and Prince Edward; one other, the counties of Amelia, Chesterfield, and Cumberland; one other, the counties of Henrico, Hanover, Goochland, and Louisa; one other, the counties of Pittsylvania, Fincastle, Bedford, and Botetourt; one other, the counties of Buckingham, Amherst, Albemarle, and Augusta; one other, the counties of Elizabeth City, Warwick, York, James City, the city of Williamsburg, and the counties of Charles City and New Kent; one other, the counties of Gloucester, Middlesex, Essex, King and Queen, and King William; one other, the counties of Lancaster, Northumberland, Westmoreland, and Richmond; one other, the counties of Culpeper, Orange, and Fauquier; one other, the counties of Caroline, Spotsylvania, King George, and Stafford; one other, the counties of Prince William, Fairfax, and Loudoun; and one other district to include the counties of Berkeley, Frederick, Dunmore, and Hampshire; and the inhabitants of West Augusta are to compose one entire district.

Regiment to
be raised in
district of
Accomack
and North-
ampton.

And be it farther ordained, That within the district containing the counties of Accomack and Northampton there shall be forthwith raised one regiment, consisting of six hundred and eighty men, from the ages of sixteen to fifty, to be divided into ten companies, sixty eight each rank and file, to be under the command of a colonel, lieutenant-colonel, and major, ten captains, twen-

ty lieutenants, ten ensigns, thirty serjeants; and each company shall be allowed a drummer and fifer, and the said regiment shall be allowed a chaplain, adjutant, quarter-master, surgeon, two surgeons mates, and a serjeant-major, as hereafter directed.

And be it farther ordained, That within each of the other districts there shall be immediately enlisted one battalion, consisting of five hundred men rank and file, from the age of sixteen to fifty, to be divided into ten companies of fifty men each, who are to be under the command of a colonel, lieutenant-colonel, and major, ten captains, ten lieutenants, ten ensigns, and twenty serjeants; each company to be allowed a drummer and fifer, and the battalion to be allowed a chaplain, adjutant, quarter-master, surgeon, two surgeons mates, and a serjeant-major, as hereafter directed.

Battalion in the other districts.

And be it farther ordained, That the colonels, lieutenant-colonels, majors, captains, lieutenants, ensigns, and commissaries of musters, for the said regiment, and the several battalions, shall be appointed in the following manner, to wit: The committees of the counties of Accomack and Northampton shall each appoint six of their members as deputies to meet in one general committee, at such time and place as shall be appointed by the chairman of the committee of the said county of Accomack, which place shall be most central and convenient for the meeting of such deputies, and notice thereof shall be given by such chairman to the chairman of the committee of the said county of Northampton, at least ten days before the time of meeting; which deputies having met, according to such appointment, shall settle the number of minute-men to be enlisted in each county, and shall proceed to the choice of the several officers aforesaid. And to prevent inconveniencies which may arise from the deputies so to be appointed not being able to attend, the committee of each county shall appoint six others of their members to supply the places of such as are first named, and whose attendance at the general committee may be prevented by sickness or any other accidents.

Officers appointed by deputation of committees.

And be it farther ordained, That the committees of the several counties of Elizabeth City, Warwick, York, James City, Charles City, and New Kent, shall in like manner appoint four of their members, and the committee of the city of Williamsburg two of their members, as deputies to meet in the general committee for

their district; that the committees of the several counties of Princess Anne, Norfolk, Nansemond, and the Isle of Wight, shall in like manner appoint four of their members, and the committee of the borough of Norfolk two of their members, to meet in one general committee for that district; and that the committees of the several other counties shall in like manner appoint three of their members, as deputies to meet in one general committee for their respective districts; which respective committee of deputies shall meet at such time and place as shall be appointed by the chairman of the committee of the county first named in such district, the place to be most central and convenient, and ten days notice at least of the time and place to be given by such chairman to the chairman of the several committees of the counties and corporations within the district: And the committee of deputies, having so met, shall settle the number of minute-men to be enlisted in each particular county, city, or borough, and shall appoint the same officers as are directed for the district of Accomack and Northampton, having regard to the difference of numbers, as before directed.

Vacancies in
deputies,
how suppli-
ed.

And to prevent the inconveniencies which may arise from the inability of any of the deputies to attend the general committee, *Be it farther ordained*, That the committees of each particular county, city, or borough, at the time of nominating such deputies, shall appoint three others of their members to supply the places of such of their deputies as may be prevented from attending the general committee of delegates, by sickness, or any other accident.

Chaplain and
other staff,
how ap-
pointed.

And be it farther ordained, That the chaplain, adjutant, quarter-master, serjeant, and serjeant-major, shall be appointed by the field-officers and captains of each district, and the surgeons mates by the surgeon himself, with the approbation of the commanding-officer of the district. The surgeon to each battalion is to be previously engaged, but not paid except when he is attending the battalion, which shall be as often as they shall be called together upon training duty, or actual service; and the surgeons mates to be in pay only when the battalion is called into actual service; and the chaplains and quarter-masters are to attend their respective battalions wherever they may be stationed.

And be it farther ordained, That the several officers appointed for that purpose shall immediately proceed

to enlist the minute-men within their respective coun-^{Enlistments}ties, city, or borough; and the said officers shall not go^{of minute-} into any other county, city, or borough, to complete^{men, how} their quotas, until the officers in such other county,^{made.} city, or borough, have completed their quotas, nor, in that case, without the permission of the committee of such other county, city, or borough, in writing, first had and obtained.

And as well to prevent the enlistment of such men^{Regulations} as are unfit for service, as to fix the ranks of the offi-^{for muster-}cers of the several companies, *Be it farther ordained,*^{ing and in-} 'That the committee of each county, city, and borough,^{specting.} shall appoint one certain place of rendezvous within their county, city, or borough, whither the captain, and other officers, of each company, as soon as the same is complete, shall resort with their men, and give immediate notice thereof to the chairman of the committee, who is required to summon all the members of the said committee; who, or a majority of them, being present, shall either proceed themselves to review the said company, or appoint any number of their members, not under three, for that purpose. And if it shall appear^{Commissions} to such committee that the company is complete, of^{and rank of} able and proper men, and that they have been regular-^{officers ac-}ly enlisted, according to the terms and regulations pre-^{ording to}scribed by this convention, the said committee shall^{priority in} grant to the captain a certificate of the day when the^{completing} said company first appeared complete, at the particular^{their com-} place of rendezvous in the county, city, or borough;^{panies.} which certificate being produced to the general committee of safety, the said committee shall cause the same to be entered in a book to be kept for that purpose, and shall cause the like certificate from the other counties, city or borough committees, to be entered in the same manner. And when all such certificates shall be returned, the said committee of safety, or a majority of those present, shall, and they are hereby required, to grant commissions, under their hands, to the officers of the several companies, according to their several appointments, fixing their rank of seniority and precedence according to the priority of the completion of their companies, certified as aforesaid; and if it shall appear, upon examination of such certificate, that two or more of such companies appeared complete at the rendezvous of the county, city, or borough, on the same day, the said committee of safety shall, in such case, de-

termine the right of seniority and precedence, by a fair and impartial ballot.

Rank of field officers, how settled.

And for settling the rank of the field-officers, the committee of delegates in each district shall certify the day when the battalion in each district appeared completely embodied; and the committee of safety, upon receipt of such certificate, shall grant commissions to and fix the ranks of such officers, in the same manner as is directed in respect to other officers.

Arms, &c. how provided.

And be it farther ordained, That each minute-man so to be enlisted shall be furnished with proper arms at the publick expense, and until such can be provided shall bring into service the best gun that he can procure; and for every good rifle, to be approved by the respective captains, there shall be allowed to the owner making use of the same at the rate of twenty shillings a year; and moreover, there shall be provided at the expense of the public, for every minute-man not already furnished, one hunting shirt and pair of leggins.

Tents.

And it is hereby ordained, That a tent for every commissioned and staff officer, one for every two serjeants, one for a drummer and fifer, one bell tent for every company, and one for every six men, shall be provided at the expense of the publick.

Minute-men how trained, by companies and battalions.

And be it farther ordained, That the minute-men in each respective district, so soon as they are enlisted, and approved, as before directed, shall be embodied, and formed into separate battalions, and shall be kept in training under their adjutant for twenty successive days; at such convenient place as shall be appointed by the committee of deputies in each district; and, after performing such battalion duty, the several companies of each battalion shall in their respective counties be mustered, and continue to exercise four successive days in each month, except December, January, and February, at such times and places as shall be appointed by their respective captains, care being taken that such appointments do not interfere with battalion duty.

Further training by battalions.

And be it farther ordained, That, in order to render them the more skilful and expert in military exercise and discipline, the several companies of minute-men shall twice in every year, after the exercise of the twenty days, be again embodied, and formed again into distinct battalions within their districts, and shall at each meeting continue in regular service and training for twelve successive days, at such convenient places with-

in each district as shall be appointed by each committee of deputies, and at the stated times following; to wit: The district of Princes Anne, &c. to begin the first day of May, and the fifteenth of October; that of Elizabeth City, &c. on the fourth day of May, and the twentieth day of October; that of Southampton, &c. on the fourth day of May, and twentieth of October; that of Mecklenburg, &c. on the sixth day of May, and twenty second of October; that of Amelia, &c. on the tenth day of May, and twenty fourth of October; that of Henrico, &c. on the twelfth day of May, and twenty sixth of October; that of Buckingham, &c. on the fifteenth day of May and twenty sixth of October; that of Pittsylvania, &c. on the twentieth day of May, and thirtieth of October; which are to be considered as forming the general southern district.

Southern district.

And be it further ordained, That the several districts containing the counties of Accomack, Gloucester, Lancaster, Caroline, Culpeper, Prince William, Berkeley, and West Augusta, shall meet in battalion on the same days before-mentioned, beginning with Accomack, and proceeding in regular order, as herein arranged; which last mentioned districts are to be considered as forming the general northern district.

Northern district.

Provided always, That if either of the days before-mentioned should happen to be on a Sunday, the time of beginning the exercise shall be on the day succeeding.

Sundays excepted.

And be it farther ordained, That the officers and minute-men shall be allowed one day's pay for every twenty miles travelling to the place appointed for the general rendezvous of the several battalions, and the same for returning home; and moreover, sixpence per day in lieu of provisions. And the several battalions, whilst they continue on duty, shall be furnished with proper and necessary provisions, to be provided by a commissary or contractor, to be appointed in each district by the committee of deputies, whose duty it shall be to provide necessaries for the battalion of his district, or any detachment therefrom in their march, in case they should be called to service in any other part of the country; and the officers and minute-men in the several companies of each battalion shall be also allowed sixpence per day each, besides their pay, for the four days they shall exercise in their respective counties, in lieu of provisions.

Pay of officers and privates, while attending rendezvous.

Fines for delinquencies.

And be it further ordained, That every officer of minute-men who shall absent himself either from battalion duty or the private musters, in their counties, without sufficient excuse, to be judged of and allowed by a court-martial, shall be subject to the following fines, to wit: The colonel, for every day's absence from battalion duty thirty shillings; the lieutenant-colonel, twenty five shillings; the major, twenty shillings; a captain, twelve shillings; a lieutenant, eight shillings; and ensign, six shillings; a serjeant, five shillings; a corporal, drummer, and fifer, four shillings; and each private minute-man three shillings; an adjutant, twenty shillings; a quarter-master, twelve shillings; and a serjeant-major, six shillings. And for non-attendance at private musters, without a sufficient excuse, to be allowed as aforesaid, the officers and minute-men shall, for every day's absence, be subject to the following fines, to wit: a captain, twelve shillings; a lieutenant, eight shillings; and ensign, six shillings; a serjeant, five shillings; a corporal, drummer, and fifer, four shillings; and each private minute-man, three shillings. The several fines above-mentioned to be imposed by a court-martial, to consist of the field officers and captains of the district, or any seven of them, whereof a field officer shall be one, and deducted out of the pay of the delinquent, if so much shall be due to him; if not, to be levied on his estate, in manner as directed for fines imposed on the militia. And if any officer or soldier, during the time of his attendance on training duty, in battalion or companies, as herein directed, shall refuse to obey the commands of his superiour officer, or behave himself mutiniously or refractorily, or shall in any other manner transgress the rules of good order and decency, every such offender shall or may be confined, for any time not exceeding twenty four hours, or fined, in any sum not exceeding one month's pay, as shall be determined by the judgment of a court-martial, to be held as aforesaid; the fines to be deducted, or levied, as before directed.

Fines imposed by court martial.

Leave of absence.

Provided always, That the commanding officer or captain of any company may, when occasion shall require, give leave of absence to any inferiour officer or minute-man; but they shall not be entitled to pay during such absence.

Minute men, how long to serve.

And as well for the ease of the minute-men, as that they may be returned in regular rotation to the bodies

of their respective militias, *Be it farther ordained*, That after serving twelve months sixteen minute-men shall be discharged from each company by the commanding-officer or captain of the company, and the like number at the end of every year, beginning with those who stand first on the roll, and who were first enlisted; and if those who stand first should choose to continue in the service, taking the next in succession desirous of being discharged, and so from time to time proceeding in regular progression.

To be discharged in rotation.

Provided, That the officer shall not have it in his option to discharge a less number than sixteen in every year, whose places shall be supplied by new enlistments, to be taken in the manner first directed.

And for the more regular pay of the battalions, *Be it farther ordained*, That one paymaster shall be appointed by the committee of safety for each of the sixteen districts; and the pay of the officers and soldiers, when on duty in their counties, or in battalion, or when drawn out into actual service, shall be as followeth, to wit: To a colonel, fifteen shillings per day; a lieutenant-colonel, twelve shilling and sixpence; a major, ten shillings; a captain, six shillings; a lieutenant, four shillings; an ensign, three shillings; a serjeant, two shillings; corporal, drummer, and fifer, each one shilling and eightpence; and a private man, one shilling and four pence per day; a chaplain, ten shillings per day; a surgeon, when the battalion is in training duty, or actual service, ten shillings per day; a surgeon's mate, five shillings; an adjutant, holding no other office, six shillings; if in other office, three shillings; a quarter-master to be appointed, and allowed the same as an adjutant; a commissary of musters to each battalion, appointed by the committee of deputies, ten shillings per day, for each day of his attending the battalion, or separate companies; and to a serjeant-major, to be chosen by the commanding-officer out of the most expert serjeants, two shillings and sixpence per day.

Pay of minute-men

And be it farther ordained, That the pay of the several officers and minute-men in each district shall commence from the completion of their respective battalions, and their meeting at the general rendezvous to be appointed as aforesaid.

When to commence.

And be it farther ordained, That the exercise to be performed throughout the several battalions and com-

Exercise of 1764 adopted.

panies shall be that recommended by his majesty in the year 1764.

Adjutant-general, his appointment and duty.

And be it further ordained, That there shall be appointed by the general convention one adjutant-general to the regular forces, who shall rank as youngest lieutenant-colonel; whose business it moreover shall be, once in twelve months, to visit the several particular districts arranged as aforesaid in the two general southern and northern districts, to superintend the conduct of the different adjutants, and see that they do their duty in their several departments, and also to take particular care that there is a due conformity in their exercise and evolutions, so that when the different battalions join in brigades there may be no mistake nor confusion: Of all which the adjutant general shall, once in every year, make a full report to this convention, and for his trouble and expenses in travelling he shall be allowed twelve shillings and sixpence per day.

Volunteers disbanded.

And be it further ordained, That the several volunteer companies, raised in pursuance of the resolutions of a former convention, shall be disbanded, as soon as the battalions in the several districts where the said volunteer companies respectively reside are fully and completely embodied.

Proviso

Provided, That any officer or volunteer of the said companies may be, if approved, appointed to any office in the companies or battalion of minute-men, or enlist as private minute-men in such companies.

Impressments, how made.

And be it further ordained, That the commanding-officer of the regulars, or any battalion, where occasion requires, shall grant one or more warrants for impressing any carts, waggons, horses, boats, or other necessaries which may be requisite, from time to time, for publick service; and the person receiving such warrant shall cause every article so impressed to be fairly appraised by two different freeholders, who are most convenient to the place of impressment, to be chosen by him and the owner of such article, his steward, or overseer; and in case the two appraisers so chosen should disagree, they shall choose an umpire; which appraisers and umpire shall first take an oath, to be administered by the officer ordering such impress, or any justice of peace in the county, that they will make a true and just appraisement; and the valuation or hire of such article or articles so impressed shall be paid by the publick, as justice may require. And moreover, the commanding-

officer of the regulars, or battalions, shall have power to issue his warrant for impressing any artificers that may be judged necessary for the public service; and if their wages cannot be agreed on, the same shall be settled in the manner last mentioned.

And whereas the counties of Accomack and Northampton, from their particular situation, are exposed to many dangers, *Be it farther ordained,* That the committee of deputies, if they judge it necessary, may keep two of the companies to be raised in their district in constant training, at the expense of the publick, in the same manner as directed for the regulars.

Accomack and Northampton may keep two companies.

And be it farther ordained, That the field-officers and captains of the regular forces, in case of any invasion or insurrection in any quarter where they may be stationed, shall immediately give notice to the captains or their superiour officers of the minute-men residing in the next adjacent county, who shall, with all expedition, march the men under their command to the place of danger; and such officers not being the first in command in the district shall immediately give notice to the commander in chief of the districts, that they may judge what is farther necessary to be done. And moreover, the field-officers and captains of the regiments, at the time of their summoning in the minute-men, shall immediately give notice thereof to the president of the committee of safety, who is hereby required, without loss of time, to summon the said committee, that they may give such farther necessary orders and instructions as the exigency of affairs may require.

Regulars and minute-men when to act in concert.

And be it farther ordained, That every officer of the minute-men receiving notice from any other officer of the minute-men, in any other county than that wherein the regular forces are stationed, of any invasion or insurrection, shall forthwith raise the men under his command, and send intelligence to the commanding-officer of the minute-men of that county, and also the commanding-officer of the militia, or, being himself commanding-officer of the minute-men of that county, shall immediately raise the men under his command, and proceed to oppose the enemy, taking care to despatch intelligence to the commanding-officer of the district, and also to the officer of the minute-men in the next adjacent county, who is to proceed in the same manner as the officer first receiving such intelligence is directed to do. But the several officers of the minute-men thus to

Duty of officers of minute men;

and of the
militia.

be raised shall be subject to such farther directions and instructions as shall be given them either by the committee of safety, or a council of field-officers and captains, to be held for that purpose. And the commanding-officer of the militia receiving such intelligence shall immediately summon a council of his field-officers and captains, to consider and determine whether it is necessary to march his militia, or what part thereof, to the place of danger, and act according to their decision; giving immediate notice, if the importance of the case, in the opinion of the said council of war, shall require it, to the general committee of safety, whose orders and directions the said commanding-officer and his militia are hereby directed to obey.

Rank of officers, when united in service.

And for settling the proper rank amongst the officers, as well of the regulars, as of the minute-men and militia, whenever they are joined in actual service, *Be it farther ordained*, That in such case the several officers of the regulars shall take rank of the minute-men of the same rank, and the officers of the minute-men shall take rank of the officers of the militia of the same rank; but the minute-men shall not be under the command of the militia officers, nor the militia under the command of the minute officers, unless drawn out upon duty together.

Proviso.

Provided, That when the county-lieutenant is called out with his militia, in junction with the regulars or minute-men, he shall rank as a colonel; and the colonels, if their county-lieutenants be present, shall rank as lieutenant-colonels only; and the lieutenant-colonels as majors, in case of the presence of their county-lieutenant and colonel.

Fines, for delinquencies.

And be it farther ordained, That every officer or militia man, and every officer and minute-man, who shall refuse, or unreasonably delay, conforming to the above directions, in every particular, shall, for every refusal or delay, forfeit and pay the several sums following, to wit: Every lieutenant of a county the sum of two hundred pounds, every colonel two hundred pounds, every lieutenant-colonel (either of the minute-men or militia) the sum of two hundred pounds, every major of the minute-men or militia the sum of one hundred pounds, every captain the sum of seventy five pounds, every lieutenant the sum of fifty pounds, every ensign the sum of ten pounds, every serjeant and corporal the sum of five pounds; and every soldier or minute-man failing to

appear, and not bringing with him his arms, shall forfeit and pay the sum of five pounds. Every delinquency of officers in the above respects to be judged of, and the said fines to be imposed, by a general court-martial; and if any officer shall refuse or neglect to pay the said fine, within one month, he shall be cashiered, and moreover be liable to a stoppage of his pay, towards discharging the said fine.

Assessed by court-martial.

Provided, That if any officer shall think himself aggrieved by the sentence of such court-martial, he may appeal to the committee of safety, whose judgment shall be final; and every private soldier, or minute-man, refusing or neglecting to pay the same, or to give security to pay the same in one month after conviction, shall be subject to such corporal punishment as may be inflicted by a court-martial, not extending to life or member.

Appeal to committee of safety.

And be it further ordained, That the commander in chief shall have power, as occasion may require, to appoint one brigade-major, to be approved by the committee of safety; and such brigade-major shall be allowed six shillings for every day he is employed on duty.

Brigade major.

And be it farther ordained, That the committee of safety shall, and they are hereby empowered, to provide proper winter-quarters for the regular soldiers, and minute-men when called into actual service, as they may see occasion, and issue their warrants from time to time for the payment of the same.

Winter quarters, how provided.

And whereas, by the expiration of several of our militia laws, and the act of our general assembly making provision against invasions and insurrections, which there is little prospect of having revived in any reasonable time, it is judged necessary, in the present time of danger, that the remainder of the militia not included in the minute-men should be armed, accoutred, trained, and disciplined, in the best manner the circumstances of the country will admit of, *Be it therefore ordained*, That in each county within this colony there shall be a county-lieutenant, colonel, lieutenant-colonel, and major, to be commissioned by the committee of safety upon the nomination of the committees of the respective counties; that all free male persons, hired servants, and apprentices, above the age of sixteen, and under fifty years, except such as are hereafter excepted, shall be enlisted into the militia by the commander in chief of

Militia officers, how nominated and commissioned.

Who liable to militia duty.

the county, and formed into companies of not less than thirty two, nor more than sixty eight, rank and file, to be placed under one captain, one lieutenant, and one ensign, all of whom shall be commissioned by the committee of safety, upon the nomination of the committees of the counties as aforesaid. And the commander in chief of each county shall, within three months after passing this ordinance, deliver to each captain a list of the names of the men appointed for his company; and every captain receiving such list shall summon his company to meet him within a fortnight, at such convenient time and place as he may appoint, in order to lay a proper foundation for training and disciplining them in the most effectual manner.

How enroll-
ed.

Who ex-
empted.

Provided, That the members of his majesty's council, and the committee of safety, the president of the convention, treasurer, attorney-general, auditor, clerk of the council, clerk of the secretary's office, clerk of the general convention, and clerk of the committee of safety (each of which exempts furnishing a stand of arms for a soldier) all clergymen and dissenting ministers, the president, professors, students, and scholars, of William and Mary college, the keeper of the publick jail, all overseers of four tithables residing on a plantation, and all millers, and persons concerned in iron works, shall be exempted from such enlistment.

Fine on co-
lonel for ne-
glect.

And be it further ordained, That if any commander in chief of any county shall fail to do his duty as above directed, he shall forfeit and pay the sum of two hundred pounds.

Arms, &c. to
be furnished
by militia.

And be it further ordained, That every militia man so to be enlisted shall furnish himself with a good rifle, if to be had, or otherwise with a tomahawk, common firelock, bayonet, pouch, or cartouch box, three charges of powder and ball, and appear with the same at the place appointed for mustering, and shall constantly keep by him one pound of powder and four pounds of ball, to be produced whenever called for by his commanding-officer.

Exceptions.

Provided always, That no person shall be subject to the penalties hereby inflicted, for the not providing or producing the quantity of powder required, who shall make it appear to the court-martial that he has used his best endeavours to procure such powder, and hath not been able so to do; also, that if it be certified by a court-martial that any soldier enlisted is so poor as not

to be able to purchase the arms aforesaid, then such arms shall, by order of the committee of the county, be procured so soon as may be, at the expense of the publick. And if any person shall presume to sell or buy any arms thus provided, he shall forfeit and pay the sum of six pounds; and all arms so purchased and delivered to any such poor soldier shall on his death, or removal out of the county, be delivered to the chief officer of the militia in the county, or to the captain of the company to which such poor soldier did belong, to be by such officer delivered to any other poor soldier whom the commanding-officer shall adjudge unable to provide himself with arms as aforesaid.

And be it farther ordained, That there shall be a private muster of the several companies in each county once a fortnight, except in the months of December, January, and February, and the officers and soldiers shall be on the place appointed by ten o'clock, in the forenoon, and moreover, there shall be a general muster in every county, in the months of April and October in each year, and the officers and soldiers shall appear on the parade by eleven o'clock in the forenoon.

Company musters.

General muster.

And be it farther ordained, That if any officer, when on duty, shall misbehave, he shall be subject to the censure of a court-martial, who shall, if they see cause, certify, such misbehaviour to the committee of the county, city, or borough, by whom such officer was nominated, who shall have full power to displace and remove such officer from his post, if they shall judge it expedient for the good of the publick; and if any soldier shall, at any general or private muster, refuse to obey the command of his officer, or shall behave himself refractorily and mutinously, or misbehave himself at a court martial, it shall and may be lawful for the commanding-officer then present to cause such offender to be tied neck and heels, for any time not exceeding five minutes.

Misbehaviour, in officers and privates, how punishable

And be it farther ordained, That every captain, or in his absence the next commissioned officer, shall make return of all delinquencies in his company, either at general or private musters, to the next court-martial; and the better to enable him so to do, the senior serjeant being first sworn by a magistrate, shall act as clerk, and call over the roll at each muster. And the lieutenant, or other chief officers of the militia, shall and

Delinquents, how reported,

may order the other officers and soldiers under him to go armed to their parish churches on Sundays, and to any licensed meeting-houses, whenever he judges it necessary.

Courts martial when and how convened.

And be it farther ordained, That it shall and may be lawful for the field-officers and captains of every county, or the major part of them, whereof a field-officer shall be one, and they are hereby required, to meet at the courthouse of their respective counties the day next following the general muster in the months of April and October in every year, if fair, (if not, the next fair day) then and there to hold a court-martial; which court shall have power to adjourn from day to day, and to inquire of the age and abilities of all persons enlisted, and exempt such as they shall adjudge incapable of service, and of all delinquents returned by the captains for absence from musters, or appearing without arms, powder, or ball. And the said court, the better to conduct the business before them, shall and may appoint a clerk, to whom the president of the court shall administer an oath, well and faithfully to perform the duties of his office; and the said court shall allow such clerk, so appointed, such salary as they may judge his services entitle him to. And every county-lieutenant, or the next officer in command, if the lieutenant should be absent on necessary business, failing to appoint a general muster, as before directed, shall forfeit and pay one hundred pounds; and every colonel, lieutenant-colonel, or major, failing to appear with their proper arms at any general muster, shall forfeit and pay ten pounds; and every captain failing to muster and exercise his company once in every fortnight, except as before excepted, shall forfeit and pay forty shillings for every neglect; and failing to appear at any general muster, shall forfeit and pay fifty shillings. Every lieutenant failing to appear at any muster twenty shillings, and every ensign, for the like failure, the sum of twenty shillings; and every soldier not appearing, or appearing without proper arms, five shillings; or for not bringing with him three charges of powder and ball, three shillings; or failing to bring into the field; when required by his commanding-officer, one pound of powder, and four pounds of ball, five shillings. And every captain, or in his absence from muster the next commanding-officer, failing to return the list of the persons who shall not appear at muster to the courts-martial, or who shall

Their powers.

Clerk.

Fines, for delinquencies.

appear without proper arms, powder, and ball, shall forfeit and pay ten pounds; provided, if the person so failing shall, at the next court-martial, or in case of his inability to attend at the succeeding court-martial, offer a reasonable excuse for any such delinquencies, such excuse shall and may be admitted, and the party complained of discharged of all and every the penalties aforesaid. How excused.

And be it farther ordained, That the captain of each company shall and may appoint one drummer and one fifer, who shall be paid for their attendance the same as is allowed in the minute service; and the said captains shall provide drums, fifes, colours, and halberds, at the publick expense, to be reimbursed out of the fines; and every clerk of a court-martial shall deliver a list of the fines imposed by the court-martial to the collector, within twenty days, under the penalty of one hundred pounds, to be imposed by the next succeeding court-martial. Drums, fifes, &c.
List of fines.

And be it farther ordained, That every officer of the militia within this colony shall, at all times that he acts on duty, at any private or general muster, appear armed in the following manner, that is to say: every county lieutenant, colonel, lieutenant-colonel, and major, with a sword, and every captain and lieutenant with a fire-lock and bayonet, and a sword, and three charges of powder and ball; every ensign with a sword; every serjeant and corporal with a sword and halberd, under the penalty of twenty shillings; all the said fines to be levied by a court-martial, and appropriated to the purchasing arms and ammunition for the use of such as are not able to procure the same. Officers, how armed.

And be it farther ordained, That the soldiers shall be allowed six months after enlisting to provide themselves with arms, and in the mean time shall bring with them such arms as they have, under the penalty of five shillings, to be inflicted by a court-martial; and that all arms of the militia shall be exempted from executions or distresses, and all officers and soldiers shall be exempted from arrests in civil cases, during their continuance at, going to and returning from musters. Privates, when and how armed
Arms exempted from executions, and officers and soldiers from arrests.

And be it farther ordained, That if any exempted miller or overseer shall presume to appear at any muster of the militia or minute-men, or in any muster-field, on the day on which such muster shall be appointed, the party so offending shall forfeit and pay twenty shil- Exempts not to appear at musters.

ORDINANCES OF CONVENTION,

lings, to be assessed upon him by the next court-martial, upon a certificate of the offence to them made, by the captain or chief officer present at such muster, or the information, on oath, of any person whatsoever, and levied, accounted for, and appropriated, in the same manner as the other fines ordered by the court-martial. And that all fines and penalties incurred by infants or servants, for breach or neglect of duty in any particular service by this ordinance required of them, shall be paid by the parent, guardian, or master, of such infant or servant; and if the breach or neglect of such servants is not occasioned by their masters influence or direction, then the fines incurred by them, and so paid by their masters, shall be repaid to their masters, by the farther service of such servants after the times they are bound to serve are expired.

Fines on infants and servants how paid.

And be it further ordained, That if any collector, appointed by a court-martial, shall refuse to collect the fines imposed by such court-martial, after having undertaken the same, he shall forfeit and pay one hundred pounds; and if any collector refuses, or unreasonably delays, to pay all fines by him collected to the receiver who shall be appointed by a court-martial, he shall forfeit and pay double the amount thereof.

Collectors of fines, penalties on.

And be it further ordained, That the several militia officers to be appointed, before they enter on the execution of their office, shall take the following oath, to be administered before the committee of the city, borough, or county, to wit:

Oath of militia officers.

I A. B. do solemnly swear, that I will be faithful and true to the colony and dominion, of Virginia; that I will well and truly execute the office of county-lieutenant of the county of _____ (or the office of _____ as the case may be) according to the best of my skill and judgment. *So help me God.*

And be it further ordained, That every county-lieutenant, colonel, lieutenant-colonel, major, and captain, at the time of holding every court-martial, and before holding the same, shall take the following oath, which shall be first administered by the next in command to the presiding officer then present, and then be by him administered to the rest of the officers, to wit:

Oath of court martial.

I A. B. do swear, that I will do equal right and justice to all men, according to the ordinance of the general convention by which I am appointed to this office. *So help me God.*

And every person accepting a commission in the militia, who shall neglect or refuse to qualify himself to act under the same, by taking the oath before mentioned, at the next meeting of the committee of his county, city, or borough, after receiving his commission, every such person shall forfeit and pay the sum of five pounds. Penalty for neglect.

And be it farther ordained, That the fines imposed by this ordinance on the chief officer for not enlisting the men in his county, and on the commanding-officer present in the county for not appointing general musters, shall be to the use of the county, for providing arms, and shall and may be recovered before a court-martial. Fines, how appropriated.

And be it farther ordained, That all officers failing to attend a court-martial shall be subject to the same penalties as the chief officer for not appointing general musters; provided, if no court-martial is held immediately after the next general muster, then by the next succeeding court-martial. Fines for not attending courts martial.

Provided always, That nothing in this ordinance contained shall extend, or be construed to extend, to the inhabitants of the city of Williamsburg or borough of Norfolk, so as to oblige them to muster or serve in the militia out of the said city or borough; but that such inhabitants shall be enlisted and trained within the limits of the said city and borough, in the same manner as is directed by this ordinance, but under a colonel, a major, and the necessary number of captains and other officers, all of whom shall be nominated by the committees of the said city and borough respectively, and commissioned by the committee of safety. And the said militia officers, as well as soldiers, shall be liable to all the penalties before directed to be inflicted on the officers and soldiers in the counties, either for neglect of duty or misbehaviour, in any respect whatsoever, to be adjudged by the courts of hustings both in the said city and borough, without whose orders and directions neither of the said militias shall at any time be obliged to march out of the said city or borough. Exceptions as to Williamsburg and Norfolk.

And be it farther ordained, That the commanding-officer of the militia of every county, of the city of Williamsburg, and borough of Norfolk, shall appoint so many patrollers, as he may think fit, under proper captains, who shall receive a reasonable allowance for their trouble, at the laying of every county levy. Patrollers.

Quakers and Menonists exempted. *And be it farther ordained,* That all quakers, and the people called Menonists, shall be exempted from serving in the militia, agreeable to the several acts of the general assembly of this colony made for their relief and indulgence in this respect.

Pay, &c. of militia called into actual service. *And be it farther ordained,* That if the officers and militia should at any time be called out into actual service, they shall be under the same rules and regulations, be subject to the same penalties, and shall receive the same pay, as are appointed, prescribed, and allowed, to and for the regulars and their officers.

Collectors of fines, how appointed. *And be it farther ordained,* That the court-martial of every county, city, and borough, in this colony, shall appoint some person, not being a member of such court, to receive all the militia fines inflicted by this ordinance; who, before he enters into the execution of his office, shall give bond, with sufficient security, payable to the members of the said court, sitting at the time the same shall be entered into and taken, and their successors, with condition for the due payment of all monies that shall come to his hands by virtue of his said office, which bond shall not become void on the first recovery, but may be prosecuted and put in suit from time to time, by and at the cost and charges in the law of any party or parties injured, until the whole penalty therein mentioned shall be recovered. And if any receiver hereafter to be appointed shall fail or delay to account with the court-martial, or to apply the money by him received as he shall be directed, after deducting at the rate of five per cent. which he shall be allowed for his trouble by the court-martial, that then, upon motion or complaint made to the county court, or court of hustings of the city of Williamsburg or borough of Norfolk, respectively, by any officer or soldier of the militia against such receiver, such court shall give judgment and award execution against him and securities, his executors, or administrators, for the same, and cause the money to be appropriated to the uses directed by this ordinance, in such manner as the court-martial shall appoint; provided, that such receiver, and his securities, their executors, or administrators, have ten days previous notice of such motion.

Remedy against. *And be it farther ordained,* That this ordinance shall, by command of each colonel, be publicly read at the head of his regiment, as soon as the same is embodied and formed, and once in six months thereafter, under

This ordinance, how published.

the penalty of one hundred pounds, to be paid by such colonel for every neglect; and the same shall also be publickly read at every meeting of a battalion of the minute-men in each district, and at every general muster, by the order of the colonel, county-lieutenant, or chief officer then present, under the penalty of one hundred pounds, to be paid by any such officer for every neglect.

And whereas it is declared by this ordinance, that four hundred and twenty five men, under proper officers, shall be stationed at the several forts upon the frontiers of this colony, *It is hereby ordained*, That as soon as the treaty of peace shall be concluded with the several tribes of Indians bordering on the western parts of this colony, it shall be in the power of the committee of safety, if the convention is not sitting, to disband the whole, or such part thereof as to them shall seem most expedient and consistent with the good of this colony.

When the forces on the western frontiers may be disbanded.

CHAP. II.

An Ordinance for the better government of the forces to be raised and employed in the service of the colony and dominion of Virginia.

BE it ordained, by the representatives of the people in Convention assembled, and by the authority of the same, That the following rules and articles be established, that is to say:

Article I. That every officer and soldier who shall serve in the provincial army, either of regulars or minute-men, shall, at the time of accepting his commission, and enlistment, subscribe the following rules and regulations, and thereafter be bound by the same; and moreover, every officer and soldier (except quakers, who are to make a solemn affirmation to the same effect) shall take the following oaths, to be administered by the committee of safety to the field-officers, by the respective county committees to the officers to be by

Articles of war.

them nominated, and by a justice of peace to any soldier, not under two days from the time of his enlistment, or a member of the committee of any county, city, or borough, where he may be enlisted.

OATH OF A COMMANDER IN CHIEF.

Oath of commander in chief.

I, A. B. do swear, that I will be faithful and true to the colony and dominion of Virginia; that I will serve the same to the utmost of my power, in defence of the just rights of America, against all enemies whatsoever; that I will, from time to time, obey such orders as I may receive from the general convention, or other authority by them appointed; and that I will disband all the forces under my command, and lay down my arms when required by the general convention, or the General Assembly, of Virginia.

So help me God.

OATH OF THE OFFICERS AND SOLDIERS.

Oath of officers and soldiers.

I, A. B. do swear, that I will be faithful and true to the colony and dominion of Virginia; that I will serve the same to the utmost of my power, in defence of the just rights of America, against all enemies whatsoever; that I will obey the orders of such officers who may be set over me, and lay down my arms peaceably when required so to do, either by the general convention, or the general assembly, of Virginia.

So help me God.

Article II. It is earnestly recommended to all officers and soldiers diligently to attend divine service; and all officers and soldiers who shall behave indecently and irreverently at any place of divine worship shall, if commissioned officers, be brought before a court-martial, there to be publickly and severely reprimanded by the president. If non-commissioned officers or soldiers, every person so offending shall, for the first offence, forfeit one day's pay; for the second offence, he shall not only forfeit the like sum, but be confined for any time not exceeding twenty-four hours; and for every other like offence shall forfeit and pay in like manner, to the use of the sick soldiers of the regiment to which the offender belongs.

Article III. Whatsoever commissioned or non-commissioned officers, or soldiers, shall use any profane oath or execration, shall incur the penalties expressed in the second article; and if a commissioned officer be

thus guilty of profane cursing or swearing, he shall forfeit for each and every such offence one day's pay. And whatsoever commissioned or non-commissioned officer, or soldier, shall practise any species of gaming, he shall, on being convicted thereof before a regimental court-martial, pay such fine, or suffer such punishment as may be inflicted by the said court.

Article IV. Any officer or soldier who shall behave himself with contempt or disrespect towards the generals, or general or commander in chief of the provincial forces, or shall speak false words, tending to his or their hurt or dishonour, shall be punished according to the nature of his offence, by the judgment of a general court-martial.

Article V. Any officer or soldier who shall begin, excite, cause, or join, in any mutiny or sedition, in the regiment or company to which he belongs, or in any other regiment or company of the provincial forces, either by land or sea, in any party, post, detachment, or guard, on any pretence whatsoever, shall suffer such punishment as by a general court-martial shall be ordered.

Article VI. Any officer, non-commissioned officer, or soldier, who, being present at any mutiny or sedition, does not use his utmost endeavours to suppress the same, or, coming to the knowledge of any mutiny, or intended mutiny, does not, without delay, give information thereof to the commanding-officer, shall be punished by order of a general court-martial, according to the nature of his offence.

Article VII. Any officer or soldier who shall strike his superiour officer, or draw, or offer to draw, or shall lift up any weapon, or offer any violence against him, being in the execution of his office, on any pretence whatsoever, or shall disobey any lawful commands of his superiour officer, shall suffer such punishment as shall, according to the nature of his offence, be ordered by the sentence of a general court-martial.

Article VIII. Any non-commissioned officer or soldier who shall desert, or, without leave from his commanding-officer, absent himself from the company to which he belongs, or from any detachment of the same, shall, upon being convicted thereof, be punished according to the nature of his offence, at the discretion of a general court-martial.

ORDINANCES OF CONVENTION,

Article IX. Whatsoever officer or soldier shall be convicted of having advised or persuaded, any other officer or soldier to desert, shall suffer such punishment as shall be ordered by the sentence of a general court-martial.

Article X. All officers, of what condition soever, shall have power to part and quell all quarrels, frays, and disorders, though the persons concerned belong to another regiment or company, and either order officers or soldiers to be confined and imprisoned, till their proper superiour officer shall be acquainted therewith; and whosoever shall refuse to obey such officer (though of an inferiour rank) or shall draw his sword upon him, shall be punished at the discretion of a general court-martial.

Article XI. No officer or soldier shall use any reproachful or provoking speeches or gestures to another, nor shall presume to send a challenge to any person to fight a duel; and whosoever shall knowingly and willingly suffer any person whatsoever to go forth to fight a duel, or shall second, promote, or carry any challenge, shall be deemed as a principal; and whatsoever officer, or soldier, shall upbraid another for refusing a challenge, shall also be considered as a challenger; and all such offenders, in any of those or such like cases, shall be punished at the discretion of a general court-martial.

Article XII. Any officer commanding in quarters, or on a march, shall keep good order, and to the utmost of his power redress all such abuses or disorders which may be committed by any officer or soldier under his command. If upon any complaint made to him of officers or soldiers beating, or otherwise ill treating, any person, or of committing any kind of riot, to the disquieting of the inhabitants of this colony, he, the said commander, who shall refuse or omit to see justice done on the offender or offenders, and reparation made to the party or parties injured, as far as the offender's wages will enable him or them, shall, upon due proof thereof, be punished as ordered by a general court-martial, in such manner as if he himself had committed the crimes or disorders complained of.

Article XIII. If any officer or soldier should think himself to be wronged by his colonel, or the commanding-officer of the regiment, and shall, upon due application made to him, be refused to be redressed, he may

complain to the general or commander in chief of the provincial regulars, in order to obtain justice; who is hereby required to examine into the said complaint, and see that justice be done.

Article XIV. If any officer or soldier shall think himself wronged by his captain, or other officer commanding the company to which he belongs, he is to complain thereof to the commanding-officer of the regiment, who is hereby required to summon a regimental court-martial for the doing justice to the complainant, from which regimental court-martial either party may, if he thinks himself still aggrieved, appeal to a general court-martial; but if, upon a second hearing, the appeal shall appear to be vexatious and groundless, the person so appealing shall be punished at the discretion of a general court-martial.

Article XV. Whatsoever non-commissioned officer or soldier shall be convicted at a regimental court-martial of having sold, or designedly, or through neglect, wasted the ammunition, arms or provisions, or other military stores, delivered out to him, to be employed in the service of this colony, shall, if an officer, be reduced to a private sentinel; and if a private soldier, shall suffer such punishment as shall be ordered by a regimental court-martial.

Article XVI. All non-commissioned officers and soldiers who shall be found one mile from the camp, without leave in writing from the commanding-officer, shall suffer such punishment as shall be inflicted on him, or them, by the sentence of a general court-martial.

Article XVII. No officer or soldier shall be out of his quarters or camp without leave from the commanding-officer of the regiment, upon penalty of being punished, according to the nature of his offence, by a regimental court-martial.

Article XVIII. Every non-commissioned officer and soldier shall repair to his quarters, or tent, at the beating of the retreat; in default of which, he shall be punished, according to the nature of his offence, by order of a regimental court-martial.

Article XIX. No officer, non-commissioned officer, or soldier, shall fail of repairing, at the time fixed, to the place of parade or exercise, or other rendezvous, appointed by the commanding-officer, if not prevented by sickness, or some other necessity; or shall go from the said place of rendezvous, or from his guard, with-

out leave from his commanding-officer, before he shall be regularly dismissed or relieved, on penalty of being punished, according to the nature of his offence, by the sentence of a regimental court-martial.

Article XX. Whatsoever commissioned officer shall be found drunk on his guard, party, or other duty, under arms, shall be cashiered for it. Any non-commissioned officer, or soldier, so offending, shall suffer such punishment as shall be ordered by the sentence of a regimental court-martial.

Article XXI. Whatsoever sentinel shall be found sleeping upon his post, or shall leave it before he shall be regularly relieved, shall suffer such punishment as shall be ordered by the sentence of a general court-martial.

Article XXII. Any person belonging to the provincial army, who, by discharging of fire-arms, beating of drums, or by any other means whatsoever, shall occasion false alarms in camp or quarters, shall suffer such punishment as shall be ordered by the sentence of a general court-martial.

Article XXIII. Any officer or soldier who shall without urgent necessary, or without leave of his superiour officer, quit his platoon or division, shall be punished, according to the nature of his offence, by the sentence of a regimental court-martial.

Article XXIV. No officer or soldier shall do violence, or offer any insult or abuse, to any person who shall bring provisions, or other necessaries, to the camp or quarters of the provincial army. Any officer or soldier, so offending, shall suffer such punishment as shall be ordered by a regimental court-martial.

Article XXV. Whatsoever officer or soldier shall shamefully abandon any post committed to his charge, or shall induce others so to do, in the time of an engagement, shall suffer death immediately.

Article XXVI. Any person belonging to the provincial army who shall make known the watch-word to any person who is not entitled to receive it, according to the rules and discipline of war, or shall presume to give a parole or watch-word different from what he received, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court-martial.

Article XXVII. Whosoever belonging to the provincial army shall relieve the enemy with money, vic-

tuals, or ammunition, or shall knowingly harbour or protect an enemy, shall suffer such punishment as shall by a general court-martial be ordered.

Article XXVIII. Whosoever belonging to the provincial army shall be convicted of holding correspondence with or of giving intelligence to the enemy, either directly or indirectly, shall suffer death, or such other punishment as by a general court-martial shall be ordered.

Article XXIX. All publick stores taken in the enemy's camp or magazine, whether of artillery, ammunition, clothing, or provisions, shall be secured for the use of the colony of Virginia.

Article XXX. If any officer or soldier shall leave his post or colours, at the time of an engagement, to go in search of plunder, he shall, upon being convicted thereof before a general court-martial, suffer such punishment as by the said court-martial shall be ordered.

Article XXXI. If any commander of any post, intrenchment or fortress, shall be compelled by the officers or soldiers under his command to give it up to the enemy, or to abandon it, the commissioned officer, or non-commissioned officer or soldier, who shall be convicted of having so offended, shall suffer death, or such other punishment as may be inflicted on them by the sentence of a general court-martial.

Article XXXII. All sutlers and retainers to a camp, and all persons whatsoever serving with the provincial army in the field, though not enlisted as soldiers, are to be subject to the articles, rules, and regulations, of the provincial army.

Article XXXIII. No general court-martial shall consist of a less number than thirteen, none of which shall be under the degree of a commissioned officer; and the president shall be a field-officer. And the president of each and every court-martial, whether general or regimental, shall have power to administer an oath to every witness, in order to the trial of offenders; and the members of all courts-martial shall be duly sworn by the president, and the next in rank to the court-martial shall administer the oath to the president. Provided, that when any person is to be tried for his life, under any of the foregoing or subsequent articles, the commanding-officer shall appoint twenty four members, at least, to be of the court-martial, two of which shall be field-officers, and ten shall be captains, out of which the

offender may choose fifteen, one of whom shall be a field-officer, and five of them captains, and sentence of death shall not be pronounced unless twelve of the court-martial concur in such sentence.

Article XXXIV. The members, both of general and regimental courts-martial, shall, when belonging to the different corps, take the same rank that they hold in the army; but, when courts-martial shall be composed of officers of one corps, they shall take their ranks according to their commissions by which they are mustered in the said corps.

Article XXXV. All the members of a court-martial are to behave with calmness, decency, moderation, and impartiality; and, in giving their votes, are to begin with the youngest or lowest in commission.

Article XXXVI. No field-officer shall be tried by any person under the degree of a captain; nor shall any proceedings or trial be carried on, excepting between the hours of eight in the morning and three in the afternoon, except in cases which require an immediate example.

Article XXXVII. The commissioned officers of every regiment may, by the appointment of their colonel or commanding-officer, hold regimental courts-martial for the inquiring into such disputes or criminal matters as may come before them, and for inflicting corporal punishment for small offences, and shall give judgment by the majority of voices; but no sentence shall be executed till the commanding-officer (not being a member of the court-martial) shall have confirmed the same.

Article XXXVIII. No regimental court-martial shall consist of less than five officers, excepting in cases where that number cannot be conveniently assembled, when three may be sufficient; who are likewise to determine upon the sentence by a majority of voices, which sentence is to be confirmed by the commanding-officer, not being a member of the court-martial.

Article XXXIX. Every officer commanding in any fort, castle, or barrack, or elsewhere, where the corps under his command consists of detachments from different regiments, and any other forces that may compose the corps, may assemble courts-martial for the trial of offenders, in the same manner as if they were regimental, whose sentence is not to be executed till it shall be confirmed by the said commanding-officer.

Article XL. No person whatsoever shall use menacing words, signs, or gestures, in the presence of a court-martial, when sitting, or shall cause any disorder or riot, so as to disturb their proceedings, on the penalty of being punished at the discretion of the said court-martial.

Article XLI. To the end that offenders may be brought to justice, whenever any officer or soldier shall commit a crime deserving punishment, he shall, by his commanding officer, if an officer, be put in arrest; if a non-commissioned officer or soldier, be imprisoned till he shall be either tried by a court-martial, or shall be lawfully discharged by proper authority.

Article XLII. No officer or soldier who shall be put in arrest or imprisonment shall continue in his confinement more than eight days, or till such time as a court-martial can be conveniently assembled.

Article XLIII. No officer commanding a guard, or provost-martial, shall refuse to receive or keep any prisoner committed to his charge by an officer belonging to the provincial forces; which officer shall, at the same time, deliver an accusation, signed by himself, of the crime with which the said prisoner is charged.

Article XLIV. No officer commanding a guard, or provost-martial, shall presume to release any prisoner committed to his charge, without proper authority for so doing; nor shall he suffer any prisoner to escape, on the penalty of being punished for it, by the sentence of a general court-martial.

Article XLV. Every officer or provost-martial to whose charge prisoners shall be committed, is hereby required, within twenty four hours after such commitment, or as soon as he shall be relieved from his guard, to give in writing to the colonel of the regiment to whom the prisoner belongs, where the prisoner is confined upon the guard belonging to the said regiment, and that his offence only relates to neglect of duty, in his own corps, or to the commander in chief, their names, their crimes, and the name of the officer who committed them, on the penalty of being punished for his disobedience or neglect at the discretion of a general court-martial.

Article XLVI. Whatsoever commissioned officer shall leave his confinement before he is set at liberty by the officer who confined him, or by a superior power, shall be cashiered for it.

ORDINANCES OF CONVENTION,

Article XLVII. Whatsoever commissioned officer shall be convicted before a general court-martial of behaving in a scandalous, infamous manner, such as is unbecoming the character of an officer and a gentleman, shall be discharged from the service.

Article XLVIII. All officers, conductors, gunners, matrosses, drivers, or any other persons whatsoever, receiving pay or hire in the service of the provincial artillery, shall be governed by the aforesaid rules and articles, and shall be subject to be tried by courts-martial, in like manner with the officers and soldiers of the provincial forces.

Article XLIX. For differences arising among themselves, or in matters relating solely to their own corps, courts-martial may be composed of their own officers; but where a number sufficient of such officers cannot be assembled, or in matters wherein other corps are interested, the officers of artillery shall sit in courts-martial with the officers of the corps.

Article L. All crimes not capital, and all disorders and neglects which officers and soldiers may be guilty of to the prejudice of good order and military discipline, though not mentioned in the articles of war, are to be taken cognizance of by a general or regimental court-martial, according to the nature and degree of the offence, and be punished at their discretion.

Article LI. That no person shall be sentenced by the court-martial to suffer death, except in the cases expressly mentioned in the foregoing articles; nor shall any punishment be inflicted, at the discretion of a court-martial, other than degrading, cashiering, drumming out of the army; whipping, not exceeding thirty-nine lashes; fine, not exceeding two months pay of the offender; imprisonment, not exceeding one month.

Article LII. The field-officers of each and every regiment are to appoint some suitable person belonging to such regiment to receive all such fines as may arise within the same for any breach of any of the foregoing articles, and shall direct the same to be carefully and properly applied to the relief of such sick, wounded, or necessitous soldiers, as belong to such regiment; and such person shall account with such officer for all fines received, and the application thereof.

Article LIII. All members sitting in courts-martial shall be sworn by the president of the said court, which president shall himself be sworn by the officer in the said

court next in rank; the oath to be administered previous to their proceeding to the trial of every offender, in form following, viz.

You, A. B. swear, that you will well and truly try and impartially determine the cause of the prisoner now to be tried, according to the rules for regulating the provincial army.

So help you God.

Article LIV. All persons called to give evidence in any case before a court-martial, who shall refuse to give evidence, shall be punished for such refusal, at the discretion of such court-martial; the oath to be administered in the following forms, viz:

You shall swear the evidence you shall give, in the case now in hearing, shall be the truth, the whole truth, and nothing but the truth.

So help you God.

Article LV. Every officer commanding a regiment, or company, shall, upon notice given to him by the commissary of the musters, or from one of his deputies, assemble the regiment, or company, under his command, in the next convenient place for their being mustered.

Article LVI. Every colonel or other field-officer, or officer commanding any corps to which there is no field officer, and actually residing with it, may give furloughs to non-commissioned officers, and soldiers, in such numbers, and for so long a time, as he shall judge to be most consistent with the good of the service; but no non-commissioned officer or soldier shall, by leave of his captain, or inferior officer commanding the company (his field officer not being present) be absent above twenty days in six months; nor shall more than two private men be absent at the same time from their company excepting some extraordinary occasion shall require it; of which occasion the field officer present with, and commanding the regiment, or independent corps, is to be judge.

Article LVII. At every muster the commanding officer of each regiment or company then present shall give to the commissary of musters certificates, signed by himself, signifying how long such officers, non-commissioned officers, and soldiers, who shall not appear at the said muster, have been absent, and the reason of their absence; which reason, and the time of absence, shall be inserted in the muster rolls, opposite to the re-

ORDINANCES OF CONVENTION.

spective names of such absentees, the said certificate, together with the muster roll, be by the said commissary transmitted to the commanding officer of the provincial forces, and by him to the committee of safety appointed by this convention, within twenty days, next after such muster being taken; on failure whereof, the commissary so offending shall be discharged from the service.

Article LVIII. Every officer who shall be convicted before a general court-martial of having signed a false certificate, relating to the absence of either officers or non-commissioned officers, or private soldiers, shall be cashiered.

Article LIX. Every officer who shall knowingly make a false muster of a man or horse, and every officer or commissary who shall willingly sign, direct or allow the signing of the muster rolls wherein such false muster is contained, shall, upon proof made thereof by two witnesses, before a general court-martial, be cashiered, and moreover, forfeit all such pay as may be due to him at the time of conviction for such offence.

Article LX. Any commissary who shall be convicted of having taken any gift or gratuity on the mustering any regiment or company, on the signing the muster rolls, shall be displaced from his office, and forfeit and pay as in the preceeding article.

Article LXI. Any officer who shall presume to muster any person as a soldier who is at all times accustomed to wear a livery, or who does not actually do his duty as a soldier, shall be deemed guilty of having made a false muster and shall suffer accordingly.

Article LXII. Every officer who shall knowingly make a false return to the commander in chief of the provincial forces, or to any of his superior officers authorised to call for such returns of the state of the regiment, company or garrison, under his command, or of arms, ammunition, clothing, or other stores thereunto belonging, shall by a court-martial be cashiered.

Article LXIII. The commanding officer of every regiment, or other corps, or of any garrison in the service aforesaid, shall, in the beginning of every month, remit to the commander in chief of the said forces an exact return of the state of the regiment, troops, or other corps, or of any garrison under his command, specifying the names of the officers not then residing at their posts, and the reason for and time of their ab-

sence. Whoever shall be convicted of having, through neglect or design, omitted the sending such returns, shall be punished according to the nature of their offence, by the judgment of a general court-martial.

Article LXIV. No suttler shall be permitted to sell any kind of liquor or victuals, or to keep their houses or shops open for the entertainment of soldiers, after nine at night, or before the beating the reveilles, or upon Sundays during divine service or sermon, on the penalty of being dismissed from all future suttling.

Article LXV. All officers commanding in the camp, or in any forts, barracks or garrisons, are hereby required to see that the persons permitted to suttle shall supply the soldiers with good and wholesome provisions at a reasonable price, as they shall be answerable for their neglect.

Article LXVI. No officer commanding in any camp, garrison, fort, or barracks, shall either themselves exact exorbitant prices for houses or stalls let out to suttlers, or shall connive at the like exactions in others, or lay any duty or imposition upon, or be interested in, the sale of such victuals, liquors, or other necessaries of life, which are brought into the camp, garrison, fort, or barracks, for the use of the soldiers, on the penalty of being discharged from the service.

Article LXVII. That the commanders in chief for the time being shall have full power of pardoning, or mitigating, any of the punishments ordered to be inflicted for any of the offences mentioned in any of the foregoing articles; and every offender convicted as aforesaid, by any regimental court-martial, may be pardoned, or have his punishment mitigated, by the colonel or officer commanding the regiment.

Article LXVIII. When any commissioned officer shall happen to die or be killed in the service of this colony, the major of the regiment, or the officer doing the major's duty in his absence, shall immediately secure all his effects or equipage then in camp or quarters; and shall before the next regimental court-martial, make an inventory thereof, and forthwith transmit the same to the office of the secretary of the committee of safety, to the end that his executors may, after the payment of his debts, in quarter and interment, receive the overplus, if any be, to his or their use.

Article LXIX. When any non-commissioned officer or private soldier shall happen to die or be killed in

the service of this colony, the then commanding-officer of the company shall, in the presence of two other commissioned officers, take an account of whatever effects he dies possessed of, and transmit the same, as in the case above provided for, in order that the same may be secured for, and paid to, their respective representatives.

Article LXX. No chaplain who is commissioned to a regiment, company, or garrison, shall absent himself from the said regiment, company, or garrison, (excepting in cases of sickness, or leave of absence) upon pain of being brought to a court-martial, and punished, as their judgment, and the circumstances of the offence, may require.

Article LXXI. Whatever chaplain to a regiment or garrison shall be guilty of drunkenness, or of other scandalous or vicious behaviour, derogating from the sacred character with which he is invested, shall, upon due proofs before a court-martial, be discharged from his office.

Article LXXII. No sentence of a court-martial, whereby the pains of death are to be inflicted on any offender, shall be carried into execution till the same hath been approved of by the committee of safety, and such approbation certified to the commander in chief.

Article LXXIII. The foregoing rules and regulations shall be publickly read at the head of each regiment, once in three months, by order of the colonel or commander in chief of such regiment, under the penalty of fifty pounds, to be paid by such colonel or commander for every neglect.

CHAP. III.

An ordinance appointing a Committee of Safety, for the more effectual carrying into execution the several rules and regulations established by this convention for the protection of this colony.

WHEREAS in the present time of danger, and the Preamble alarming and distressed situation of the country, it is judged necessary that a committee of safety should be established, for the better and more effectual carrying into execution the several ordinances and resolutions of this convention:

Be it therefore ordained, by the delegates deputed to represent the several counties and corporations within this colony in the present general convention, and it is hereby ordained by the authority of the same, That Edmund Pendleton, George Mason, John Page, Richard Bland, Thomas Ludwell Lee, Paul Carrington, Dudley Digges, William Cabell, Carter Braxton, James Mercer, and John Tabb, esquires, be, and they are hereby appointed and declared a committee of safety throughout this colony for the purposes aforesaid. General committee of safety appointed.

And the said committee shall, so soon as may be, assemble at such convenient time and place as may be appointed by the person first named of the said committee, and being so assembled, and having first taken an oath, to be administered to the member first named by any two other members, and afterwards by him to the rest of the committee, well and faithfully to execute the duties of their office, shall proceed to the election of a president, and vice-president, to act in case of the death or necessary absence of the president, and shall also appoint a clerk, who for his services shall receive such salary as may be judged reasonable by the general convention; and the said committee shall have power to adjourn from time to time, and to such place as they think fit and convenient, and if exigencies should occur that may render an intermediate meeting of the said committee necessary, the president, or in case of his absence the vice-president, may convene the

How organized.

said committee, or any six of them, and proceed to do business, as if such meeting was regularly appointed. Provided, that in case of the death, sickness, or necessary absence, of the president and vice-president, the said committee may choose other of their members to either office *pro tempore*.

Their powers.

And the said committee, or a majority of any six or more members being present, shall have full power and authority to grant commissions under their hands to any officer or officers, and to appoint any commissioners, paymasters, commissaries, or contractors, pursuant to the several ordinances and resolutions of this convention, and to issue their warrants from time to time to the treasurer appointed by this convention, or pursuant to their ordinance, for the payment of all such sums of money as are or shall be directed to be paid by this convention to any person whatsoever, or shall be agreed to be paid by the said committee to any commissioner, paymaster, commissary, or contractor, either for provisions, clothing, tents, arms, or other incidental charges, and for their expenses and trouble in procuring the same; and, in general, to carry into complete and full execution all and every the ordinances and resolutions of this convention, according to the true intent and meaning thereof.

To commission officers.

General powers.

To direct the movements of the army;

and call the minute-men and militia into service.

And be it farther ordained, That the said committee of safety, or a majority of them, as aforesaid, shall have full power, from time to time, to superintend, direct, and appoint stations, marches, and encampments, for the regular forces to be raised, so that they may be on all emergencies employed for the more effectual assistance and defence of any part of the country most exposed to danger; and they shall, moreover, have full power and authority to call forth into actual service any detachments or companies of minute-men, or any parts of the militia from any district or county within this colony, having regard to the convenience and vicinity of such district or county to the place of immediate danger, and also to the internal security of such district or county. And if any companies of minute-men, or militia, shall be called out pursuant to the power given to the chief commanding-officer, or other officers, the said committee shall and may judge and determine on the necessity or propriety of making such draughts, and give such orders as to discharging or

continuing them in service, as to the said committee shall seem most expedient and necessary for the advantage and security of the publick.

And be it farther ordained, That in case of any extraordinary exigency, the said committee shall have power to call in any assistance that may be necessary, and can be procured, from either of the neighbouring colonies; and, if required by such colonies as may be exposed to danger, shall likewise have power to send them any assistance from this country that can be conveniently spared.

To call for aid from neighbouring colonies, and to send them aid.

Provided always, That the militia at large of any county shall not be called into actual service, except in cases of the most urgent and imminent danger, nor continued, on any pretence whatever, longer on duty than their places can be supplied by minute-men, to be drawn from the most convenient districts. And all chief and commanding-officers, as well of the regulars as of the minute-men and militia, shall, and they are hereby required, to pay strict obedience to such orders as they shall from time to time receive from the said committee of safety; and if any chief or other commanding-officer shall refuse or neglect so to do, the said committee shall make a full report of such misconduct to the next convention.

Restrictions in calling out the militia.

All officers to obey the general committee of safety.

And whereas, till the forces are raised and embodied, it may be necessary to the security of the country that the militia and volunteer companies should be called into service, *Be it farther ordained,* That the said committee of safety shall have full power and authority to call into service, in cases of danger, to be judged of by the said committee, so many volunteer companies, and such parts of the militia, as they may think necessary for the defence and security of any part of the country; and shall appoint some fit and able person, or persons, to command the same, as need may require. And the said volunteers, and militia, shall be entitled to, and receive, the same allowances as are appointed for the militia in other cases.

May call militia and volunteers into service.

And in order to obtain the most authentick intelligence in all matters of importance, and to avoid false alarms, *Be it farther ordained,* That the committee of safety shall keep up a correspondence with the committees of the several counties and corporations, the commanding-officers as well of the regulars as the minute-men, and shall have full power to appoint a suffi-

To keep up a general correspondence.

cient number of look-outs and advice-boats at proper stations, and to engage necessary expresses, in different parts of the country, to be in constant readiness to set out on the shortest notice; and shall issue their warrants, from time to time, to the treasurer for paying the same.

Their proceedings to be recorded.

And the said committee of safety shall cause all their proceedings and transactions to be fairly entered in a book, or books, to be provided at the publick expense for that purpose, which shall be laid before the next convention; to whom the said committee shall be accountable for their conduct touching the premises, in every respect whatever. And each member of the said committee shall receive for his trouble and expenses in discharging the duties of his office, and the important trust hereby reposed in him, such reasonable allowance as may be thought fit by the general convention.

Their compensation.

And for the better security of the publick treasury, and publick records in the different parts of the country, *Be it farther ordained, by the authority aforesaid,* That the committee of safety shall, in case of apparent danger, have full power to cause the said treasury and records to be removed, at the publick expense, to such place or places of safety as they shall think fit and necessary.

May cause treasury and public records to be removed.

Mode of appointing officers by district committees, altered.

Whereas it is provided, by an ordinance passed this convention for raising a number of men for the protection of this colony, that several officers shall be appointed by district committees, composed of deputies from different counties; and whereas, from the usual method of conducting the business of committees, the chairmen are not allowed to vote on any question, except in cases where the other members are equally divided in opinion, which in this instance may be attended with inconvenience: *Be it ordained,* That in all appointments of officers by a district committee the chairman of such committee shall have equal right to vote in common with the other members, though they should not be equally divided; and in case it should happen that the whole committee, including the chairman, is equally divided, the matter shall be fairly represented by the district committee to the committee of safety, who shall have full power to determine the election in favour of such of the candidates as they may think fit, and grant their commission accordingly.

And be it farther ordained, That the said committee of safety shall have power, and they are hereby desired, to collect together all the arms lately taken away from the publick magazine, and all other arms purchased at the publick expense, at some place most convenient for that purpose, and that they repay the expense incurred by repairing the same; and also all such ammunition and warlike stores as are now the publick property in this colony, or may hereafter be purchased on the publick account; and dispose of such arms, ammunition, and stores, as they shall judge most conducive to the safety of this colony, until the farther order of this or some other convention.

Power of general committee as to arms, ammunition, &c.

And be it farther ordained, That any person who shall hereafter accept of any office of profit, or pecuniary appointment, under the crown, shall be disqualified from sitting or voting in the committee of safety; and no member of the committee of safety shall hold any military office whatever, after the end of the present session of the convention. And that the said committee of safety shall continue in office, and exercise the powers hereby given them, until the sitting of the next general convention, or for one year, in case the convention should not meet within that time.

Person accepting office or appointment under the crown disqualified.

How long committee of safety to continue in office.

CHAP. IV.

*An ordinance for regulating the election of delegates and ascertaining their allowances, and also for regulating the election of committee-men in the several counties and corporations within this colony, and for other purposes therein mentioned.**

[Vid. Vol. 8. p. 5.]

I. WHEREAS by the unhappy differences subsisting between Great Britain and this colony, the usual

Preamble.

* This ordinance is published in the *Chancellors' Revisal* of 1785, p. 30, in which it is distinguished by *sections*; but in the original, none of the ordinances of this convention are numbered either by chapters or sections.

meetings of the general assembly, deliberations on the situation of the country, and making provision for the exigences of the government in the constitutional way, are altogether obstructed: For these reasons, it is become indispensably necessary for the oppressed people of this country, at a crisis so alarming, to adopt such other mode of consulting and providing for the general safety as may seem most conducive to that great end.

Delegates, who may be, and by whom elected.

II. *Therefore, be it declared and ordained, by the delegates of the several counties and corporations in the colony of Virginia, assembled in general convention, and it is hereby declared and ordained, That the freeholders of every county within this colony, who are by law properly qualified to vote for burgesses shall have the liberty and privilege of choosing annually two of the most fit and able men, being freeholders of such county respectively, to be present and to act and vote in all general conventions, which from time to time, and at any time thereafter, shall be held within this dominion; and also, that the freeholders of the several and respective corporations, and town of James City (a) and others by law qualified to vote for a citizen or burgess, shall have the liberty of electing one delegate to be present, and to act and vote in the general convention; and the landholders of the district of West Augusta shall be considered as a distinct county, and have the liberty of sending two delegates to represent them in general convention, as aforesaid.*

For what places.

Rules to be observed in elections.

III. And for the more regular and proper electing the said delegates, *It is hereby declared, and ordained, That the following rules and methods shall be observed, to wit: The elections of delegates in the several counties and corporations, and the town of James City, within this colony, shall be in the month of April annually, on the several days appointed by law for the holding of the county or coporation courts respectively, and at the places where such courts are accustomed to be held, and shall be conducted by the sheriffs of the respective counties, and mayors of the city of Williamsburg and borough of Norfolk; or in case any sheriff shall neglect or refuse to act, or there be no sheriff or mayor, then the clerk of the committee for*

(a) James town and the college of William and Mary deprived of a representative, by the operation of the constitution, art. 5.

such county or corporation, in the same manner as is directed by law in the election of burgesses in this colony: And the sheriff or mayor, or clerk of the committee, shall have the same privilege of preferring and returning any delegate, regularly elected, as by law is given to the sheriff in the election of burgesses, in case any two candidates may happen to have an equal number of votes.

IV. *Provided always*, That the election of delegates for the town of James City, and the College of William and Mary, (a) shall be on the same day and place appointed for the county of James City, and shall be conducted by the sheriff or clerk of the committee for such county in manner herein before directed; and after the election shall be made, in manner as is herein before directed, the sheriff or mayor, or clerk of the committee as aforesaid shall deliver to each of the delegates elected a certificate, under his hand and seal, that such delegate was duly elected for his county or corporation, to serve in general convention for one year then next following. And farther, the said sheriff or mayor, or clerk of the committee, shall deliver to any candidate requiring the same, as soon as may be, a fair attested copy of the poll taken by him.

Proviso, as to James town and William and Mary college.

V. *And it is hereby farther declared and ordained*, That in case of the death or incapacity of any member of the general convention, the president of the said convention for the time being shall have full power and authority to issue his order, under his hand and seal, for the election of a delegate to fill up such vacancy, to be directed to the sheriff, mayor, or clerk of the committee of that county or corporation where such vacancy has happened; and thereupon such sheriff, mayor, or clerk, shall appoint some day, not exceeding twenty, nor under ten days, after the receipt of such order, for the election of a delegate accordingly, and shall publish notice, and proceed to the election of a delegate, in the same manner as is by law directed in the case of an election of a burgess, to be made during the sitting of any general assembly.

Vacancies, how supplied.

VI. *And be it further declared and ordained*, That the delegates so elected shall meet annually in general convention, on the first Monday in May, and shall

Delegates, when to meet; and power to adjourn.

(a) James town and the college of William and Mary deprived of a representative, by the operation of the constitution, art. 5.

have power to adjourn from time to time; and if, during their recess, it shall appear to the president, or, in case of his death or absence, to Robert Carter Nicholas, esquire, or to the committee of safety, that a meeting of the convention is necessary, sooner than the time to which they stand adjourned, he or they shall have full power and authority, by advertisement published in the Virginia Gazette, or in case of exigency, by expresses dispatched to the delegates of the respective counties and corporations within this colony, to summon the said delegates to meet and sit in convention, at such time as he shall appoint; the place of each meeting to be appointed by the convention, at their session next preceeding. And every delegate attending in convention, if the same shall be appointed and held at Williamsburg, shall be paid for his attendance, in the same manner as by law the burgesses are allowed for attending the general assembly; and where the convention shall be at any other place than Williamsburg, then the said delegates shall be allowed respectively for their attendance in the same manner, and for travelling, at the rate of four pence per mile for coming, and the same for returning, and all ferriages by them actually advanced, which allowances to the said delegates shall be paid as by law the payment of the burgesses wages is directed.

Wages.

Members of two former conventions, how paid.

VII. And whereas the critical and dangerous state of this country made it expedient to hold two former conventions, to wit, the one in the city of Williamsburg, on the first day of August, one thousand seven hundred and seventy-four, and the other in the town of Richmond, on the twentieth day of March last, and it is reasonable and just that the members who attended the said convention should be allowed for the same: *Be it hereby ordained*, That the delegates respectively shall have the same allowance for attending the two conventions aforesaid, and also this present convention, that are herein provided for, and allowed, to the delegates who may attend any future convention.

Persons disqualified to be elected, or to sit and vote in convention, or

VIII. *And it is hereby declared and ordained*, That any person who now is, or hereafter may be, appointed sheriff or mayor of any county or corporation in this colony, or clerk of any county or corporation committee, or collector of any taxes, duties, or levies, that may be imposed by the general convention, or any person that is already appointed to, or shall accept of, any

military post of profit, except in any regiment or battalion of minute-men which may be hereafter established, shall not be capable of sitting or voting as a member of the general convention; and in all such cases, there shall be a new election of a member, to fill up the vacancy, in the same manner as if such person was naturally dead.

IX. *And it is hereby farther declared and ordained,* in general congress. That all clergymen of the church of England, and all dissenting ministers or teachers, shall be incapable of being elected as a delegate, or sitting and voting in convention. And any person who shall hereafter accept any office of profit, or pecuniary appointment, under the crown, or shall have procured himself to be elected by bribery, in giving money, or any public entertainment of meat or drink, or made any promise to do so to the electors, or by any other corrupt practices, shall be disqualified from sitting or voting in the general convention, the general congress, council of safety, or county or corporation committees; and in all such cases, the same proceedings shall be had as if the person so accepting was naturally dead.

X. And whereas the mode hitherto pursued in electing committee-men in the several counties and corporations in this colony, under the continental association, has not been uniformly the same, and many inconveniencies have arisen by the supernumerary committee-men elected in some counties; and whereas also no limitation has been fixed for their continuing to discharge that duty, and they may assume to themselves a power of acting under their present appointments at all times in future, which is incompatible with the principles of representation, and the just controul that the electors ought to have over them: For the removing the present inconveniencies, and better regulating the elections of committee-men hereafter, *It is hereby declared and ordained,* That the freeholders of every county and corporation within this colony, and others who are by law qualified to vote at an election of burgesses, and the landholders in the district of West Augusta, as hereafter described, shall have the liberty and privilege of electing annually twenty-one of the most discreet, fit, and able men, of their county or corporation, being freeholders, to act as a committee for carrying into execution the association, and such other measures as the continental congress, or general convention of this co-

lony, have, or hereafter may, from time to time, direct and ordain, and forwarding all public expresses of importance, the expense of which shall be paid by the public. And the said committees shall have power to appoint out of their members a committee of correspondence, and such other sub-committees as may be found necessary, to superintend the different districts of their respective counties or corporations; with an appeal where any person shall think himself aggrieved, to the county or corporation committee at large, and accountable to them for all their proceedings.

Rules for
conducting
such elec-
tions.

XI. And for the more regular electing such committee, *It is hereby declared and ordained*, That the following rules and methods shall be observed, that is to say: The elections of committee-men in the several counties and corporations within this colony shall be in the month of November annually, on the several days appointed by law for the holding of the county or corporation courts respectively, and at the places where such courts are accustomed to be held; at which elections, the freeholders, and others qualified as aforesaid, shall appear and deliver in to the chairman, or in case of his absence to the clerk of the committee, a list of such persons as may be judged the most discreet, fit, and able, to serve as committee-men as aforesaid, which several lists shall be fairly counted by the chairman, or clerk of the committee, in the presence of so many of the committee as may choose to attend the same, and publication shall be made of the several persons that appear to have a majority of votes, who are hereby declared, in such case, to be duly elected a committee to serve as aforesaid.

Qualifica-
tions of e-
lectors in
Fincastle &
West Au-
gusta.

XII. And whereas the inhabitants of the county of Fincastle, and the district of West Augusta, although long possessed of their lands, under surveys, entries, or orders of council, have few of them obtained patents for the same, which have been obstructed without any default in them, who, having performed what is required on their part, have an equitable interest in their lands, and ought to share in the representation, in conventions and committees, with other landholders in this colony: *Be it therefore declared and ordained*, That every free white man who, at the time of elections for delegates or committee-men in the said county or district respectively, shall have been for one year preceding in possession of twenty-five acres of land with a house and

plantation thereon, or one hundred acres of land without a house or plantation, in such county or district, claiming an estate for life at least in the said land, in his own right, or in right of his wife, shall have a vote, or be capable of being chosen at such elections respectively, although no legal title in the land shall have been conveyed to such possessor. And to the end that no persons shall vote at such elections who are not qualified to do so, the committee of the county or corporation shall previously appoint three fit persons to superintend the election, who, being first sworn, shall determine all disputes about the right of a person to vote who shall offer any list; and if he shall be adjudged not to have such right, his list shall not be received.

XIII. *And it is hereby declared and ordained, That* a committee elected as aforesaid, or a majority of them, shall have full power to elect one of their body as chairman, to preside at all their meetings; and may appoint any person, willing to undertake the same, to officiate as clerk to them, who shall have such annual allowance as the committee shall think reasonable, to be levied by the court of the county or corporation, and may at any time, or times, during their appointment, convene themselves, and hear, consider, and determine, on all such matters as may fall properly under their cognizance, according to the nature and intention of their institution; and shall keep a true and faithful journal of their proceedings, which shall be read by the clerk, and signed by the chairman, at every meeting of such committee. And moreover, in case of the death or resignation of the chairman, or clerk appointed as aforesaid, the said committee, or a majority of them, shall have full authority to fill up any vacancy occasioned thereby, by election or appointment, in manner as aforesaid. *Provided nevertheless, That* the committees elected as aforesaid shall, in all their inquiries and decisions, confine themselves within the line of duty prescribed by the continental congress and the general convention, and shall not assume to themselves any other power or authority whatever.

Committees,
how organized.

XIV. And for preventing the interruption to business that may frequently happen through the necessary or unavoidable absence of the chairman or clerk of the committee, *It is hereby declared and ordained, That* when any meeting of a committee shall be regularly appointed, and it may so happen, through sickness or

Vacancy in
president &
clerk, how
supplied.

other causes, that the chairman or clerk shall fail to attend such meeting, the committee shall have the liberty, and full power, to choose or appoint, in manner as aforesaid, some other chairman or clerk to act pro tempore.

Censures on
those refus-
ing obedi-
ence.

XV. And to the end this ordinance may be duly carried into execution, and the duties required of certain persons therein named faithfully discharged, *It is hereby farther declared and ordained*, That if any sheriff, mayor, chairman, or clerk of a committee, or any other person named herein who is required to do any particular act, or perform any certain duty, shall perversely, obstinately, or wilfully refuse or neglect to comply with the directions of this ordinance, such person so offending, and being adjudged guilty thereof by the committee of the county or corporation where such delinquency may happen, shall be deemed an enemy to American liberty and the welfare of this country, and be subject to the censures of the continental association, in such cases provided.

XVI. *And it is hereby farther declared and ordained*, That all and every other case or cases, matters or things, within the purview of this ordinance, and not hereby particularly provided for, shall be ordered, governed, judged, and decided, according to the law for regulating the elections of burgesses, and not otherwise.

CHAP. V.

An Ordinance for appointing commissioners to settle the accounts of the militia lately drawn out into actual service, and for making provision to pay the same, as well as the expense of raising and providing for the forces and minute-men directed to be embodied for the defence of this colony.

WHEREAS his excellency the governor, at the opening of the late general assembly, did, amongst other things, recommend that provision should be made for defraying the expenses of the late expedition against the Indians, and paying the militia drawn out into actual service; and, in pursuance of that recommendation, his majesty's council, and the house of burgesses, did pass a bill, as well for making such provision, as for discharging many other publick claims in the best and only method the circumstances of the country would admit of; but the governour thought fit to refuse his assent to the said bill, whereby many of the inhabitants, particularly in the frontiers of this colony, are left in the greatest distress, from which there is no prospect of their being relieved but by the interposition of this convention.

And whereas the house of burgesses afterwards judged it necessary to appoint certain commissioners for settling the accounts of the said militia, and did approve and confirm a report from their committee of publick claims, by which the demands of many other public creditors were liquidated and ascertained, but, by reason of the low state of the public treasury, cannot be paid in any reasonable time without some farther provision:

Be it ordained, by the delegates and representatives of the several counties and corporations within the colony and dominion of Virginia, now met in General Convention, and it is hereby ordained by the authority of the same, That Archibald Cary, William Cabell, William Fleming, John Winn, and John Nicholas, gentlemen,

Commissioners to settle accounts for the late expedition against the Indians.

be, and they are hereby appointed commissioners for the counties of Fincastle, Botetourt, Culpeper, Pittsylvania, Halifax, and Bedford, and that part of Augusta which lies to the eastward of the Allegheny mountains, and Richard Lee, Francis Peyton, Josias Clapham, Henry Lee, and Thomas Blackburn, gentlemen, for the other counties, and for that part of the county of Augusta which lies to the westward of the Allegheny mountains, and for the provinces of Maryland and Pennsylvania; to examine, state, and settle, the accounts of such pay, provisions, arms, and ammunition, and other necessaries furnished the militia of the counties for which they are appointed commissioners, and all demands against this colony on account thereof; who shall be allowed for their trouble therein twenty five shillings per day each. And the said commissioners, or any three, or more of them, shall, and they are hereby empowered and required, to meet for the purposes aforesaid at such times and places as they shall respectively think fit and convenient, of which publick notice shall be advertised at the courthouse of each respective county, at least one month before such meeting, and to adjourn from time to time until they shall have settled all accounts relating to the said militia; and shall have power to call all persons concerned in settling the said accounts before them, and examine them upon oath, or solemn affirmation, as the case may require, which oath or affirmation the said commissioners, or any one of them, are hereby required to administer, for their better information respecting any such accounts or demands. And that the said commissioners, or any three or more of them, shall certify all accounts so by them examined, stated, and settled, to the committee of safety, appointed by this convention; and the said committee of safety, or any six or more of them, are hereby desired to issue their warrants to the treasurer for that purpose, appointed by or pursuant to an ordinance of this convention; and the said treasurer shall, on or before the first day of January next, pay the several accounts so certified, and also such publick money claims, and such other sums as were approved of and allowed by the resolutions of the house of burgesses, at their last meeting, so far as the balance due on account of the publick treasury, in the hands of the treasurer, appointed by or pursuant to the act of the general as-

To certify
accounts to
committee
of safety.

Who are to
issue their
warrants on
the treasur-
er.

sembly, may fall short of discharging the same, out of the money to be raised by virtue of this ordinance.

And whereas several arms and other articles, horses, and live-stock, have been furnished for the use of the said militia, some of which have been sold by command of his excellency the governour, and part still remains unsold: *Be it further ordained*, That the said commissioners, or any three or more of them, may, and they are hereby authorised and required, to make inquiry concerning such sales as have been made, and also to nominate and appoint, under their hands and seals, such persons as they shall judge proper for disposing of the horses, live-stock, and other articles (arms and accoutrements excepted) which shall remain unsold within the districts for which they are appointed commissioners, and certify all such sales to the treasurer for the time being, who is hereby authorised and required to call in the money arising therefrom, and apply the same in aid of the funds established by this ordinance.

And be it further ordained, That the person or persons so appointed by the commissioners to sell and dispose of such horses, live-stock, and other articles as aforesaid, which remain unsold, shall, on or before the first day of January next, account for and pay to the treasurer for the time being, appointed by this convention, all such sums of money for which the said several articles shall be sold; and in case the said person or persons, so to be appointed, shall fail to account for and pay the same, on the motion of the treasurer aforesaid, the general court, or county court where such person lives, shall and may give judgment against him or them for the several sums for which the said several articles sold, provided ten days previous notice be given to the party against whom the said motion is intended to be made.

And whereas the said bill, which passed the council and the house of burgesses at the last meeting, settled the pay of the said militia as followeth, that is to say: Pay of militia.
Of the chief officer commissioned by the governour, or commander in chief for that expedition, at twenty-five shillings; of a county-lieutenant, at twenty shillings; of a colonel, at fifteen shillings; of a lieutenant-colonel, at thirteen shillings and sixpence; of a major, at twelve shillings and sixpence; of a captain, at ten shillings; of a lieutenant, at seven shillings and sixpence; of an en-

sign, at six shillings; of a quarter-master and adjutant, six shillings each; of a serjeant, at two shillings and sixpence; of a corporal, at two shillings; of a drummer, at two shillings; of a private, at one shilling and sixpence; of every scout, at five shillings per day: And whereas it is represented to this convention, that the very important services of the militia on the late expedition well deserved such pay, *Be it farther ordained*, That the said commissioners shall and may allow, in the settlement of all accounts for pay of the said militia, the several rates before-mentioned.

And whereas there is reason to believe that some designing persons have taken advantage of the ignorance and necessity of the soldiers, and others who have claims against the colony for pay and other services done on the said expedition, *Be it ordained*, That the commissioners herein named be directed to inquire into the same; and, on discovery of any such practice, that they do not grant a certificate to any such assignees for any larger sum than they paid for the same, and allow the balance to the first proprietor of such claim.

Provision for
paying
wounded of-
ficers and
soldiers, and
other public
creditors.

And whereas, besides what may be due to the militia, there were several considerable sums resolved by the council and house of burgesses, at their late meeting, to be paid to the wounded officers and soldiers, and there are farther sums due to other publick creditors, and by an ordinance passed this present convention, entitled *An ordinance for raising and embodying a sufficient force for the defence and protection of this colony*, a number of regular forces are directed to be raised, and certain of the militia, under the denomination of minute-men, are appointed to be trained more frequently, who, as well as the residue of the militia, may be drawn out into actual service, for the purpose of such defence, and it is necessary to make provision for the pay and subsistence of the said forces and militia, as well as for the sums due upon the said resolutions, and to other publick creditors: *Be it therefore farther ordained and declared*, That the treasurer for the time being, appointed by or pursuant to an ordinance of convention, out of the publick money in or which shall come to his hands, upon warrants from time to time from the committee of safety, shall pay all such sums of money as shall be necessary for carrying into execution the said recited ordinance; and shall, moreover, without such warrants, pay to the several

Also for pay-
ing the re-
gulars and
minute-men.

persons named in the said schedule, the respective sums therein stated to be due to them, and other publick creditors who have stated allowances, on or before the first day of January next.

And for raising the money which will be necessary for the several purposes aforesaid, *Be it farther ordained, by the authority aforesaid,* That an annual tax or duty of forty shillings upon every coach, chariot, or four-wheel carriage, except common waggons, and twenty shillings for every chair or two-wheel chaise, to be paid by the proprietor thereof, the first of each payments to be made on the tenth day of June next, and to continue the seven following years; also a tax or duty of three shillings and ninepence for every tithable person, to be paid on the said tenth day of June yearly, by such tithable person, if a free man, or by the parent or guardian, if an infant, or the master or owners of the servants or slaves respectively; and also a duty or tax of four shillings for every hundred acres of land, and after that rate for a greater or lesser quantity, to be paid on the said tenth day of June yearly, by the proprietor, or the parents or guardians of infants, if resident in the county where the lands lie, or by their respective tenants, stewards, or overseers, in case such proprietor, parent, or guardian, shall live in another county, to be repaid them by the proprietor; the first of each of the said annual taxes to be paid in the year one thousand seven hundred and seventy-seven, and continue for six years thereafter.

New taxes imposed on carriages.

On tithables.

Land-tax.

Provided always, and be it farther ordained, That nothing herein contained shall be construed so as to alter any contract heretofore made between landlords and their tenants, whereby the payment of taxes shall have been stipulated to be made by either of them.

And be it farther ordained, That every person chargeable with the said duties or taxes shall, at the time of delivering in his list of tithables, also give in a list of his or her wheel carriages subject to the tax hereby imposed; and the proprietor, parent, or guardian, tenant, steward, or overseer, respectively, as aforesaid, shall give in the quantity of land by him or her held, or on which they shall live, within the county, to the several justices, or other persons appointed to take such lists of tithables, annually, under the like penalty for each failure, and to be recovered in the same manner,

Lists of taxable property, when given in.

as is directed by the acts of assembly for concealing tithables.

Taxes to be collected, although lists not given in.

Land holders in Fin castle and West Augusta, to pay, though no patents obtained

Taxes, how collected, & distrained for.

When payable into the treasury.

Taxes on ordinary licences; marriage licences; law process, &c.

Provided always, That if the collector of all or any of the duties hereby imposed shall discover any person or persons who are chargeable therewith, and hath failed to give in his or her list as aforesaid, such collector shall proceed to collect or levy the said duties respectively, and account for on oath, and pay the same to the treasurer appointed as aforesaid; and the landholders in the county of Fincastle, and the district of West Augusta, whose rights of voting at elections of delegates and committee-men are stated and allowed by an ordinance of this convention, shall give in a list of their said lands, and the land tax aforesaid shall be collected and paid for the same, notwithstanding no patents may have been obtained for such lands. And in case of failure in payment of the said duties or taxes, at the times herein before limited for the payment thereof respectively, it shall be lawful for the sheriff or collector of each county to levy the same by distress and sale of the slaves, goods, or chattles, of the person so failing, in like manner as is provided in case of other distresses; and where there are no effects to be found upon the lands hereby chargeable with the said land tax, it shall be lawful for the sheriff or collector of the county where the lands lie, or the sheriff or collector of the county where the proprietor lives, to levy the said tax upon the estate of such proprietor, wherever the same can be found. And every sheriff or collector of the duties or taxes aforesaid shall account for and pay the said taxes, due from the persons residing in his county, after being allowed for insolvents, and a salary of five per centum for collecting, to the treasurer aforesaid, on or before the twentieth day of November in every year.

And be it further ordained, That there shall be paid a duty or tax of forty shillings for every ordinary license, and the like sum for every marriage license, to be paid by the person obtaining the same to the clerk of the court before such license shall be granted; also two shillings and sixpence for every original writ in any action or suit at common law, and subpœna or subpœnas in chancery in the general court, and for every summons or petition for lapsed lands, and for every caveat entered in the secretary's office, and one shilling and threepence for every such writ or subpœna issued from the county or other inferior courts, to be paid

by the plaintiff in any such suit to the clerk of the court before such process shall be issued, or caveat entered, and taxed in the bill of costs; and, together with the duties on ordinary and marriage licenses, shall be accounted for on oath, and paid to the treasurer for the time being, appointed as aforesaid, in the months of April and October annually, deducting after the rate of five per centum for his trouble in receiving and paying the same.

And be it further ordained, That the sheriffs or collectors in their several county courts, to be held next after the first day of December next, shall give bond, with sufficient securities, in reasonable penalties, payable to Robert Carter Nicholas, esq. or to the treasurer for the time being, to be appointed as aforesaid, with condition for the due collection and payment of all duties and taxes imposed by this ordinance; and that every collector hereafter to be appointed shall, before he enters upon the execution of his office, give the like bond and security. Sheriffs to give bond.

And be it further ordained, That if any sheriff or collector, or clerk, shall refuse or neglect to account for and pay the duties according to the directions of this ordinance, it shall and may be lawful for the general court, or the court of the county where such sheriff or collector, or clerk, resides, upon a motion, to give judgment against them respectively, and the securities of such sheriffs or collectors, for all such duties so by them usually received, and thereon to award execution; provided, that ten days previous notice be given of such motion. And if any sheriff or collector shall fail to attend and settle the account of the monies by him received, such court shall give judgment for the penalty of his bond. Remedy, by motion, against sheriffs.

And whereas the remote payment of the said taxes, being unavoidably suspended, to suit the distressed circumstances of the inhabitants of this colony, will not enable the treasurer to pay the money required by this ordinance so soon as the exigencies thereof require, it becomes necessary to circulate treasury notes in the mean-time upon the credit of the said taxes and duties, as the only expedient which can be adopted: *Be it further ordained,* That the said Robert Carter Nicholas, esq. or the treasurer for the time being, appointed by or pursuant to an ordinance of convention, shall be, and he is hereby impowered to issue treasury notes for Treasury notes, or paper money to be emitted.

any sum or sums which may be requisite for the several purposes of this ordinance, not exceeding, in the whole, the sum of three hundred and fifty thousand pounds; and of the notes so to be issued fifty thousand shall be of the denomination of two shillings and sixpence, and shall be signed by Henry King, gent. fifty thousand of the denomination of one shilling and threepence, and shall be signed by John Pendleton, jun. gent. which notes last mentioned shall be made on the best paper the said treasurer shall be able to procure, and shall be formed with such devices thereon as he shall judge most likely to prevent forgeries or counterfeits, and shall be numbered by William Langhorne and Henry Tazewell, gentlemen. And Robert Prentis and Peter Pelham are hereby appointed overseers of the press, who, or one of them, shall constantly attend the printing the said notes, until the whole shall be finished, and take care that no frauds are committed by the printer, his agents, or servants. And if any of the persons herein appointed to overlook the press, or to number or sign the said notes, shall refuse to undertake the trust, or die before his duty shall be finished, the said treasurer shall appoint another person to finish the same in the room of him so dying or refusing, of which notice shall be immediately published in the Virginia Gazette, and continued for three weeks. And for their services, the signers of the notes shall each of them receive the sum of fifteen shillings for every thousand notes by them signed; the overseers of the press, the sum of fifteen pounds each; and the persons appointed to number the said notes, the sum of fifteen shillings for every thousand notes.

Provided always, That if the treasurer shall not be able to procure other paper for the said one hundred thousand notes, then the whole sums wanting shall be issued of the paper of which a sample is now produced, in manner herein after directed for the residuc.

And be it further declared and ordained, That all the notes necessary to be issued, over and above the said one hundred thousand, shall be of the paper of which samples are now produced, which shall be filled up by Matthew Davenport or John Carter Littlepage, who shall receive for their trouble therein one hundred and fifty pounds, and numbered by Bartholomew Dandridge or Henry Tazewell, gentlemen, or in case of the death or inability of either of them, by such person as the

Denominations.

Signers of notes.

Overlookers of the press.

Compensation.

On what paper notes to be printed.

Other denominations, and by whom filled up, numbered and signed.

treasurer shall appoint; and all the said notes of the value or denomination of twenty shillings or upwards shall be signed by Philip Johnson or John Tazewell, gentlemen, and the residue by Josiah Parker and George Lyne, gentlemen, or in case of the death or inability of either of them, by such other person as the treasurer shall appoint, of which notice shall be three weeks published in the Virginia Gazette, and shall be endorsed or countersigned by the treasurer for the time being.

And be it farther ordained, That all the notes to be issued by virtue of this ordinance shall be redeemable on the first day of January one thousand seven hundred and eighty four, until which time they shall be current between all persons within this colony, and shall then be taken in and discharged by the treasurer for the time being, appointed as aforesaid, and shall be burnt and destroyed, by a committee, which shall be appointed by the convention to examine and burn the same; and the persons so appointed to number the said notes shall receive the sum of fifteen shillings for every thousand, and the signers the sum of fifteen shillings for every thousand, each, for their trouble; and the treasurer shall be allowed six hundred and twenty five pounds per annum for his salary in paying the same, and for receiving the taxes imposed for the redemption thereof.

Notes, when redeemable.

Currency of notes.

And be it farther ordained, That if any person or persons shall forge or counterfeit, alter or erase, any such treasury notes, or tender in payment any such, or demand a redemption thereof, knowing the same to be forged or counterfeited, altered or erased, every person so offending, and lawfully convicted thereof, shall suffer death, without benefit of clergy.

Forgery or counterfeiting, death.

And whereas pasting paper on the back of such notes may be a means of preventing the detection of forgeries, *Be it farther ordained,* That no person shall be entitled to a redemption of any note on the back of which any paper shall be so pasted; but if any note shall be defaced, or torn, the proprietor shall be entitled to receive the amount thereof upon returning the same to be burnt as aforesaid.

Pasting paper on back prohibited; but notes defaced or torn redeemable.

And be it farther ordained, That the monies to be raised by the taxes imposed by this ordinance shall stand, be, and remain, as a security for the redemption of the said treasury notes so to be issued; and the treasurer for the time being, appointed as aforesaid, is hereby required to apply all such money as shall come

Taxes pledged for redemption of notes.

to his hands for the said taxes for and towards the redemption of such treasury notes, and to none other use or purpose whatsoever; and that the said treasurer shall account with the convention for the same, after deducting the allowance for his salary. And if the said taxes shall prove deficient, the whole estates, real and personal, of the inhabitants of this colony, shall be, and are hereby pledged as a security for making good such deficiency, by some future ordinance of the convention, or act of the general assembly.

Robert Carter Nicholas, esq. the treasurer to give bond.

In what sum.

Notes re- deemed to be annually burnt.

Commission- ers to settle accounts of volunteers.

And be it further ordained, That Robert Carter Nicholas, esq. treasurer of this colony, shall give bond, with such security as shall be approved of by the committee of safety, in the sum of three hundred and fifty thousand pounds, payable to the members of the said committee of safety in trust, for the use of the colony, conditioned for the faithful accounting for and paying all such sums of money as shall be received by him from time to time in virtue of this ordinance; and in case of his death, resignation, or disability, the treasurer to be appointed in his stead shall give such security before he enters into his said office.

And whereas it will greatly tend to preserve the credit of the treasury notes aforesaid to satisfy the publick that due proportions of them are annually paid into the treasury and destroyed, *Be it therefore further ordained,* That Benjamin Waller, George Wythe, Thomas Everard, John Tazewell, William Norvell, Archibald Cary, Richard Adams, Benjamin Watkins, Richard Randolph, and John Syme, esquires, be a committee to superintend the burning of the said notes; and they, or any three or more of them, are hereby empowered and required, once a year at least, and oftener, if they shall see occasion, to repair to the publick treasury, and having examined the treasurer's accounts of what money he shall have received for the taxes and duties hereby imposed from the time of his preceding settlement, as well as the money itself, they shall proceed to burn all of the treasury notes aforesaid as shall appear to have been so received, giving the treasurer a certificate of the amount of the notes so burnt, which shall entitle him to an allowance for the same in his accounts; and the committee shall, from time to time, publish the amount of the money so burnt in the Virginia Gazette.

And be it farther ordained, That William Langhorne, Henry King, John Scasbrooke Wills, William

Norvell, Champion Travis, or any three of them, be, and they are hereby appointed commissioners to examine, state, and settle, an account of the pay and provisions of the volunteer companies who have been lately called into actual service for the defence of the lower parts of the country, making the same allowance as is settled by this convention for the regular forces, and under the regulations of the late invasion law as to the number of men which is to entitle officers of certain rank to pay; excepting that Mr. Charles Scott, commander in chief of the said volunteers at Williamsburg, shall be allowed twelve shillings and sixpence per day from the time he was chosen to that command, and certifying the same as is directed in the case of the militia in the frontiers; and upon such certificates, the treasurer, by warrant from the committee of safety, is required to pay the money so certified to be due. And each of the said commissioners shall be allowed fifteen shillings per day, for the time they shall be employed in settling the said accounts.

How certified and paid.

And be it further ordained, That, in case of the death or inability of the said Robert Carter Nicholas, esq. to act in the said office, it shall be lawful for the committee of safety, if the convention is not sitting, to appoint another fit and able person to be treasurer in his room, who shall have power to act in all things pertaining to the said office until the meeting of the next convention thereafter.

Vacancy in office of treasurer, how supplied.

CHAP. VI.

An Ordinance for providing arms and ammunition for the use of this colony.

WHEREAS, in this time of imminent danger, it is found expedient, for the better defence of this colony, to provide an ample supply of arms and ammunition, by encouraging the manufacturing the same within this colony: *Be it therefore ordained, by the delegates and representatives of the several counties and corporations*

Manufactory of arms established at Fredericksburg.

within this colony and dominion of Virginia, now in general convention assembled, and it is hereby ordained by the authority of the same, That a manufactory of arms be erected at or near Fredericksburg, under the direction of certain commissioners; and that a sufficient number of artificers be employed in the said manufactory, at the expense of the public, and be constantly employed in manufacturing of arms of such kind as shall be directed from time to time by the committee of safety, so long as the necessities of this colony shall require.

Commissioners to superintend it.

And be it farther ordained, That Fielding Lewis, Charles Dick, Mann Page, jun. William Fitzhugh, and Samuel Selden, gentlemen, or any three of them, be the commissioners for superintending the said manufactory; and that the treasurer for the time being, appointed by or pursuant to an ordinance of convention, shall, out of the public money which shall come to his hands under any ordinance of convention, advance the sum of two thousand five hundred pounds to the said commissioners, and such other sums as the committee of safety shall from time to time direct, taking sufficient security for the same, to be by them employed for the purposes aforesaid, and accounted for to the general convention; and that the said commissioners shall from time to time transmit to the committee of safety an account of the state and progress of the said manufactory, and the quantity of arms so manufactured.

Appropriation

And be it farther ordained, by the authority aforesaid, That the committee of safety shall have full power and authority to purchase in the neighbouring colonies, or elsewhere, any number of stands of arms, not exceeding three thousand, which they may judge necessary for the use of the troops to be embodied for the defence of this colony, and also any number of gun locks which may appear to them to be wanted for the arms made at the aforesaid manufactory, if a sufficient number of proper locksmiths cannot be employed: and also, that the said committee do provide a sufficient quantity of gun flints and cartridge paper, which they shall judge necessary.

Committee of safety may purchase arms.

Premium for salt-petre, & sulphur.

And for the greater encouragement of persons to make salt-petre and sulphur, Be it farther ordained, That the sum of three shillings for every pound of good salt-petre, and the sum of one shilling per pound for any quantity not exceeding twenty thousand pounds neat weight of good sulphur, which shall be manufactured

and refined of materials of the natural produce of this colony, and delivered to any committee of a county or corporation, on or before the first day of October one thousand seven hundred and seventy six, for the use of the public, shall be paid to the proprietor thereof, by the treasurer aforesaid, upon a certificate from the chairman of the said committees respectively; and the said committees shall severally forward all such saltpetre and sulphur to some manufacturer of powder, who shall give a receipt for the same, obliging himself to deliver for the public use as much powder, in exchange for the said saltpetre and sulphur, as shall be agreed on by the said committees and manufacturer.

And for the more immediate provision of lead, *Be it farther ordained*, That the committee for the county of Fincastle shall and may contract with the proprietors of certain lead mines in that county for such quantities of lead as may from time to time be judged necessary, and delivered at such place as shall be directed by the committee of safety; and in case of refusal of such proprietor, the said committee of Fincastle shall and may agree with the said proprietors for the use of the said mines, and employ proper persons, and furnish necessary materials, for the making of lead, at the charge of this colony.

Power of committee to procure lead, from the lead mines in Fincastle.

CHAP. VII.

An Ordinance to provide for paying the expenses of the delegates from this colony to the General Congress.

WHEREAS the united colonies of North America, in this time of general danger, have judged it necessary, and accordingly resolved, respectively, to depute certain delegates to meet in general congress at Philadelphia on the fifth day of September next, to consult on the state, and provide for the safety and welfare, of the said colonies: *Be it therefore ordained*, That every delegate who may be appointed to attend the said congress, or any future general congress, as a representative for

Pay of members to the general congress.

ORDINANCES OF CONVENTION.

this colony, shall be allowed for every day that he may attend therein the sum of forty five shillings, and for travelling to, or returning from such congress, at the rate of one shilling per mile, besides all ferriages; which allowance shall be paid to the respective delegates by the treasurer for the time being, appointed by general convention, out of any publick money which may be in his hands, by virtue of any ordinance of convention, not otherwise appropriated. And for the greater convenience of the said delegates, the said treasurer shall advance to each delegate, before his departure, any sum of money not exceeding two hundred pounds; who, if it shall happen to exceed his allowance for attendance and ferriages as aforesaid, shall, on his return, refund such excess to the treasurer.

At a Convention of Delegates held at the town of Richmond, in the colony of Virginia, on Friday the first of December, in the year of our Lord one thousand seven hundred and seventy-five, and afterwards, by adjournment, in the City of Williamsburg.

Edmund
Pendleton,
esq. presi-
dent.

ORDINANCES, &c.

CHAP. I.*

An Ordinance for raising an additional number of forces for the defence and protection of this colony, and for other purposes therein mentioned.

WHEREAS the earl of Dunmore, by his many hostile attacks upon the good people of this colony, and attempts to infringe their rights and liberties, by his proclamation declaring freedom to our servants and slaves, and arming them against us, by seizing our persons and properties, and declaring those who opposed such his arbitrary measures in a state of rebellion, hath made it necessary that an additional number of forces be raised for our protection and defence:

Preamble,
reciting hos-
tility of lord
Dunmore.

Be it therefore ordained, by the delegates and representatives of the several counties and corporations within the colony and dominion of Virginia, now assembled in general convention, and it is hereby ordained by the authority of the same, That the two regiments formerly raised be augmented; by the addition of three hundred

Two former
regiments of
regulars aug-
mented.

* The titles only of the ordinances of this convention are inserted in the *Chancellors' Revision*, ed. 1785. In the original, the ordinances are not distinguished either by chapters or sections.

and eighty two men, to be divided into five companies, consisting of sixty eight men each rank and file, under the command of one captain, two lieutenants, one ensign, and four serjeants; each company to be allowed a drummer and fifer, and two of the said companies to be added to the first, and the remaining three companies to the second regiment.

Six additional regiments to be raised.

Of what to consist.

Officers.

Staff.

German regiment; and where raised.

Another regiment for Accomack and Northampton.

Of what to consist.

Officers.

And be it further ordained, That there be likewise immediately raised, and taken into pay from the time of their enlistment, six other regiments complete, to be composed of ten companies of sixty eight men each rank and file (three of which companies in each regiment to consist of riflemen, to act as light infantry) under the command of a colonel, lieutenant-colonel, a major, ten captains, twenty lieutenants, ten ensigns, forty serjeants, and to be allowed ten drummers and ten fifers; and to each of the said regiments there shall be moreover allowed a chaplain, an adjutant, a regimental quartermaster, one surgeon, two surgeons mates, one serjeant-major, one drum-major, and quartermaster's serjeant.

And be it further ordained, That of the six regiments to be levied as aforesaid, one of them shall be called a German regiment, to be made up of German and other officers and soldiers, as the committees of the several counties of Augusta, West Augusta, Berkeley, Culpeper, Dunmore, Fincastle, Frederick, and Hampshire (by which committees the several captains and subaltern officers of the said regiment are to be appointed) shall judge expedient.

And whereas, by an ordinance passed at the last meeting of this convention, intituled, An ordinance for raising and embodying a sufficient force for the defence and protection of this colony, it is ordained that a battalion of minute-men be raised in the counties of Accomack and Northampton, which at present is thought to be inadequate to the defence of that part of this colony: *Be it therefore ordained,* That so much of the said ordinance as relates to the raising the said battalion be repealed; and that, over and above the regiments aforesaid, there be raised one other regiment, to be composed of seven companies, for the protection and defence of the said counties of Accomack and Northampton; each company to consist of sixty eight rank and file, and to be under the command of a colonel, lieutenant-colonel, a major, seven captains, fourteen lieutenants, seven ensigns, twenty eight serjeants, and each compa-

ny to be allowed a drummer and fifer. Four of which companies to be raised in the said counties of Accomack and Northampton, as herein after directed, the other three (two of which to consist of riflemen, to be allotted to this regiment by the committee of safety) out of the other levies to be raised by this ordinance; and the said regiment shall moreover be allowed a chaplain, a paymaster, with a salary of £. 75 per annum, and the like staff officers as are directed for the other regiments, to be appointed in the same manner.

Staff.

And be it further ordained, That the whole of the nine regiments be under the command of one major-general, and two brigadiers-generals, each of whom shall have an aid-de-camp and secretary of their own appointment; and that there be one quartermaster-general, one adjutant-general, and one deputy adjutant-general.

Generals, & staff, to command the nine regiments.

And for the more regular, speedy, and equal appointment of officers, *Be it farther ordained,* That the general officers shall be appointed by the general congress, and that the field-officers shall be nominated and appointed by the general convention of this colony, and the captains and subalterns by the several county and district committees, as follows, that is to say: That each of the committees of the counties of Albemarle, Augusta, West Augusta, Berkeley, Bedford, Culpeper, Dunmore, Fauquier, Fincastle, Loudoun, Orange, Prince William, and Spotsylvania, shall nominate and appoint two proper and discreet persons to be captains, two other such persons to be first lieutenants, two others to be second lieutenants, and two others to be ensigns, who shall be by them respectively directed to proceed with all expedition in recruiting levies, in order to raise in the whole twenty six companies.

General officers, field-officers, captains and subalterns, how appointed.

Power of county committees.

Provided, That the officers of the one hundred men ordered from Fort Pitt, by a late resolution of this convention, shall be considered as part of the officers to be nominated by the committee of West Augusta, if the said officers shall incline to continue in the service of this colony, agreeable to the said resolution. That each of the committees of the counties of Amelia, Amherst, Botetourt, Brunswick, Buckingham, Caroline, Charlotte, Chesterfield, Cumberland, Charles City, Dinwiddie, Frederick, Fairfax, Goochland, Gloucester, Halifax, Hampshire, Hanover, Henrico, King George, King and Queen, King William, Lunenburg, Louisa, Mecklenburg, Nansemond, Northumberland, New Kent,

Provision in favour of officers, ordered from Fort Pitt.

County committees to appoint captains, &c

Pittsylvania, Prince Edward, Prince George, Southampton, Stafford, Sussex, and Westmoreland, shall nominate and appoint one such proper person to be captain, one other to be first lieutenant, one other to be second lieutenant, and one other to be ensign, who shall be by the committees respectively directed to proceed immediately in recruiting levies, in order to raise, in the whole, thirty three companies. That the several district committees, herein after described, do nominate and appoint the remainder of the officers for raising thirteen companies, as follows: The district of Accomack and Northampton, four captains, four first lieutenants, four second lieutenants, and four ensigns; the district of Essex and Middlesex, one captain, one first lieutenant, one second lieutenant, and one ensign; the district of Isle of Wight and Surry, two captains, two first lieutenants, two second lieutenants, and two ensigns; the district of Lancaster and Richmond, one captain, one first lieutenant, one second lieutenant, and one ensign; the district of Norfolk and Princess Anne counties, one captain, one first lieutenant, one second lieutenant, and one ensign; and the district of York, Elizabeth City, Warwick, James City, and the city of Williamsburg, two captains, two first lieutenants, two second lieutenants, and two ensigns. And the several officers so to be appointed shall be, by the respective district committees, directed to proceed immediately in recruiting as aforesaid, in order to raise their companies; which several recruiting officers shall be at liberty to raise their levies in any part of the colony, without being confined to counties or districts.

Officers may recruit in any part of the colony.

Officers, not recruiting their quotas, by a limited time, may be superseded, and others appointed.

And be it further ordained, That if any captain and his subaltern officers, so to be appointed, shall not recruit the whole number of men for a company on or before the last day of February next, the committee of the county or district by whom such officers were appointed may either appoint others instead of the officer or officers who shall fail to recruit the following number, according to his rank, to wit, a captain twenty eight, a first lieutenant twenty one, a second lieutenant sixteen, and an ensign nine, or may continue the former officers, if it shall appear probable to the committee that the company may be sooner completed by them than raised by appointing new officers as aforesaid.

Effect of not completing companies.

Provided always. That if any company shall not be made complete by the first nominated officers, or others,

to be chosen in their stead as aforesaid, by the twenty-fifth day of March next, the several county and district committees, wherein such failure should happen, shall make report of the whole matter to the committee of safety, who shall take such order therein as to them shall seem most likely to forward the service, and appoint such and so many officers as they may judge proper to recruit at large within this colony, without regard to the place of residence of such officer.

And be it farther ordained, That the several county and district committees, at the time of appointing the officers as aforesaid, shall fix on some certain convenient place where the officers of each company shall rendezvous the men by them enlisted, and also nominate two of their members, residing as near as may be to such place of rendezvous, to review the men to be enlisted in each company; which members having examined the persons enlisted, and found them to be able-bodied healthy men, and to have been regularly sworn and attested according to the direction of this ordinance, shall grant a certificate thereof, which shall be returned to the county or district committee who appointed the officers, and be by them respectively returned to the committee of safety, who shall grant commissions to the officers thereupon, as is herein after directed. **And in case it shall appear, from such certificates, that two or more companies have been reviewed on the same day, the committee of safety shall settle the priority of rank between the officers, by a fair and equal lot.**

County and district committees to appoint rendezvous;

and provide for reviewing recruits;

and grant certificates, in order for commissions

And be it farther ordained, That the chaplain and surgeon to each regiment be appointed by the field-officers and captains of such regiment; the surgeon's mates by the surgeon himself, with the approbation of the commanding-officer; the adjutant, regimental quartermaster, serjeant-major, quartermaster-serjeant, and drum-major, by the commanding-officer of such regiment.

Regimental staff, how appointed.

And for the more certain and regular appointment of the several district committees, *Be it ordained,* That the several committees of the counties and corporations before named shall each depute three of their members to attend at some convenient and central place in each district, to be appointed by the chairman of the committee of the county first named in each district, of which appointment such chairman shall give reasona-

District committees, how appointed.

ble notice to the chairmen of the other committees within his district; which deputies, or a majority of them, the whole having such reasonable notice, shall be a district committee for the purposes of this ordinance, and proceed to the nomination and appointment of officers in the same manner as is directed by a former ordinance of convention.

Committee of safety to allot companies to regiments, and station the troops.

And for the more regular embodying the several regiments, and stationing the troops for the protection of the several parts of this colony, *Be it ordained*, That the committee of safety shall allot certain companies to each regiment, and appoint the station of such regiment, of which notice shall be given to the county and district committees where such companies are expected to be raised; which committees, at the time of their granting certificates of the completion of the companies, shall order each company to march to the station, and certify the same, and the distance to such station, to the committee of safety.

How many miles, a days march.

And to prevent unreasonable delay in such march, *Be it ordained*, That the officers and men shall receive no more pay, from the date of such marching orders to the time of their arrival at their station, than after the rate of one day's pay for every fifteen miles, according to the distance, unless delayed by bad weather, or unavoidable accidents; of which the committee of safety shall judge and determine, before they grant a warrant for the pay of any company.

Cadets, provision for.

And for making a certain provision for cadets, *Be it ordained*, That every cadet who shall enter into the service, with the approbation of the commanding-officer of the respective regiment which he is willing to join, shall be allowed the pay and provision of a private soldier, and be found the like tents, allowing one to every four cadets.

Vacancies, in officers, how supplied.

And be it farther ordained, That in case any vacancies should happen, by deaths or otherwise, among the commissioned officers, the same shall be supplied, from time to time, by regular succession, in course of seniority; and in case of a defect of officers to supply such succession, the commanding-officer of the regiment shall fill up the vacancy out of the cadets, if any, paying due regard to their seniority; and, if there be no cadets, out of such others as he may think proper, with the approbation of the committee of safety.

And that the companies may be kept complete from time to time, *Be it farther ordained*, That if any vacancies should happen among the private men, the commanding-officer of the regiment shall supply the same by new recruits, in the best and most expeditious manner he may be able.

In privates.

And be it farther ordained, That the soldiers to be raised shall be enlisted on the terms following, to wit: That they shall continue in the service so long as may be judged necessary by the general congress, or by the general convention or general assembly of this colony, but not be compelled to continue more than two years from the 10th day of April next;

Terms of enlistment.

Provided, Any soldier or soldiers do give the commanding-officer three months previous notice, in writing, of his or their desire to be discharged at the end of such period; and, if it shall be judged expedient to disband the army before the expiration of the said two years, that then each soldier discharged within that time shall be entitled to and receive six weeks pay over and above what is actually due to him. That the pay of each captain, lieutenant, and ensign, shall commence on the day of his appointment by the district or county committees, of the chaplain and all the subaltern officers on the days of their respective appointments, of the common soldiers on the days of their enlisting; and that the pay of the several field and staff officers shall commence on the days of their being called into duty by the committee of safety.

Mode of discharge.

Pay of officers and soldiers, when to commence

Provided always, That no recruiting officer shall be allowed to enlist into the service any servant whatsoever, except apprentices bound under the laws of this colony, nor any such apprentices unless the consent of his master be first had in writing; neither any man unless he be five feet four inches high, healthy, strong made, and well limbed, not deaf, or subject to fits.

Servants, apprentices, and others, how enlisted

And be it farther ordained, That the soldiers to be enlisted, and the several serjeants appointed, or to be appointed, shall, at the expense of the publick, be furnished each with one good musket and bayonet, cartridge box, or pouch and canteen; and until such musket can be provided that they bring with them the best gun of any other sort that they can procure; and that they also bring with them (if to be had) one blanket each, and that such as are to act as riflemen bring with them one good rifle and tomahawk, each to be approved.

Arms and accoutrements, how furnished.

Blankets, rifles, tomahawks.

Hire for arms, &c. furnished by the soldiers.

Clothing, how furnished.

ed by their captain, for the use of which guns they shall be allowed as follows, to wit: For the smooth-bores, or muskets, after the rate of 20s. and for the rifles and tomahawks after the same rate by the year, and for the blanket so much as by the judgment of any field-officer of his regiment the same shall be considered to be worth at the time it is produced. That each common soldier, not already sufficiently provided, in the opinion of his commanding-officer, shall be provided with sufficient clothing, at the expense of the publick, to be deducted out of his pay, and also be allowed by the publick a hunting shirt, a pair of leggins, and binding for his hat.

Proviso, as to minute-men joining the army.

Provided, If any minute-man, who has been already furnished with such articles, shall enter into the regular service, he shall have no farther allowance.

Additional rifle-companies.

In what counties to be raised.

And be it farther ordained, That, over and above the rifle companies belonging to the German regiment, there be raised seventeen companies of expert riflemen, in the following counties, that is to say: In the counties of Bedford and Loudoun, each two companies; in the counties of Albemarle, Amherst, Berkeley, Botetourt, Buckingham, Charlotte, Culpeper, Dunmore, Fauquier, Halifax, Orange, Pittsylvania, and Prince Edward, each one company; which shall be allotted by the committee of safety to the respective regiments, as before directed.

Medicine chests, and surgeons' instruments.

And be it farther ordained, That the proper medicine chests, and surgeons instruments, be provided, at the expense of the publick.

Pay of officers, soldiers, and staff.

And be it farther ordained, That the pay of the officers and soldiers shall be as follows, to wit: To a colonel, seventeen shillings and sixpence; to a lieutenant-colonel, twelve shillings and sixpence; a major, ten shillings; a deputy quartermaster-general, ten shillings, an adjutant-general, twelve shillings and sixpence; a deputy adjutant-general, ten shillings; a captain, six shillings; a lieutenant, four shillings; an ensign, three shillings; a chaplain, ten shillings; an adjutant (holding no other office) six shillings; if in other office, three shillings; to a regimental quartermaster (holding, or not holding, any other office) the same as to an adjutant; to a serjeant-major, to be appointed from amongst the most expert serjeants, by the commanding-officer of the regiment, two shillings and sixpence; to a quartermaster-serjeant, two shillings and sixpence; to a ser-

jeant, two shillings; to a drum-major, two shillings; to a corporal, drummer, and fifer, each one shilling and eightpence; and to each private soldier, one shilling and fourpence; to a surgeon, ten shillings; and to a surgeon's mate, five shillings per day.

And be it further ordained, That one company of Artillery be forthwith raised, and taken into the pay of this colony, to consist of one captain, three lieutenants, one serjeant, four bombardiers, eight gunners, and forty eight matrosses; the officers to be appointed and commissioned by the committee of safety, and the non-commissioned officers and gunners to be appointed by the captain; the pay of whom shall commence on the days of their several appointments and enlistments, and be as follows: To a captain eight shillings, a lieutenant six shillings, a serjeant four shillings, a bombardier three shillings, a gunner two shillings and sixpence, and each matross two shillings per day; which company, when complete, shall be passed and reviewed by such person as the said committee of safety shall appoint, and take the oath and subscribe the articles directed by this ordinance for the other forces, and be subject to the like rules and regulations.

And for the greater security of the inhabitants of this colony from depredations of the enemy by water, Be it ordained, That the committee of safety shall, and they are hereby empowered and required to provide from time to time such and so many armed vessels as they may judge necessary for the protection of the several rivers in this colony, in the best manner the circumstances of the country will admit; and, to that end, to raise and take into pay a sufficient number of officers and men, as well sailors as marines, whose pay shall be settled by the committee of safety, not exceeding the following rates, to wit: To a chief commander of the whole, as commodore, fifteen shillings, to a master ten shillings, a first mate seven shillings and sixpence, a second mate five shillings, a boatswain three shillings, a common sailor, two shillings, per day; a captain of marines six shillings, a lieutenant four shillings, a midshipman three shillings, a marine one shilling and sixpence.

Provided always, and be it further ordained, That where the land service will admit of it, and the officers and soldiers of the regular forces shall be willing to enter upon any temporary expedition in such armed ves-

Artillery company to be raised.

Officers, bombardiers, gunners, matrosses.

Their pay.

Armed vessels to be provided by committee of safety.

Pay of commodore, and other officers and sailors.

When, and on what terms land forces may act in concert with naval.

ORDINANCES OF CONVENTION,

sels, they may be allowed so to do, and shall receive pay according to the rates afore-mentioned; which officers, sailors, and marines, may be removed or disbanded by the said committee of safety, as they shall judge expedient.

Secretary to colonels, when allowed.

And be it farther ordained, That the colonel of each regiment, when detached from the main body, on a separate command, shall be allowed a secretary, to be appointed by himself, who shall be allowed for his services four shillings a day.

Tents.

And be it farther ordained, That every commissioned and staff officer shall be allowed a tent, and every two serjeants shall have the same allowance; and that for every six private men there shall be provided a proper and sufficient tent, and that one bell tent for each company shall also be provided, at the publick expense.

Arms, accoutrements and camp equipage, how provided.

And be it farther ordained, That for the more speedy supply of the forces with waggons, tents, bedding, arms, accoutrements, clothes, provisions, and all other necessaries, the committee of safety shall, and they are hereby required to appoint some fit person, or persons, to provide arms and accoutrements, clothes, waggons, tents, and bedding, upon the best and cheapest terms, and also to appoint one or more contractors or commissaries, who are hereby required to use all possible despatch in purchasing such provisions as shall be necessary for the army, and in laying off the same in such convenient place, or places, as may best suit their different stations and marches.

Pay-masters to be appointed, by committee of safety.

And for the more regular pay of the army, It is hereby ordained, That the committee of safety shall appoint one paymaster to the first four of the said regiments, and one paymaster to the other four of the said regiments, with a salary of £. 150 per annum each, and one assistant paymaster, who shall pay the troops on the frontiers, and shall be allowed such salary as shall be approved by the committee of safety for his services; which paymasters are also to act as muster-masters.

Their salary

To act as muster-masters.

And it shall and may be lawful for the said committee, from time to time, to issue their warrants to the treasurer, appointed by or pursuant to an ordinance of this convention, for paying the several recruiting officers, commissioners, commissaries, or contractors, and paymasters, by them appointed; and to all expresses, and other persons by them employed in lesser services, so

How paid

much money as the said committee shall judge necessary for their several purposes, taking proper security for the due disbursement and application thereof, and making a proper and reasonable allowance to the several persons so to be appointed, for their trouble and expenses in conducting either branch of business to him or them assigned. And the said committee of safety shall have full power and authority to displace and remove from his office any person so by them appointed, either for misconduct or neglect of duty. And the said treasurer is hereby required to pay all such sums as he may be directed, by such warrants, out of the publick money in his hands.

Removeable
by committee
of safety.

And be it further ordained, That the said committee of safety shall have full power and authority, at such times and places as they may think necessary and convenient, to call all such persons who may receive any publick money, for carrying into execution the purposes of this ordinance, to a strict account; and, upon examining their accounts, and finding them justly stated, certify the same, and, if necessary, to give proper acquittances and discharges.

Power of
committee
of safety to
call public
agents to
account

And whereas it may be necessary, for the publick security, that the forces to be raised by virtue of this ordinance should, as occasion may require, be marched to different parts of the united colonies, and that the officers should be subject to a proper controul: *Be it therefore ordained, by the authority aforesaid,* That the officers and soldiers under their command shall, in all things, not otherwise particularly provided for by this ordinance, and the articles established for their regulation, be under the controul, and subject to the order, of the committee of safety.

Army, in all
things, to be
under the
controul of
committee
of safety.

May be
marched to
different
parts of *Uni-
ted Colonies.*

And whereas, in this time of danger, it is probable, from the exposed situation of this colony, and the many navigable rivers and creeks therein, that the attempts of the enemy will be made on different parts thereof: For the better security and defence of the inhabitants, *Be it further ordained,* That the regiments to be raised and augmented by virtue of this ordinance shall be stationed in such parts of the districts herein after mentioned as the committee of safety may judge most proper, that is to say: Between the rivers Potowmack and Rappahannock two regiments, between Rappahannock and York river two regiments, between York and James river two regiments, and on the south side of James

Forces,
where to be
stationed.

Regiments
assigned to
different
districts.

May be called to other parts, to repel invasions

river two regiments; and the said committee of safety shall have full power and authority, from time to time, to call the said regiments, or such parts thereof as they may think proper, to any place within this colony, to repel the invasion or attacks of the enemy; provided the forces so ordered shall return to their respective stations so soon as the emergency shall cease, any thing in this, or any former ordinance, to the contrary, notwithstanding.

Officers commissioned by Congress, to supersede those by Committee of safety;

And for preserving proper rank, and establishing equal pay, among all the officers of the continental army, *Be it ordained*, That all commissions already granted, or hereafter to be granted, by the committee of safety, in pursuance of this and a former ordinance of convention, to any regular officer, be, and the same are hereby declared void, as soon as such officer, or any other in his stead, shall be appointed or commissioned by the general congress; and the pay of every such officer shall, from the time of such appointment, and notice thereof to the committee of safety of this colony, be the same as shall be settled by the said general congress, any thing in this or the said ordinance to the contrary thereof, in any wise notwithstanding.

and their pay the same as settled by Congress.

Former ordinance, requiring battalion duty, by minute-men repealed.

And whereas so much of the ordinance, intituled An ordinance for raising and embodying a sufficient force for the defence and protection of this colony, as relates to the performance of battalion duty by the minute-men, is found to be inconvenient: *Be it farther ordained*, That so much of the said ordinance, as requires the said duty, be, and the same is hereby repealed.

Officers of minute-men not completing their quotas of men, to be superseded by county committees.

And be it farther ordained, That where the officers of minute-men heretofore appointed have failed to make up their companies, and shall not complete the same within thirty days after the passing of this ordinance, the committee of the county where any such failure hath happened are required to appoint other officers to such companies, in manner following, that is to say: Where a captain has not enlisted the number of twenty-five, a lieutenant eighteen, and an ensign twelve, in all such cases, the said committee shall appoint other officers in the room of such officers failing to enlist such number of men, unless the failure of making up any company has been occasioned by the men of the said company enlisting into the regular service; and the several minute captains are required, once in every month, to make return of the number of men enlisted.

into their companies to the commanding-officers of their respective districts, to be by them transmitted to the committee of safety.

And be it farther ordained, That if any officer of a minute company shall enter into the regular service, the committee of the county to which his company belongs shall appoint another officer to supply such vacancy; also, when any of the minute-men shall enlist into the regular service, the officer to whose company such soldier belouged shall forthwith proceed to recruit and enlist others in their room. And if any minute company shall be ordered into service before the same is complete; the same, if amounting to eighteen, shall go under the command of a lieutenant; and if under that number, to be commanded by the ensign of the said company.

Officers, or privates of minute men joining the regulars, how their places supplied.

And be it farther ordained, That each minute-man who shall furnish himself with a good musket, or other gun, to be approved of by his captain, shall be allowed by the publick ten shillings per annum, as a consideration for the use thereof, and shall be liable to a fine of twenty shillings for not appearing with the same when called on duty.

Hire of arms furnished by minute-men.

And be it farther ordained, That in lieu of the oath to be taken by the officers and soldiers, either of regulars or minute-men, as directed by the ordinance intituled An ordinance for the better government of the forces to be raised and employed in the service of the colony and dominion of Virginia, the following oath be by them hereafter taken (except by the people called quakers and menonists, who are required to make a solemn affirmation to the same effect) to wit: *I A. B. do swear, that I will be faithful and true to the colony and dominion of Virginia; that I will serve the same to the utmost of my power, in defence of the just rights of America, against all enemies whatsoever; that I will, to the utmost of my abilities, obey the lawful commands of my superiour officers, agreable to the ordinances of the convention and the articles of war, to which I have subscribed, and lay down my arms peaceably, when required so to do, either by the General Convention or General Assembly of Virginia. So help me God.* Which oath shall be administered to the general and field-officers of the regulars by the committee of safety, and to the other commissioned officers by the district or county committee by whom such officers shall be appointed;

Oath of officers and soldiers altered

By whom administered.

and shall be administered to the other inferiour officers, and men, by a justice of the peace, or any county or corporation committee-man, within twenty four hours after the time of enlistment.

District committees, when a d how formed.

And whereas, by a new election of committee-men throughout this colony, pursuant to an ordinance of the last convention, the power of the deputies elected to form the district committees is supposed to be at an end, *Be it therefore ordained*, That the committees of the several counties and corporations within this colony, where the same hath not been already done since their last election, shall appoint such a number of their members respectively, as, in the former ordinance for raising the forces, is limited and directed, to meet in district committees, who shall do and perform what remains to be done by such committees respectively, for carrying into execution this and the former ordinance; and so, as often as a dissolution of any committee, and a new election of others, shall take place, they shall proceed in like manner, to the new election of deputies to represent them in district committee.

Captains and subalterns of minute-men to be appointed by county committees;

Provided always, and be it further ordained, That where it shall be necessary to appoint a new captain or subaltern commissioned officer of minute-men, upon the death or resignation of one formerly nominated, or on his failing to raise the number of men required by this ordinance, in that case, the appointment of such officer shall be made by the committee of the county or corporation wherein the company was to be raised; and that all vacancies among the field-officers of the minute-men shall be filled up by the district committees, having regard to a regular succession of the officers, according to their rank.

and field-officers by district committees

Officers of minute-men may be commissioned before a return of the completion of all the battalions.

And whereas, by the former ordinance, the committee of safety are restrained from granting commissions to the officers in the minute service until a return is made of the completion of the battalions throughout the colony, which is found inconvenient; *Be it therefore ordained*, That, upon a certificate of the review of any company of minute-men, as in the said ordinance is directed, the committee of safety shall issue commissions to the captain and subaltern officers appointed to command such company, bearing date on the day they were or shall be reviewed; and, as soon as four companies in any district shall appear to have been reviewed, shall grant a commission to the major, bearing date the day

of the last company's review; where seven companies are completed, shall also grant a commission to the lieutenant-colonel, bearing the like date of the review of the last company; and, when the whole battalion is completed, shall grant a commission to the colonel, to be dated the day of such completion; any thing in the said former ordinance contained, to the contrary, notwithstanding.

And be it farther ordained, That where minute companies are called into duty together from several districts, and no field-officer shall attend from either, the committee of safety may appoint any field-officer in the minute service to take the command of such detachment, during the time of their continuance in actual service.

And be it farther ordained, That hereafter no dissenting minister, who is not duly licensed by the general court, or the society to which he belongs, shall be exempted from bearing arms in the militia of this colony; and that overseers, heretofore exempted, shall be obliged to furnish themselves with arms and ammunition, in the same manner as the militia men, and shall be obliged to act as patrollers when thereto required by the commanding-officer of the militia of the county, or corporation, wherein they reside; and if any militia man, or overseer, shall neglect or refuse so to do, he or they so refusing shall be liable to a fine of five shillings for every neglect or refusal, to be recovered and appropriated in the same manner as the militia fines are directed to be recovered and appropriated.

And for the more expeditious, convenient, and speedy draughting into service detachments of the militia of this colony, as occasion may require, *Be it farther ordained,* That, at the general muster of the militia, to be had in the month of March next, the commanding-officer of each county or corporation shall, by fair and equal lot, cause to be drawn out of each company so many men as will amount to one tenth part thereof, and cause the names of the persons so allotted to be enrolled, who shall from thenceforth be considered as the first division of militia for such county or corporation; and that the commanding-officer shall in like manner proceed, by lot, to fix, one after the other, the nine other divisions of the said militia, enrolling their names in the second division, third, and so on, according to such allotment; and thereafter, if the militia of such county or

When committee of safety may appoint field officer, to command minute companies.

Dissenting ministers not exempted from militia duty, unless licensed.

Overseers: heretofore exempted, to furnish arms, and act as patrollers.

Drafts of militia, how made.

Penalty for
failing to at-
tend, or find
a substitute.

corporation shall be called into duty, the same shall be performed by the divisions, in the order they shall so stand enrolled, one after another, so as to preserve the regular rotation of duty amongst them. And every person so enrolled, who shall fail to attend, when required, or find an able-bodied man to serve in his room, shall be subject to the fines imposed for the like offence by the said recited ordinance, to be by the commanding-officer laid out in bounties to such volunteers as shall be willing to serve in the room of the persons so refusing, if to be had, or otherwise to be appropriated as in the said ordinance is directed.

Officers to
command
drafts. how
appointed.

And be it farther ordained, That the commanding-officer shall appoint proper officers to command the men so called into duty, according to the number, during the time of their being employed in actual service, having regard to the seniority and rank of the officers of the county or corporation in such appointment.

Volunteers
may be ac-
cepted, in
lieu of mil-
itia.

Provided always, That if there shall, at any time, be a sufficient number of men, who will voluntarily enter into the service, to answer the demand made upon the militia, of any county or corporation for such assistance, in that case, such volunteers shall be accepted instead of calling on the divisions, as before directed.

And be it farther ordained, That the militia or volunteers to be employed, if not well armed, shall be furnished with arms out of such as belong to the county or corporation, to be returned as soon as they shall be discharged from the service.

So much of
former ordi-
nance as ex-
empts from
duty in
month of
February re-
pealed.

And whereas, by a former ordinance, the militia and minute-men are exempted from musters in the month of February, which may be attended with inconvenience to the country, by retarding the discipline of those bodies of men; *Be it therefore ordained,* That so much of the said recited ordinance, as relates to the said exemption, be, and is hereby repealed; and that the minute-men and militia shall do duty in the above-mentioned month, in the like manner as is directed for the rest of the year.

Pay of com-
manding-of-
ficer of mil-
itia, when
called into
service.

And be it farther ordained, That the commanding-officer of the militia of any county shall, when called out on duty, receive the same pay as the like officer in the minute service.

And for the greater encouragement and promotion of the service, *Be it farther ordained,* That there shall be advanced and paid to the several regular soldiers

Hereafter to be enlisted a bounty of twenty shillings, upon their enlistment; and that the several regular soldiers already enlisted shall be allowed the like bounty of twenty shillings on their re-enlistment, to serve for such time as the troops hereby to be raised shall be enlisted to serve; and that all regular soldiers and non-commissioned officers shall be exempted from the payment of their personal taxes, during their continuance in the service. And if any of the regulars, minute, or militia-men aforesaid, shall be so maimed or disabled as to be rendered incapable of maintaining themselves, they shall, upon their discharge, be supported at the expense of the publick.

Encouragement to enlist, in regular service.

Bounties.

Exemptions from personal taxes.

Pensions to regulars, minute-men, & militia.

And be it farther ordained, That the court-martial of each county and corporation shall; and they are hereby required to appoint a collector of all fines to be assessed at each sitting of such court, by virtue of this and a former ordinance of convention, who shall enter into bond, with sufficient security, for the due collection and accounting for all fines by them collected in consequence of such appointment, and is hereby required to demand and receive the several fines ordered by the courts-martial respectively to be levied; and in case of non-payment, on or before the tenth day of May, annually, to levy the same by distress and sale of the goods of the person refusing, according to the laws enabling the sale of goods distrained for rent. And if any collector shall fail to account for and pay what he shall have received, or might have received, of such fines, to the receiver appointed for that purpose, deducting six per centum for his commissions in collecting, it shall be lawful for the court of the county or corporation, upon motion of the receiver, to give judgment for the same, with costs, against such collector and his securities, his or their executors and administrators, provided they have respectively ten days previous notice of such motion.

Collectors of fines, how appointed.

Remedy, by distress.

Motion against collector, for failure to pay.

And be it farther ordained, That the fines inflicted for disobedience to this ordinance shall be levied and applied as the fines are directed to be levied and applied by the ordinance intituled An ordinance for raising and embodying a sufficient force for the defence and protection of this colony.

Fines, how appropriated.

And to prevent the harbouring of deserters from the forces, already, or hereby to be raised: Be it farther ordained, That whoever shall harbour or conceal any

Penalty for harbouring deserters.

person, being a deserter, and knowing him to be such, for every such offence shall forfeit and pay the sum of five pounds, or, on failure thereof, receive ten lashes on his or her bare back.

General appropriation for pay of army, if Congress should not take troops in their pay.

And be it farther ordained, That the treasurer of this colony shall and may apply the money which may be in his hands, pursuant to an ordinance of the last convention, for the purposes of that and the other ordinances and resolutions of this and a former convention; and if there shall be a deficiency, and the continental congress should not supply it, by taking our troops, or part of them, into their pay, this convention will make a farther provision for the troops raised, or to be raised.

Supply of paper, for paper money, how procured.

And whereas the paper on which the treasury notes were directed to be issued, by an ordinance of the last convention, falls much short of the quantity expected: *Be it farther ordained,* That the treasurer of this colony for the time being shall, and he is hereby authorised to procure a sufficient quantity of other proper paper, to make up the deficiency; to be used as directed by the said ordinance, and for the purposes therein and hereby appointed, and no other.

CHAP. II.

An ordinance for appointing sheriffs.

Preamble,

WHEREAS by an act of assembly made in the twenty second year of the reign of his late majesty king George the second, intituled An act prescribing the method of appointing sheriffs, and for limiting the time of their continuance in office, and directing their duty therein, it is among other things enacted, that every county court of this dominion shall annually, between the last day of June and the last day of August, present to the governor, or commander in chief of this colony for the time being, a list or recommendation of three persons named in the commission of the peace for their county, one of which persons so recommended shall thereupon be commissioned by the said governour or commander in chief to execute the

office of sheriff of that county for the next ensuing year; and whereas John earl of Dunmore, his majesty's lieutenant and governour general of this colony, hath withdrawn himself from the seat of his government, and commenced hostilities against the good people of this colony, hath also, by his proclamation, declared martial law to be in force in the colony, and refuseth to grant commissions for executing the office of sheriffs, according to the directions of the said recited act, whereby justice is and may be greatly delayed and hindered.

For remedy whereof, *Be it ordained, by the delegates and representatives of the several counties and corporations within this colony in the present general convention, and it is hereby ordained by the authority of the same,* That upon the expiration of the office of sheriff of any county in this colony, the court of such county, instead of recommending three persons to the governour or commander in chief, to be by him commissioned to the office of sheriff, shall, and they are hereby empowered and required to nominate and appoint one of the persons named in the commission of the peace for their county to execute the office of sheriff of their said county for one year; and the person so nominated and appointed shall have all the powers and authorities, and shall perform and execute the said office in as full and ample manner, as if appointed by commission from the governour or commander in chief of this colony, according to the direction of the said recited act. And the person so nominated and appointed, before he enters upon his office, shall take the oath of office, and enter into bonds with sufficient security, agreeably to the laws now in force. And if any person shall refuse to accept the said office, the court shall proceed to appoint another in the room of the person so refusing, who shall give the like bonds and security, and take the oath of office as aforesaid.

Provided always, That so soon as the executive powers of government in this colony are restored to their proper channel, and other sheriffs shall be appointed pursuant to the said act of assembly, that the persons who may be appointed to the office of sheriff by the county courts in manner aforesaid shall cease to execute the said office, and the powers hereby given shall be revoked.

reciting the withdrawal of lord Dunmore from the seat of government; his hostilities; & proclamation of martial law; and refusal to grant commissions to sheriff.

Courts to appoint sheriffs, instead of recommending to the governor.

Their powers and duties the same as if commissioned by the governor.

Vacancies, how supplied.

Powers of sheriffs, thue appointed, to cease, on restoration of executive power.

CHAP. III.

An ordinance for amending an ordinance intituled An ordinance for providing arms and ammunition for the use of this colony.

Committee of safety authorised to contract for a supply of arms.

WHEREAS it is found that an ordinance of the last convention, intituled An ordinance for providing arms and ammunition for the use of this colony, is insufficient, in this time of imminent danger: *Be it therefore ordained, by the delegates and representatives of the several counties and corporations within this colony and dominion of Virginia, now in general convention, and it is hereby ordained by the authority of the same, That the committee of safety for the time being may, and they are hereby required to contract, upon the best terms they can, with such gunsmiths, or others, as they may approve, for manufacturing or supplying such quantity of arms as they shall judge proper for the defence of this colony.*

Limitation of contracts.

Provided, That such contract for rifles shall not be made to continue longer than the first day of July next, and for muskets longer than twelve months from the passing of this ordinance.

Provision for a supply of powder.

And for the more speedy and effectual providing of powder, *Be it farther ordained, by the authority aforesaid, That the committee of safety may, and they are hereby required to contract with proper persons willing to manufacture the same on the publick account, and to erect, or cause to be erected, one or more powder mills, at the publick expense, at such places as the said committee of safety may judge to be free from danger, and conveniently situated with respect to the colony in general.*

Salt-petre & sulphur at disposal of committee of safety.

And be it farther ordained, by the authority aforesaid, That the saltpetre and sulphur purchased, or to be purchased, for the use of this colony, be subject to the disposition of the committee of safety, for the purposes last mentioned.

CHAP. IV.

An ordinance for reviving and amending an ordinance appointing a committee of safety.

WHEREAS an ordinance of the last convention, intitled An ordinance appointing a committee of safety, for the more effectual carrying into execution the several rules and regulations established by this convention for the protection of this colony, did expire on the meeting of this convention, and it is necessary that a new committee be appointed for the purposes aforesaid: *Be it therefore ordained, by the delegates deputed to represent the several counties and corporations within this colony in the present general convention, and it is hereby ordained by the authority of the same, That Dudley Digges, the hon. John Page, Paul Carrington, Edmund Pendleton, James Mercer, Thomas Ludwell Lee, William Cabell, Richard Bland, Joseph Jones, John Tabb, and Thomas Walker, esquires, be, and they are hereby appointed and declared a committee of safety throughout this colony; and they, or any six or more of them, shall have and exercise all the powers and authorities given to the committee of safety in and by the said recited ordinance, or any other ordinance or resolution of convention, from and after the passing hereof, until the end of the next session of the general convention, or for one year, in case the convention should not meet within that time.*

Ordinance for appointing Committee of Safety, revived, and amended.

The committee.

What number may act.

And be it farther ordained, by the authority aforesaid, That the said committee of safety shall have full and ample powers, during the recess of convention, to direct all such measures and military operations as in their judgment shall be necessary for the publick security.

General powers.

And be it farther ordained, That the said committee of safety shall and may appoint one assistant clerk, when they shall think the same necessary, who shall have such allowance as shall be thought reasonable by the general convention.

May appoint assistant clerk.

And whereas the time of continuance of the officers in the service of this colony, and the manner of resignation, have been doubted, *Be it declared, and ordained,*

Continuance of officers in service,

and their mode of resignation declared.

How officers may resign.

ed, That all officers now or hereafter to be appointed shall continue in service so long as the regiments to which they belong shall be kept up, and that no officer hath or shall have right to resign but with consent of the convention or committee of safety of this colony.

Provided, An officer willing to resign may do so at the expiration of the time for which the private men are or shall be enlisted, on giving the like previous notice of such intention as is required of such private men.

Thomas Everard and James Cocke, appointed commissioners to audit accounts referred to them by committee of safety.

And be it farther ordained, That Thomas Everard and James Cocke, esqrs. shall be, and they are hereby appointed commissioners, to examine, state, and settle such accounts as shall be referred to them for that purpose by the committee of safety; each of which commissioners shall be allowed such salary as the convention, or committee of safety, shall determine.

CHAP. V.

An Ordinance for establishing Tobacco payments during the discontinuance of the inspection law, and for other purposes therein mentioned.

Preamble, reciting expiration of tobacco inspection law.

WHEREAS, by reason of the expiration of an act of general assembly, for improving the staple of tobacco, and preventing frauds in his majesty's customs, the people in this colony may be subjected to great difficulties for want of a certain mode of making tobacco payments for levies, or other debts, and sundry disputes may arise between them and the officers or creditors, which may increase the confusions in the colony, already too much convulsed by the unhappy disputes with Great Britain;

Tobacco debts, how discharged

For remedy whereof, *Be it ordained, by the delegates and representatives of the people of this colony, now met in general convention, and by the authority of the same*, That it shall and may be lawful for any person who shall be indebted for levies, or other demands payable in tobacco, to discharge the same by good, sound, and

merchantable tobacco, leaf or stemmed, tied up in bundles, and clear of trash and dirt; and if the collector or creditor shall refuse to receive tobacco tendered in such payment, on account of its not being clean, sound, or merchantable, it shall be referred to two judicious neighbours, to be chosen one by each of them (or if one shall refuse to nominate, the other may choose them both) who, being sworn to give an impartial judgment, shall determine the point between the parties; and if they disagree, they shall choose a third person, who shall be sworn in like manner, and his judgment shall be final. The payments of levies and rents to be made on the plantation of the debtor, with a reasonable allowance, in cases of rents, for the charge of carrying the same to the next inspection; in other cases, at the place appointed by the contract.

Quality of tobacco, tendered in payment, to be determined by neighbours.

Payment of rents, and levies, to be made on plantation of debtor, &c.

And be it farther ordained, That, where the vestries shall not have compounded with their ministers for his receiving money in lieu of tobacco for his salary, according to a late act of assembly, in such case the collector of the parish levy shall convey the tobacco so to be received for levies to the house of the minister, who shall receive the tobacco so brought, from time to time, until his full salary of sixteen thousand pounds of tobacco, with the allowance of four per cent. for cask, and four per cent. for shrinkage, with the usual expense for transporting the same to the nearest public landing on some navigable river, is fully paid; and the residue of the tobacco so to be received shall be by the collector carefully prized up into hogsheads, and sold, according to the directions of the last mentioned act. But this is not to extend to, or affect, such counties or parishes where by law the inhabitants are allowed to pay their levies at a certain price in money.

Salaries of ministers not compounded for in money, to be paid in tobacco, at his house.

And be it further declared, and ordained, That the several vestries shall be empowered to levy for the collector of their several levies such additional allowance for his trouble in collecting the tobacco in manner aforesaid as to them shall seem reasonable, according to the extent of the parish; and shall also allow the minister two shillings and sixpence for every thousand pounds of tobacco by him received for his salary as aforesaid, for prizing up the same.

Additional allowance to collectors.

And whereas five of the members of the vestry of the parish of Frederick, in the county of Frederick, have

Vestry-men of Frederick

parish, in
county of
Frederick,
requested to
resume their
offices.

resigned their said offices, and, another of the members being dead, there doth not remain a sufficient number to hold a vestry for the purpose of electing others to fill up the said vacancies, by reason whereof the maintenance of the poor, and other parochial affairs in the said parish, are wholly neglected: *Be it therefore farther ordained,* That it be, and is hereby recommended to the several members of the said vestry, who have so resigned their offices, to resume the same, and upon their so doing, or so many of them as with the resuming members will make a vestry, that such resumption be entered in the vestry book, and from thenceforth the vestrymen so remaining shall have the same power to act in all things pertaining to the said office as if they had never resigned the same.

If a sufficient number to form a vestry refuse to resume their offices, the vestry dissolved, & a new one elected.

And be it farther ordained, That if a sufficient number of the said resigning members, as, with the others, will make a vestry, shall not agree to resume their offices within two months from the passing hereof, that then the said vestry shall be dissolved, and the freeholders and housekeepers of the said parish, at such time and place as shall be appointed by the sheriff of the said county, shall proceed to elect twelve able and discreet persons, in the usual and accustomed manner, to be vestrymen of the said parish; and the persons so elected, having taken an oath before the county court well and truly to execute their office as vestrymen, and subscribed to be conformable to the doctrine and discipline of the church of England, shall be, to all intents and purposes, the vestry of the said parish.

How qualified.

CHAP. VI.

An ordinance to amend an ordinance intituled An ordinance for regulating the election of delegates and ascertaining their allowances, and also for regulating the election of committee men in the several counties and corporations within this colony, and for other purposes therein mentioned.

WHEREAS, by the extreme badness of the weather, Preamble- and other unavoidable accidents, the freeholders, and others qualified to vote at the election of committees for several counties and corporations in this colony, were prevented from assembling at the times and places directed by an ordinance passed at the last convention, intituled An ordinance for regulating the election of delegates and ascertaining their allowances, and also for regulating the election of committee-men in the several counties and corporations within this colony, and for other purposes therein mentioned, by means whereof no committees have been, or can now be regularly chosen, to act in such counties and corporations, until the next general election:

Be it therefore ordained, by the delegates deputed to represent the several counties and corporations within this colony in the present general convention, and it is hereby ordained by the authority of the same, That the freeholders, and others qualified to vote for committees in such counties and corporations as have not chosen committees pursuant to the said recited ordinance, shall, and they are hereby required to meet at the respective places by the said ordinance appointed, as soon after the passing this ordinance as publick notice can be given, and deliver into the chairman of the last preceding committee, or in case of his absence, or refusal to act, to the clerk of such committee, or in case of his absence, or refusal to act, to one of the delegates of such county or corporation, a list of twenty one persons, qualified as by the said recited ordinance is di-

County committees to be elected, where not already done

rected, to serve as a committee for such county or corporation, until the next general election; which several lists shall be fairly counted by the person receiving the same, in the presence of so many of the preceding committee as may choose to attend, and publication shall be made of the several persons having a majority of votes, who are hereby declared to be duly elected a committee to serve as aforesaid. And the said committees shall have the like power and authority, and be governed in their proceedings by the same rules and regulations, as directed by the said recited ordinance; and in case of the death, resignation, or removal, of any member of a county or corporation committee, already or hereafter to be elected, such vacancy shall be supplied by the choice of the rest of the committee.

Election in
Norfolk, at
what place.

Provided, and be it farther ordained, That in the county of Norfolk, the courthouse being lately destroyed by the enemy, the election of a committee for that county may be at any other convenient place therein, as shall be appointed by the person undertaking the management of such election, any thing in the said recited ordinance to the contrary notwithstanding.

Time of e-
lection of
committees
altered.

Whereas the time appointed for the general election of committees is, from experience, found inconvenient: *Be it ordained,* That from and after the passing of this ordinance, the time for making general elections of committees, for the several counties and corporations in this colony, shall, and the same is hereby declared to be on the court days of the respective counties and corporations in the month of October annually.

And it is hereby ordained, That so much of the said recited ordinance as relates to the fixing the time of electing committees shall be, and the same is hereby repealed.

County com-
mittees re-
imbursed ex-
penses of ex-
presses, &c.

And whereas, by the said recited ordinance, no provision is made for reimbursing the county and corporation committees for any expense they may be put to in employing messengers to summon persons before them, despatching and forwarding expresses, and other necessary expenses upon the publick service: *Be it ordained,* That the chairman of the respective committees incurring such expense shall certify the same to the committee of safety, who are hereby empowered to issue their warrants, from time to time, to the treasurer, for the payment thereof; and that the allowance to the

clerks of the several committees be paid in like manner by the treasurer, instead of being levied by the county court, as formerly directed.

And whereas the election of the present committee of the county of Caroline was not made agreeable to the afore-recited ordinance: *Be it ordained*, That the said committee of the county of Caroline be, and the same is hereby dissolved. Committee of Caroline dissolved, the election being irregular.

And be it farther ordained, That the former committee of the said county shall proceed to the choice of three of their members to judge of the qualification of voters; and that the freeholders of the said county, at such time as shall be appointed by the late chairman, of which publick notice shall be given, shall proceed to the election of another committee, pursuant to the directions of the first recited and this present ordinance.

And be it farther ordained. That the chairman, clerk, or delegate, shall cause publick notice to be given of the time appointed for such election, at every parish church in his respective county or corporation, two several Sundays before the day of such election. How a new election made.

CHAP. VII.

An ordinance for establishing a mode of punishment for the enemies to America in this colony.

WHEREAS the most dangerous attempts have been made, by some persons in this colony, to subvert the rights and liberties of the inhabitants; and whereas, by a declaration of this convention, a humane disposition towards such offenders has fully been manifested, who, notwithstanding, have failed to avail themselves thereof, and return to that duty which they owe both to this country and the rights of mankind; and whereas it is become necessary to declare what are and shall be considered as offences, to the end a regular mode of punishment may be established, and equal right and justice administered to all persons within this colony. Preamble.

White persons, who have been in arms against the colony, failing to surrender themselves to the committee of safety, or aiding the enemy, how punished.

Their estates, how disposed of.

Power of committee of safety to pardon.

Continental association enforced.

Be it therefore ordained, by the delegates of the people assembled in general convention, and it is hereby ordained by the authority of the same, That if any white person, or persons, who have been in arms against this colony, shall fail to surrender himself, or themselves, to the committee of safety, within two months from the publication of this ordinance; and if any white person, or persons, shall hereafter aid or assist the enemy, by enlisting soldiers, giving intelligence, or furnishing them with arms, provision, or naval stores, or shall bear arms against this colony; all and every such person, or persons, so having borne arms, or hereafter offending in manner aforesaid, shall, upon being convicted as hereafter mentioned, be liable to be imprisoned, or otherwise confined in such manner as the committee of safety may direct. And proper persons shall be appointed by the committee of safety to take possession of their estates, both real and personal, and to cultivate the same to the best advantage, and pay the profits thence arising into the hands of the treasurer of this colony for the time being, to be disposed of towards satisfying the just debts of such delinquent, to be ascertained by the committee of safety; and the residue for the publick use, in such manner as the said committee shall think most for the advantage of this colony. And the principal estates shall be subject to the future determination of the convention.

Provided nevertheless, The committee of safety shall have full power and authority to pardon such as have heretofore been, or shall be in arms against this colony, or shall otherwise offend as aforesaid, upon being satisfied of his or their repentance, and desire to be restored to the confidence of this colony, and returning to his or their duty; and in all such cases, the said committee of safety shall state the case of each offender to the convention, to enable them to determine what should be done with their estates.

And whereas it is essential to the peace, the happiness, and safety of this colony, that the continental association should be strictly observed, and that all violators of the same should be duly punished:

Be it further ordained, That from and after the passing of this ordinance, all merchants, traders, or other persons who shall import into this colony any goods, wares, or merchandise, contrary to the said continen-

tal association (except in cases allowed by the general congress, or the general convention) shall forfeit the goods, wares, or merchandise, so imported; and if any person, or persons, so offending, shall refuse or fail to deliver up the said goods, wares, or merchandise, so imported; and if any person or persons so offending, shall refuse to deliver up the said goods, wares, or merchandise, when required by the committee of safety so to do; he, she, or they, so refusing or failing, shall forfeit and pay the full value thereof in money; and, in either case, shall, moreover, be for ever rendered incapable of trading in this colony. And if any person, or persons, shall hereafter put on board any vessel, or vessels, for exportation, or shall hereafter export any produce of this colony contrary to the said association, except as aforesaid, he, she, or they, so offending, shall forfeit the cargo, or cargoes, so put on board or exported, or the value thereof; and all and every vessel, or vessels, in which any such goods, wares, or merchandise, shall be imported, or in which any such produce shall be exported, shall be, moreover, forfeited to the use of this colony, and the monies arising therefrom paid into the treasury, for the publick use.

Penalty for importing goods, or exporting produce, contrary to the association.

Provided nevertheless, That no such vessel or vessels aforesaid shall be forfeited, except the value of the goods, wares, and merchandise, therein imported, or of the produce exported, exceed the sum of twenty pounds sterling.

Proviso.

And be it farther ordained, That if any person, or persons, shall hereafter, by writing, or otherwise, order any goods, wares, or merchandise whatsoever, to be imported into this colony contrary to the continental association, except as aforesaid, all and every such person, or persons, so offending, shall, upon conviction thereof, be for ever rendered incapable of trading in this colony; and every such offender, so convicted, who shall trade within this colony contrary to this ordinance, shall suffer, for every such offence, three months imprisonment without bail or mainprise.

Penalty for ordering goods to be imported.

And whereas it is expedient and necessary, the better to determine all offences within this ordinance, and for the more speedy carrying into execution the several penalties and forfeitures incurred thereby, that persons should be appointed to take cognizance of the same:

Judges of admiralty appointed to decide on breaches of this ordinance.

Be it therefore ordained, That John Blair, James Holt, and Edmund Randolph, esquires, or any two of them,

be, and they are hereby constituted judges to try and determine on all matters relating to vessels and their cargoes; which said judges shall have power to appoint an advocate, clerk, and such other person as they may think proper to act as marshal, who shall, from time to time, execute all process of the said court, to be issued and signed by the clerk thereof. And all witnesses who shall be summoned, and fail to appear and attend the said court, on such day as their attendance was required, shall forfeit and pay the sum of fifty shillings, for which the said court shall have power to give judgment, and award execution thereupon; and the said fines, when recovered, shall be paid to the treasurer for the time being, for the use of this colony.

Advocate,
clerk, mar-
shal.

Witnesses,
their allow-
ance; and
how excu-
sed.

Provided always, That any witness failing to appear before and attend the said court, as aforesaid, shall, at any time within three months, be allowed such excuse as the said court may think reasonable; and every witness attending the said court shall have the same allowance as a witness attending the general court.

Appeal, to
committee
of safety.

And be it farther ordained, That in all cases of condemnation made of vessels or cargoes by the said court, the person, or persons, proprietors thereof, shall, if they incline so to do, have an appeal to the committee of safety, on giving bond and security, in the sum of twenty pounds, for duly prosecuting such appeal within thirty days from the time of granting the same; and the determination of the said committee of safety thereupon shall be conclusive. And in all cases where no such appeal shall be desired, the said court shall appoint the marshal to sell and dispose of such condemned vessels and cargoes.

Oath of jud-
ges of admi-
rality.

And be it farther ordained, That the judges aforesaid shall, before entering upon the execution of their office, take the following oath, to be administered by the committee of safety, to wit: I do swear, that I will truly and faithfully execute the office of a judge of admiralty, according to an ordinance of convention; and that I will do equal right and justice to all men, to the best of my judgment, without favour, affection, or partiality. So help me God. And the said judges, being so sworn, shall administer the following oath to the clerk and marshal, that is to say: I do swear, that I will well and truly demean myself (as clerk or marshal, as the case may be) in the execution of my office; and that I will faithfully and truly, to the best

of my power, execute all orders of the court of admiralty, without favour, affection, or partiality. So help me God.

And be it farther ordained, That the judges, being so qualified, shall meet at such place within this colony as they may think most proper for the execution of their said office, and shall have full power and authority to adjourn from day to day, and from time to time, to such other place as to them may appear necessary. And there shall be allowed and paid to each of the said judges, by the treasurer for the time being, the sum of twenty five shillings per day for each day of sitting in, or travelling to or from, the said court, for their services; and that there shall also be paid to the advocate, clerk, and marshal of the said court, so much for their services as shall be thought reasonable, in the opinion of the judges of the said court, for each respective capture. And the said judges shall have full power and authority to displace or remove, at any time, such officers of their appointment as to them shall appear necessary.

And be it farther ordained, That the committee of safety may, and they are hereby required to commission five members of the committee of each county in this colony, to be recommended to them by the respective county committees, to take cognizance of, and determine, all offences, contained in this ordinance, which may arise within their respective counties, except such as relate to vessels and their cargoes; which said commissioners, so appointed, shall take an oath well and truly to discharge the duty of commissioners for their respective counties, agreeably to this ordinance, which oath shall be first taken by the person first named in the said commission, in the presence of the other commissioners, and by him afterwards administered to them. And the said commissioners, or any three of them, shall be and they are hereby constituted a court for the purposes aforesaid, with full power and authority to meet at the courthouse of their respective counties, or such other convenient place as they may think proper; and the clerk of the committee of the said county, and the sheriff thereof, having first taken the like oath of office directed to be taken by the officers of the court of admiralty, shall attend the said court, and in all things perform the duties of their respective offices, in like

Judges,
when to
meet.

Their pay.

Committee
of safety to
commission
five of each
county com-
mittee as
judges.

Their pow-
ers.

manner as is directed for the officers of the court of admiralty, which said officers shall be paid by the treasurer of this colony such reasonable allowance for their services as the court shall direct.

Trial to be by jury. *And be it farther ordained,* That, in all trials pursuant to this ordinance, the commissioners aforesaid shall cause a jury to be summoned, and proceed in the same manner as hath been heretofore observed for the trial of civil causes in this colony; and in case of condemnation, the said court shall appoint commissioners for taking care of and managing the estate of the offenders as aforesaid, in such manner as is herein before directed.

Right of appeal. *Provided nevertheless,* The defendant or defendants shall have liberty to appeal, as aforesaid, to the committee of safety, whose judgment shall be final.

Slaves taken in arms, &c. how disposed of. *And be it farther ordained,* That if any slave, or slaves, shall be hereafter taken in arms against this colony, or in the possession of an enemy, through their own choice, the committee of safety shall have full power and authority to transport such slave, or slaves, to any of the foreign West India islands, there to be disposed of by sale, and the money arising from such sale to be laid out in the purchase of arms and ammunition, or otherwise applied to the use of this colony, as the committee of safety shall judge most proper; and in case such slaves, so taken in arms, or in the possession of an enemy, cannot be transported with convenience to this colony, the same shall be disposed of for the use of this colony, or returned to the owner or owners of such slaves, or otherwise dealt with according to an act of assembly for punishing slaves committing capital offences, as the committee of safety may judge most proper.

Owners to be paid by treasurer. *Provided always, and be it farther ordained,* That the owner, or owners, of such slaves, shall be paid, by the treasurer of this colony for the time being, the full amount of such sale, or value of such slaves, after deducting the expenses and charge of transportation; which said valuation shall be made by the commissioners in each county aforesaid, and certified to the committee of safety, who shall thereupon grant their warrant, directed to the treasurer for payment of the value of such slave as aforesaid.

And be it farther ordained, That this ordinance shall be published at the court house of each county, by the sheriff; and at the several churches and meeting-houses in each parish, by the clerk or reader, immediately after divine service.

How this ordinance to be published



At a General Convention of Delegates and Representatives, from the several counties and corporations of Virginia, held at the Capitol in the City of Williamsburg, on Monday the 6th of May, 1776.

Edmund
Pendleton,
esq. presi-
dent.

ORDINANCES, &c.

CHAP. I.*

A DECLARATION of RIGHTS made by the representatives of the good people of Virginia, assembled in full and free Convention; which rights do pertain to them, and their posterity, as the basis and foundation of government.

[Unanimously adopted June 12, 1776.]

1.* **THAT** all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Inherent
rights.

2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

Power of the
people.

3. That government is, or ought to be, instituted for the common benefit, protection, and security, of the

Of the ob-
jects of go-
vernment.

* None of the ordinances of this convention are distinguished by chapters in the original, and the Declaration of Rights is the only instrument which is separated by articles or sections.

people, nation, or community; of all the various modes and forms of government that is best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration; and that whenever* any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, and indefeasible right, to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

Best form.

Unalienable right to reform, or abolish.

Of exclusive privileges

4. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of publick services; which, not being descendible, neither ought the offices of magistrate, legislator, or judge to be hereditary.

Powers of the government to be separate and distinct.

5. That the legislative and executive powers of the state should be separate and distinct from the judiciary; and that the members of the two first may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct.

Frequent elections.

Free elections.

6. That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for publick uses without their own consent, or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assented, for the publick good.

Right of suffrage.

Security of property.

Of suspending laws.

7. That all power of suspending laws, or the execution of laws, by any authority without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

Criminal prosecutions rights of accused.

8. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favour, and to a speedy trial by an impartial jury of his vicinage, without

* "When" in Chan. Rev. p. 33.

whose unanimous consent he cannot be found guilty, nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land, or the judgment of his peers.

9. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Bail, fines, and punishments.

10. That general warrants, whereby any* officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted. Of general warrants.

11. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred. Trial by jury.

12. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotick governments. Freedom of the press.

13. That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free state; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that, in all cases, the military should be under strict subordination to, and governed by, the civil power. Of the militia; standing armies; Subordination of military to civil power.

14. That the people have a right to uniform government; and therefore, that no government separate from, or independent of, the government of *Virginia*, ought to be erected or established within the limits thereof. Uniform government.

15. That no free government, or the blessing of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles. Recurrence to fundamental principles.

16. That religion; or the duty which we owe to our CREATOR, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion, according to the dic-

* "An" in Chan. Rev. p. 23

Toleration. tates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love, and charity, towards each other.

CHAP. II.*

The CONSTITUTION, or FORM of GOVERNMENT, agreed to and resolved upon by the Delegates and Representatives of the several counties and corporations of Virginia.

[Unanimously adopted June 29, 1776.]

I. WHEREAS George the third, king of Great Britain and Ireland, and elector of Hanover, heretofore intrusted with the exercise of the kingly office in this government, hath endeavoured to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the publick good:

By denying his governours permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and, when so suspended, neglecting to attend to them for many years:

By refusing to pass certain other laws, unless the persons to be benefitted by them would relinquish the inestimable right of representation in the legislature:

By dissolving legislative Assemblies repeatedly and continually, for opposing with manly firmness his invasions of the rights of the people:

When dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any legislative head:

By endeavouring to prevent the population of our country, and, for that purpose, obstructing the laws for the naturalization of foreigners:

* In the original, the Constitution is not marked by a *chapter*, nor is it separated by *articles or sections*. This was first done in the Chancellor's Revisal, edit. 1785.

By keeping among us, in times* of peace, standing armies and ships of war:

By affecting to render the military independent of, and superiour to, the civil power:

By combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of legislation:

For quartering large bodies of armed troops among us:

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

For imposing taxes on us without our consent:

For depriving us of the benefits of trial by jury:

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

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

By plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people:

By inciting insurrections of our fellow subjects, with the allurements of forfeiture and confiscation:

By prompting our negroes to rise in arms among us, those very negroes whom, by an inhuman use of his negative, he hath refused us permission to exclude by law:

By endeavouring to bring on the inhabitants of our frontiers the merciless *Indian* savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions of existence:

By transporting, at this time, a large army of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy unworthy the head of a civilized nation:

By answering our repeated petitions for redress with a repetition of injuries:

And finally, by abandoning the helm of government, and declaring us out of his allegiance and protection.

By which several acts of misrule, the government of this country, as formerly exercised under the crown of *Great Britain*, is **TOTALLY DISSOLVED.** Former government dissolved.

II. We therefore, the delegates and representatives of the good people of *Virginia*, having maturely considered the premises, and viewing with great concern Another declared.

* "Time" in Chan. Rev. p. 34.

the deplorable condition to which this once happy country must be reduced, unless some regular adequate mode of civil polity is speedily adopted, and in compliance with a recommendation of the General Congress, do ordain and declare the future form of government of *Virginia* to be as followeth:

Legislative, executive, & judicial, separated, with an exception.

III. The legislative, executive, and judiciary departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the other; nor shall any person exercise the powers of more than one of them at the same time, except that the justices of the county courts shall be eligible to either House of Assembly.

Legislature; general assembly, formed of two branches, to meet once a year, or oftener.

IV. The legislative shall be formed of two distinct branches, who, together, shall be a complete legislature. They shall meet once, or oftener, every year, and shall be called the **GENERAL ASSEMBLY OF VIRGINIA**.

House of delegates; its members, how qualified, by whom, and how chosen.

V. One of these shall be called the **HOUSE OF DELEGATES**, and consist of two representatives to be chosen for each county, and for the district of *West Augusta*, annually, of such men as actually reside in and are freeholders of the same, or duly qualified according to law, and also one delegate or representative to be chosen annually for the city of *Williamsburg*, and one for the borough of *Norfolk*, and a representative for each of such other cities and boroughs as may hereafter be allowed particular representation by the legislature; but when any city or borough shall so decrease as that the number of persons having right of suffrage therein shall have been for the space of seven years successively less than half the number of voters in some one county in *Virginia*, such city or borough thenceforward shall cease to send a delegate or representative to the assembly.

When a corporation's right to representation shall cease.

Senate; number of members, how qualified, by whom, and how chosen.

VI. The other shall be called the **SENATE**, and consist of twenty four members, of whom thirteen shall constitute a House to proceed on business, for whose election the different counties shall be divided into twenty four districts, and each county of the respective district, at the time of the election of its delegates, shall vote for one Senator, who is actually a resident and freeholder within the district, or duly qualified according to law, and is upwards of twenty five years of age; and the sheriffs of each county within five days at farthest after the last county election in the district, shall

meet at some convenient place, and from the poll so taken in their respective counties return as a Senator the man who shall have the greatest number of votes in the whole district. To keep up this Assembly by rotation, the districts shall be equally divided into four classes, and numbered by lot. At the end of one year after the general election, the six members elected by the first division shall be displaced, and the vacancies thereby occasioned supplied from such class or division, by new election, in the manner aforesaid. This rotation shall be applied to each division, according to its number, and continued in due order annually.

Rotation, in senate.

VII. * The right of suffrage in the election of members for† both Houses shall remain as exercised at present, and each House shall choose its own speaker, appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies.

Right of suffrage; each house to choose its speaker and officers, and issue writs for supplying vacancies.

VIII. All laws shall originate in the House of Delegates, to be approved or rejected by the Senate, or to be amended with the consent of the House of Delegates; except money bills, which in no instance shall be altered by the Senate, but wholly approved or rejected.

Laws to originate in house of delegates; but, if not money bills, amendable by senate.

IX. A Governour, or chief magistrate, shall be chosen annually, by joint ballot of both Houses, to be taken in each house respectively, deposited in the conference room, the boxes examined jointly by a committee of each house, and the numbers severally reported to them, that the appointments may be entered (which shall be the mode of taking the joint ballot of both Houses in all cases) who shall not continue in that office longer than three years successively, nor be eligible until the expiration of four years after he shall have been out of that office. An adequate, but moderate salary, shall be settled on him during his continuance in office; and he shall, with the advice of a Council of State, exercise the executive powers of government according to the laws of this commonwealth; and shall not, under any pretence, exercise any power or prerogative by virtue of any law, statute, or custom, of *England*: But he shall, with the advice of the Council of State, have the power of granting reprieves or par-

Governor, how chosen, method of balloting in this and other cases; his salary & power; restrained from granting reprieves or pardons in certain cases.

* The word "That" commences this article in the Chan. Rev. p. 34, and the other printed copies of the Constitution, which were taken from that, but it is not in the original.

† "of" in Chan. Rev. p. 34.

sons, except where the prosecution shall have been carried on by the House of Delegates, or the law shall otherwise particularly direct; in which cases, no relieve or pardon shall be granted, but by resolve of the House of Delegates.

When he may convoke the general assembly.

X. Either House of the General Assembly may adjourn themselves respectively. The Governour shall not prorogue or adjourn the Assembly during their sitting, nor dissolve them at any time; but he shall, if necessary, either by advice of the Council of State, or on application of a majority of the House of Delegates, call them before the time to which they shall stand prorogued or adjourned.

Privy council, number of; their duty, power, & term of office.

XI. A Privy Council, or Council of State, consisting of eight members, shall be chosen by joint ballot of both Houses of Assembly, either from their own members or the people at large, to assist in the administration of government. They shall annually choose out of their own members a president, who, in case of the death, inability, or necessary absence of the Governour from the government, shall act as Lieutenant-Governour. Four members shall be sufficient to act, and their advice and proceedings shall be entered of record; and signed by the members present (to any part whereof any member may enter his dissent) to be laid before the General Assembly, when called for by them. This Council may appoint their own clerk, who shall have a salary settled by law, and take an oath of secrecy in such matters as he shall be directed by the board to conceal. A sum of money appropriated to that purpose shall be divided annually among the members, in proportion to their attendance; and they shall be incapable, during their continuance in office, of sitting in either House of Assembly. Two members shall be removed by joint ballot of both Houses of Assembly at the end of every three years, and be ineligible for the three next years. These vacancies, as well as those occasioned by death or incapacity, shall be supplied by new elections, in the same manner.

Their pay.

Delegates to congress, how chosen.

XII. The delegates for *Virginia* to the Continental Congress shall be chosen annually, or superseded in the mean time by joint ballot of both Houses of Assembly.

Military regulations.

XIII. The present militia officers shall be continued, and vacancies supplied by appointment of the Governour, with the advice of the Privy Council, or re-

commendations from the respective county courts; but the Governour and Council shall have a power of suspending any officer, and ordering a court-martial on complaint of misbehaviour or inability, or to supply vacancies of officers happening when in actual service. The Governour may embody the militia, with the advice of the Privy Council; and, when embodied, shall alone have the direction of the militia under the laws of the country.

The two Houses of Assembly shall, by joint ballot, appoint Judges of the Supreme Court of Appeals, and General Court, Judges in Chancery, Judges of Admiralty, Secretary, and the Attorney-General, to be commissioned by the Governour, and continue in office during good behaviour. In case of death, incapacity, or resignation, the Governour, with the advice of the Privy Council, shall appoint persons to succeed in office, to be approved or displaced by both Houses. These officers shall have fixed and adequate salaries, and, together with all others holding lucrative offices, and all ministers of the Gospel of every denomination, be incapable of being elected members of either House of assembly, or the Privy Council.

XV. The Governour, with the advice of the Privy Council, shall appoint Justices of the Peace for the counties; and in case of vacancies, or a necessity of increasing the number hereafter, such appointments to be made upon the recommendation of the respective county courts. The present acting Secretary in *Virginia*, and Clerks of all the County Courts, shall continue in office. In case of vacancies, either by death, incapacity, or resignation, a Secretary shall be appointed as before directed, and the Clerks by the respective courts. The present and future Clerks shall hold their offices during good behaviour, to be judged of and determined in the General Court. The Sheriffs and Coroners shall be nominated by the respective courts, approved by the Governour, with the advice of the Privy Council, and commissioned by the Governour. The Justices shall appoint Constables, and all fees of the aforesaid officers be regulated by law.

XVI. The Governour, when he is out of office, and others offending against the state, either by mal-administration, corruption, or other means by which the safety of the state may be endangered, shall be impeachable by the House of Delegates. Such impeachment to

Judges of courts, attorney general, &c. how appointed; salaries of; excluded, with those holding lucrative offices and all ministers of the gospel from legislative & executive.

Justices of peace, how appointed.

Clerks of courts; and tenure of their office.

Sheriffs, coroners.

Constables

Impeachments.

be prosecuted by the Attorney-General, or such other person or persons as the House may appoint in the General Court, according to the laws of the land. If found guilty, he or they shall be either for ever be disabled to hold any office under government, or removed from such office *pro tempore*, or subjected to such pains or penalties as the law shall direct.

Impeach-
ments.

XVII. If all, or any of the Judges of the General Court, shall, on good grounds (to be judged of by the House of Delegates) be accused of any of the crimes or offences before-mentioned, such House of Delegates may, in like manner, impeach the Judge or Judges so accused, to be prosecuted in the Court of Appeals; and he or they, if found guilty, shall be punished in the same manner as is prescribed in the preceding clause.

Commissions
grants and
writs. style
and test of.
Indictments,
conclusion
of.

XVIII. Commissions and grants shall run, *In the name of the COMMONWEALTH of VIRGINIA*, and bear test by the Governour with the seal of the commonwealth annexed. Writs shall run in the same manner, and bear test by the clerks of the several courts. Indictments shall conclude, *Against the peace and dignity of the commonwealth.*

Treasurer,
how appointed.

XIX. A treasurer shall be appointed annually, by joint ballot of both Houses.

Escheats,
penalties,
forfeitures.

XX. All escheats, penalties, and forfeitures, heretofore going to the king, shall go to the commonwealth, save only such as the legislature may abolish, or otherwise provide for.

Territorial
limits; ces-
sion to co-
terminous
states; future
government
west of
Mount Al-
legany how
to be esta-
blished.

XXI. The territories contained within the charters erecting the colonies *Maryland, Pennsylvania, North and South Carolina*, are hereby ceded, released, and for ever confirmed to the people of those colonies respectively, with all the rights of property, jurisdiction, and government, and all other rights whatsoever which might at any time heretofore have been claimed by *Virginia*, except the free navigation and use of the rivers *Potowmack* and *Pohomoke*, with the property of the *Virginia* shores or strands bordering on either of the said rivers, and all improvements which have been or shall be made thereon. The western and northern extent of *Virginia* shall in all other respects stand as fixed by the charter of king *James* the first, in the year one thousand six hundred and nine, and by the publick treaty of peace between the courts of *Great Britain* and *France* in the year one thousand seven hundred and sixty three; unless, by act of legislature, one or more territories shall hereafter be laid off, and go-

vernments established westward of the *Allegheny* mountains. And no purchase of lands shall be made of the *Indian* natives but on behalf of the publick, by authority of the General Assembly.

No purchases from *Indian* natives, but for re-public.

XXII. In order to introduce this government, the representatives of the people met in Convention shall choose a Governour and Privy Council, also such other officers directed to be chosen by both Houses as may be judged necessary to be immediately appointed. The Senate to be first chosen by the people, to continue until the last day of *March* next, and the other officers until the end of the succeeding session of Assembly. In case of vacancies, the speaker of either House shall issue writs for new elections.*

Provisional appointment of officers of government.

CHAP. III.

An Ordinance prescribing the oaths of office to be taken by the Governor and Privy Council, and other officers of the commonwealth of Virginia, and for other purposes therein mentioned.

I. *BE it ordained, by the delegates or representatives of the counties and corporations in Virginia, now met in convention, that the governor, privy council, members of the general assembly, and officers of government, shall take the oaths herein after prescribed before they shall enter into the execution of their respective offices, in the following manner:*

THE OATH OF THE GOVERNOR.

II. I A. B. elected governor of Virginia, by the representatives thereof, do solemnly promise and swear, that I will, to the best of my skill and judgment, execute the said office diligently and faithfully, according

Oath of governor.

* *Patrick Henry, esq.* was elected Governor, and the members of the Privy Council were chosen the same day on which the Constitution was adopted. The session succeeding the last of *March* next, having adjourned the 28th of *May*, the term of members of the Council consequently expires on that day.

to law, without favour, affection, or partiality; that I will, to the utmost of my power, support, maintain, and defend, the commonwealth of Virginia, and the constitution of the same, and protect the people thereof in the secure enjoyment of all their rights, franchises, and privileges; and will constantly endeavour that the laws and ordinances of the commonwealth be duly observed, and that law and justice, in mercy, be executed in all judgments. And lastly, I do solemnly promise and swear, that I will peaceably and quietly resign the government, to which I have been elected, at the several periods to which my continuance in the said office is or shall be limited by law and the constitution. So help me God.

THE OATH OF A PRIVY COUNSELLOR.

Oath of privy councillor.

III. I A. B. elected one of the privy council of Virginia by the representatives thereof, do solemnly promise and swear, that I will, to the best of my skill and judgment, execute the said office diligently and faithfully according to law, without favour, affection, or partiality; and that I will be faithful to the commonwealth of Virginia, and will support and defend the same, according to the constitution thereof, to the utmost of my power; and that I will keep secret such proceedings and orders of the privy council as the board shall direct to be concealed, unless when the same shall be called for by either house of assembly. So help me God. Which oaths shall be administered, that to the governor, by any four of the privy council, and the other by the governor, on or before the sixth day of this instant July, for which purpose he is required to summon the privy council to attend him at Williamsburg; and until that time the powers of the committee of safety, according to the ordinances of convention, shall continue, and no longer.

Oaths to be administered to governor & council, on or before the 6th of July, 1776.

Powers of Committee of Safety cease.

THE OATH OF A SENATOR AND DELEGATE.

Oath of senator or delegate.

IV. I A. B. do solemnly promise and swear, that I will be faithful and true to the commonwealth of Virginia, that I will well and truly demean myself as a senator (or delegate, as the case may be) of the general assembly, to which I have been elected, in all things appertaining to the duties of the same, according to the best of my skill and judgment, and without favour, affection, or partiality. So help me God. Which oath shall be administered by any privy counsellor.

THE OATH OF THE SECRETARY, ATTORNEY GENERAL,
AND CLERK OF A COUNTY COURT.

V. I A. B. do solemnly promise and swear, that I will be faithful and true to the commonwealth of Virginia, and that I will well and truly demean myself in the office of secretary, (attorney general, or clerk of the county court of _____, as the case may be) to which I have been appointed, in all things appertaining to the duties thereof, according to the best of my skill and judgment, and without favour, affection, or partiality. So help me God. Which oaths shall be administered, those to the secretary and attorney general by any four of the privy council, and the other by the court of which the officer is clerk.

Oath of secretary, attorney general, and clerk of county court

VI. And every attorney at law shall, before he be permitted to practise in any court, take the following oath before such court: I A. B. do solemnly promise and swear, that I will be faithful and true to the commonwealth of Virginia, and that I will well and truly demean myself in the office of an attorney at law. So help me God.

Oath of attorney at law.

VII. And every other person, heretofore required by law to take the oaths of government, now taking instead thereof an oath, before some court of record, that he will be faithful and true to the commonwealth of Virginia, and that he will well and truly demean himself in his office, in all things appertaining to the duties thereof, according to the best of his skill and judgment, and without favour, affection, or partiality, shall be deemed sufficiently qualified to execute his office.

Other oaths of office.

VIII. And all members of committees of inspection and observation shall take the like oath, which any two members of such committees respectively are hereby empowered to administer.

Members of committees to take an oath.

IX. And whereas doubts may arise concerning the powers of the governour and privy council, to the great injury of the community, in this time of war and public danger: *Be it ordained*, That, superadded, to the powers given to the governour and privy council by the form of government passed this convention, the governour, with the advice of the privy council, shall have and possess all the powers and authority given to the committee of safety by an ordinance appointing a committee of safety passed at Richmond, July 1775, or by any resolution

Powers of committee of safety, transferred to governour and council.

of convention; and also to direct such military movements and operations as, in their judgment, will be necessary for the safety and security of the commonwealth.

How long to
continue.

X. *Provided always, and be it ordained,* That the powers given by the said ordinance and resolutions hereby transferred to the governour and council, and the authority herein also given to direct military movements and operations, shall continue no longer than until the tenth day after the meeting of the next convention or general assembly.

Commission-
ers to settle
public ac-
counts.

XI. *And be it farther ordained,* That Thomas Everard and James Cocke, esqrs. shall be, and they are hereby appointed commissioners, to examine, state, and settle all public accounts referred to them for that purpose by the governour and privy council; each of which commissioners shall be allowed the sum of ten shillings per day for his services therein, until the end of the next meeting of the convention or general assembly.

CHAP. IV.

An Ordinance for erecting Salt works in this colony, and for encouraging the making of salt.

Preamble.

WHEREAS, from the commodious situations of many parts of our rivers and bays next to the sea coast, and from experiments made in this country, it is judged that large quantities of salt may be made, as well for our own consumption as for exportation, by which the inconveniences from the want of that article would be speedily removed, and great advantages might be derived both to the trade and revenue of this country; and whereas it is thought that the most certain and expeditious method of making salt will be by erecting proper works in the most convenient and secure places for the reception of the salt water, from which, by the operation of the sun, or otherwise, great quantities may be procured:

Be it therefore ordained, by the delegates and representatives of the people, assembled in general convention,

and it is hereby ordained by the authority of the same, Salt works to be erected at the public expense.
 That there be erected, with all possible despatch, in the several districts hereinafter mentioned, two complete salt works, according to the best and most approved plan, that is to say: In the district between Potowmack and Rappahannock rivers two, between Rappahannock and York two, between York and James rivers two, on the south side of James river two, and also two other works on the eastern shore of this country; and there shall be appointed to the works in each district one director or manager, who shall immediately proceed to erect the same (and for that purpose may take the advice and assistance of any artist in that way) at the public expense. And the said manager or managers shall have full power and authority, from time to time, to hire such hands, and so many of them, as he or they shall judge necessary for completing the said works in the most effectual and expeditious manner; and if the said hands cannot thus be soon and conveniently procured, he or they shall have full power to impress such and so many labourers into the service as shall be judged proper, who shall be allowed such hire as any two of three freeholders in the said district or districts, being first sworn, may think reasonable: *Provided,* That such manager shall not have power to impress more than one-third of the male labouring tithable slaves belonging to any person upon one plantation; and that, when the said works are completed, no manager or managers shall be allowed longer to impress any hands into the said service, but they shall be hired in the usual way.

And be it farther ordained, by the authority aforesaid, Duty of managers.
 That the manager or managers hereinafter appointed, or for the time being, shall provide, from time to time, all things necessary for the said works, and report his or their proceedings therein, to the governour of this country, together with an account of the expense attending the same, when required; and in case of the death of any manager, or the negligence, misconduct, or refusal to render such account from time to time, when required of any of them, the governour shall have full power and authority to appoint another in the room of him so dying, or to displace such manager or managers so neglecting, and to appoint others in his or their stead. And the treasurer of this country shall, and he is here-

by required to advance to each of the said managers the sum of five hundred pounds, to enable him the better to prosecute the said work.

Salt, how
disposed of.

And be it farther ordained, That the governour of this country shall, as he may see fit, grant his warrant to the treasurer for the payment of such sums of money as shall be required to complete the said works, and for carrying on the business of salt making. And the salt made at the said works shall be sold by the manager or managers, first to the inhabitants of this country, at the price of five shillings per bushel, and the money arising from such sale paid it to the publick treasury, to be disposed of as the convention or general assembly shall direct; and if there shall be made a greater quantity than will be sufficient for the consumption of this country, the overplus shall be disposed of to the best advantage, and the money thence arising be paid into the publick treasury, for the use of this country. But any sale so to be made to the inhabitants, or otherwise, shall be suspended until the next meeting of the assembly, when report shall be made to the same, on the first day of their sitting, by the said managers, of the quantity of salt made at each respective salt work, that a due proportion thereof may be allotted to the different counties; and, in the mean time, the said managers are authorised and required to cause the salt respectively made at the said salt works to be removed to, and stored in, places of safety. And the said managers shall keep regular and distinct accounts of all disbursements upon the said works, and of all profits arising therefrom; and each manager shall be allowed a clerk, with a salary of thirty pounds a year, and the sum of twenty shillings per day until salt is made at the works, and ten shillings a day and one shilling per bushel for all salt he shall make after that time, until the next meeting of assembly or convention, for his own services therein. And they shall, moreover, each of them, give bond, with security, for the due application of the money so advanced, and for the performance of the trust reposed in them.

Managers.

And be it farther ordained, That Richard Parker, the elder, gentleman, shall be, and he is hereby appointed manager of the works in the district between Potowmack and Rappahannock, Thomas Wood, gentleman, in the district between Rappahannock,

and York river, David Jameson, gentleman, in the district between York and James rivers, John Scasbrooke Wills, gentleman, in the district on the south side of James river, and Southy Simpson, gentleman, on the eastern shore of this country.

And whereas it may contribute greatly towards procuring a speedy supply of so necessary an article, to allow a bounty to private adventurers, *Be it therefore ordained, by the authority aforesaid,* That there shall be allowed and paid by the treasurer a bounty upon the several quantities of salt herein after mentioned, to each person producing a certificate of his having made the same within six months after the passing of this ordinance, except Mr. James Tait, who hath already received sufficient encouragement, that is to say: For fifty bushels, the sum of fifty shillings; for one hundred bushels, the sum of seven pounds ten shillings; for two hundred bushels, the sum of twenty pounds; and for five hundred bushels, the sum of sixty two pounds ten shillings. The said certificates to be granted by the court of the county wherein such salt shall be made, on proof thereof appearing to them.

And be it farther ordained, That the several lands whereon it shall be found necessary to erect publick salt works shall, previous to the erecting the same, be valued by three disinterested freeholders on oath, and the amount of such valuation, upon a certificate from the managers of the said works, be paid by the treasurer to the owner or owners of such lands, which shall from thenceforth be vested in the publick, to revert to the proprietor when such works shall be discontinued.

And be it farther ordained, That all appointments and powers heretofore given to commissioners for erecting salt works, by virtue of any resolutions of convention, shall henceforth cease.

Provided nevertheless, That the said managers shall, and they are hereby authorised and required to state and settle the accounts of the said commissioners, and to take the hands by them employed for the purposes aforesaid, and also all such materials as may have been contracted for or purchased by them, on the publick account.

And that all proper encouragement may be given to the speedy and effectual supplying the country with salt, *Be it farther ordained,* That a premium of one

Bounty upon salt, to private adventurers.

Lands, for erection of salt works, how acquired,

Power to former commissioners superseded.

Premium to manager.

hundred pounds shall be paid by the publick to that manager who shall make the first two thousand bushels of good salt.

CHAP. V.

An ordinance to enable the present magistrates and officers to continue the administration of justice, and for settling the general mode of proceedings in criminal and other cases till the same can be more amply provided for.

[Chan. Rev.
pa. 37.]

Preamble.

I. WHEREAS it hath been found indispensably necessary to establish government in this colony, independent of the crown of Great Britain, or any authority derived therefrom, and a plan of such government hath been accordingly formed by the general convention, but it will require some considerable time to compile a body of laws suited to the circumstances of the country, and it is necessary to provide some method of preserving peace and security to the community in the mean time:

Magistrates
empowered
to act, on
taking an
oath.

II. *Be it therefore ordained, by the representatives of the people now met in general convention, That the several persons named in the commission of the peace in each county respectively, having in the court of the county taken the following oath, which shall be administered to the first person named who is present by any two of the others, and then by him administered to all the others, that is to say: I A. B. do solemnly swear, that I will be faithful and true to the commonwealth of Virginia; that I will, to the utmost of my power, support, maintain, and defend, the constitution and government thereof, as settled by the general convention; and that I will faithfully execute the office of*
for the county of and do equal right and justice to all men, to the best of my judgment, and ac-

ording to law; shall each, and every of them, have full power to execute the office of a justice of peace, as well within his county court as without, in all things, according to law.

III. *And be it farther ordained,* That where it shall happen that there is not a sufficient number of magistrates for holding a court in any county already appointed, the governour may, with the advice of the privy council, appoint such and so many magistrates in such county as may be judged proper and necessary.

Vacancies,
how suppli-
ed.

IV. And whereas courts in the district of West Augusta have been hitherto held by writs of adjournment, which writs cannot now be obtained: *Be it therefore ordained,* That the justices residing in the said district, on taking the same oath aforesaid, shall have the power and authority to hold a court within the said district, on the third Tuesday in every month, at such place as they may appoint, and shall exercise their office, both in court and without, in the same manner as the justices of the several counties are by this ordinance empowered to do.

Justices in
West Augus-
ta, how qual-
ified.

V. *Provided always,* That upon complaint made to the governour and privy council against any justice of peace, now in commission, of misfeazance in office, or disaffection to the commonwealth, it shall and may be lawful for the governour, with advice of the privy council, on a full and fair hearing of both parties, to remove such justice from his office, if they shall be of opinion that the said complaint is just and well founded.

Justices, re-
movable by
Executive.

VI. *And be it farther ordained,* That the common law of England, all statutes or acts of parliament made in aid of the common law prior to the fourth year of the reign of king James the first, and which are of a general nature, not local to that kingdom, together with the several acts of the general assembly of this colony now in force, so far as the same may consist with the several ordinances, declarations, and resolutions of the general convention, shall be the rule of decision, and shall be considered as in full force, until the same shall be altered by the legislative power of this colony.

Common law
of England, &
general sta-
tutes in aid
thereof prior
to 4, Jac. 1,
in force.

VII. *Provided always, and be it farther ordained,* That all quitrents and arrears thereof, and all duties, aids, penalties, fines, and forfeitures, heretofore made payable to the king, his heirs and successours, shall be

Quitrents,
fines, &c. to
enure to com-
monwealth.

and inure to the use of the commonwealth, and all bonds for securing the same shall be made payable to the person or persons having the executive power.

Bonds for
sheriffs, &c.
payable to
justices, &c.

VIII. *And be it farther ordained,* That all bonds to be entered into by sheriffs, or other publick officers, and in all other cases, where the same are required by law, shall be made payable to the justices of the court, taking such bond, and, in the names of them or their successours, may be sued and prosecuted at the costs and for the benefit of the publick, or any private person or persons injured by the breach thereof, as often as there may be occasion, until the whole penalty be levied.

Sheriffs con-
tinued till
25th Octo-
ber.

IX. *And be it further ordained,* That all the present sheriffs now in office under a commission from the late governour, upon taking the oath before prescribed in the court of their county, shall continue to act, and have all the powers and authorities of sheriff, according to law, until the twenty-fifth day of October next.

CHAP. VI.

[Chan. Rev.
pa. 37.]

An ordinance to arrange the counties in districts, for electing Senators, and to ascertain their wages.

Preamble.

I. For the regular election of senators to this convention, at the time the same shall be adjourned to, and that the people may be more equally represented in that branch of the legislature:

Counties ar-
ranged into
districts.

Be it ordained, by the delegates of the counties and corporations of Virginia, now met in convention, and it is hereby ordained by the authority thereof, That the counties of Accomack and Northampton shall be one district; the counties of Princess Anne, Norfolk, and Nansemond, one other district; the counties of Isle of Wight, Surry, and Prince George, one other district; the counties of Dinwiddie, Southampton, and Sussex, one other district; the counties of Brunswick, Lunenburg, and Mecklenburg, one other district; the coun-

ties of Charlotte, Halifax, and Prince Edward, one other district; the counties of Chesterfield, Amelia, and Cumberland, one other district; the counties of Buckingham, Albemarle, and Amherst, one other district; the counties of Pittsylvania and Bedford, one other district; the counties of Bottetourt and Fincastle, one other district; the counties of Elizabeth City, Warwick, and York, one other district; the counties of Charles City, James City, and New Kent, one other district; the counties of Henrico, Goochland, and Louisa, one other district; the counties of Hanover and Caroline, one other district; the counties of East Augusta, and Dunmore, one other district; the counties of Gloucester and Middlesex, one other district; the counties of Essex, King William, and King & Queen, one other district; the counties of Lancaster, Richmond, and Northumberland, one other district; the counties of Westmoreland, Stafford, and King George, one other district; the counties of Spotsylvania, Orange, and Culpeper, one other district; the counties of Prince William and Fairfax, one other district; the counties of Loudoun and Fauquier, one other district; the counties of Frederick, Berkeley, and Hampshire, one other district; and West Augusta, one other district; for every one of which districts one senator shall be chosen by the persons qualified to vote for delegates, who shall be summoned for that purpose by the sheriffs, or, where there is no such officer, by the clerks of the committees of observation and inspection, to meet at the courthouses of their respective counties, or, where there are no courthouses, at some other convenient places, on the second Tuesday in September for the first district, on the second Thursday in August for the second and fourth districts, on the first Thursday in August for the third, sixteenth, and nineteenth districts, on the first Monday in August for the eighteenth district, on the fifth Thursday in August for the sixth district; on the first Friday in August for the seventh district, on the first Monday in September for the fifth, eighth, thirteenth, and twenty-first districts, on the fourth Thursday in August for the ninth and eleventh districts, on the first Tuesday in September for the tenth, fifteenth, and twenty-fourth districts, on the first Wednesday in September for the twelfth district, on the third Thursday in August for the twentieth district, on the second Monday in August for the seventeenth district, on the second Monday in

Sentimental
districts.

Voters, by
whom to be
summoned.

Times of e-
lection.

Sheriffs and clerks to compare polls, and return senator.

September for the twenty-second district, on the second Tuesday in September for the twenty-third district, and on the second Tuesday in August for the fourteenth district. And the sheriffs and clerks of each district, having taken the polls in the manner heretofore used in the election of burgesses, shall within ten days afterwards meet together and return as a senator the man who shall have the greatest number of votes, certifying their own votes in case each candidate shall have an equal number.

Vacancies in convention, how supplied.

II. And for supplying vacancies in the convention, by death, and disqualification of any delegates thereof, *Be it farther ordained, by the authority aforesaid,* That the president of this convention shall issue warrants to the sheriffs of those counties, the delegates whereof are or shall be dead or disqualified, for the election of other delegates in their room.

Wages and allowances of senators.

III. *And be it farther ordained, by the authority aforesaid,* That each and every senator shall be allowed the like number of travelling days, and the same wages, as are or shall by law be established for burgesses or delegates coming to, attending on, and returning from, the general assembly.

CHAP. VII.

An Ordinance to amend an ordinance entitled an ordinance for establishing a mode of punishment for the enemies of America in this colony.

See December 1775, chap. VII.

WHEREAS an ordinance intituled An ordinance for establishing a mode of punishment for the enemies of America in this colony is defective, and inadequate to the purposes thereby intended: For amendment thereof, *Be it ordained, by the delegates and representatives of Virginia, in convention assembled, and it is ordained by the authority of the same,* That if any free person or persons shall in any manner, or by any device, ways, or means, aid, abet, or assist the enemy, he, she, or they, so offending, being duly convicted be-

Further punishment, for aiding the enemy.

Before the commissioners appointed, and according to the mode prescribed, by the said ordinance, shall forfeit all his, her, or their estates, real and personal, to the use of the commonwealth, and moreover be imprisoned during such time as the said commissioners shall direct, not extending beyond the continuance of the present war with Great Britain.

And whereas two of the judges appointed to take cognizance of matters relating to vessels and their cargoes have been appointed to other offices, and the third hath resigned: To supply their places thereby become vacant, *Be it ordained*, That James Hubbard, Joseph Prentis, and John Tyler, esquires, be, and they are hereby constituted judges to hear and determine all causes maritime arising within and belonging to the jurisdiction of the admiralty, all offences committed on the high seas, and all captures of vessels and their cargoes from the enemies of America, and from the inhabitants of this or any other of the united colonies made liable to seizure and confiscation, by ordinances of convention and the resolutions of the continental congress thereby adopted; for which purpose, the said judges, or any two of them, may hold a court at such place within this colony as they may think most proper for the execution of their office, and may adjourn from time to time, and to any other place they may judge necessary, the said judges having taken before the governour and privy council, and having administered to the advocate, clerk, and marshal, appointed by them, the respective oaths prescribed in the said ordinance. And the said judges and their officers shall be paid for their services such allowance, and in such manner, as by the said ordinance is directed.

And be it farther ordained, That all trials in the said court of admiralty shall be by juries of freeholders, to be empannelled by the marshal, and sworn according to the methods of proceeding in courts of common law; for summoning which juries, the said judges, or any two of them, may issue their precept to the marshal. And if any juror summoned, by virtue of such precept, shall fail to attend, he shall forfeit fifty shillings, to be levied by fieri facias issuing out of the said court, unless, having been duly cited, he shall show good cause to the contrary, within ten days.

And be it farther ordained, That the resolutions of the continental congress relative to the capture of ves-

New judges appointed to decide on cases of admiralty, and breaches of this ordinance.

Trial by jury in court of admiralty.

Resolutions of Congress as to capture

of vessels adopted. sels and their cargoes, made on or before the third day of April last, shall be in force in this colony.

Prosecutors to give caution for costs of claimant. *And be it farther ordained, by the authority aforesaid, That in all cases of captures, before any suit shall be commenced for the condemnation thereof, the prosecutors shall give caution for the costs of the claimant or defendant, which shall be awarded in case judgment shall be entered for him.*

Allowance to wives and children of persons adjudged inimical.

And wherees there is no provision made for the maintenance of the wives and children of those persons who may be adjudged inimical, *Be it farther ordained, by the authority aforesaid, That out of the lands and other estate of every person who hath been or shall be condemned, under this or the former ordinance, for punishing the enemies of America, there shall be allowed, by the commissioners appointed by the court condemning such person as aforesaid, such part of the said estate as they shall judge reasonable to the wife and children of such person for their maintenance and subsistence.*

Continuance of this ordinance.

And be it farther ordained, That this ordinance shall be in force until the first day of December next.

CHAP. VIII.

An ordinance to amend an ordinance intituled An ordinance for establishing a mode of making tobacco payments during the discontinuance of the inspection law, and for other purposes therein mentioned.

Preamble.

WHEREAS the mode for making tobacco payments, established by an ordinance of the last convention, has been found inconvenient to the inhabitants of this colony, and renders the office of collectors expensive, and their duty extremely difficult:

For remedy whereof, *Be it ordained, by the delegates and representatives of the people of this colony, now met in general convention, and by the authority of the same,*

That the several county courts and vestries within this colony, where collectors are not already employed, shall, and they are hereby empowered and required to appoint such and so many places within their respective counties and parishes as to them shall appear convenient and necessary, for the reception of all levies payable in tobacco, at one of which places all payments of the same shall be made by the respective debtors, on or before the last day of August; and the several collectors, or some person for them, shall constantly attend at the places so appointed, from the time of appointment until the said last day of August.

County courts and vestries to appoint certain places in counties, and parishes, at which all levies payable in tobacco are to be made.

And be it further ordained, That the several persons chargeable with levies, who shall fail to make payments in tobacco at the places appointed for the reception of the same within the time above limited, shall, in lieu thereof, pay the said levies in money, at such price as shall be limited or appointed by the respective county courts, and vestries of this colony.

And be it further ordained, That so much of the said recited ordinance as is contrary to this ordinance be, and the same is hereby repealed.

CHAP. IX.

An ordinance to amend an ordinance intituled An ordinance to provide for paying the expenses of the delegates from this colony to the General Congress.

WHEREAS, in these times of difficulty and distress, it is necessary to practise the utmost economy in the distribution of the publick money: *Be it therefore ordained, by the delegates of Virginia, now met in general convention, and it is hereby ordained by the authority of the same,* That so much of an ordinance, intituled An ordinance to provide for paying the expenses of the delegates from this colony to the general congress, as establishes an allowance to each of such dele-

Preamble.

gates of forty five shillings for every day's attendance therein, shall, from and after the eleventh day of August next, be repealed, to all intents and purposes.

Day of mem-
bers of Con-
gress redu-
ced.

And be it further ordained, That from and after the eleventh day of August next every delegate who now is, or hereafter may be appointed to represent this colony in any general congress, shall, for each day's attendance therein, receive the sum of thirty shillings, to be paid to the respective delegates by the treasurer for the time being, appointed by general convention or general assembly, out of any publick money which may be in his hands by virtue of any ordinance of convention or act of general assembly.

CHAP. X.

An ordinance making it felony to counterfeit the continental paper currency, and for other purposes therein mentioned.

Counterfeit-
ing paper
money, ei-
ther continen-
tal, or of any
of the United
Colonies, or
making base
coin, or pas-
sing any
such in pay-
ment, know-
ingly, death
without
clergy.

*BE it ordained, by the delegates of the several coun-
ties and corporations in this colony, assembled in con-
vention,* That if any person shall counterfeit, aid or
abet in counterfeiting, the continental bills of credit in
this colony, or the paper money of any of the United
Colonies, or shall counterfeit, aid or abet in counter-
feiting, or making base coin, or who shall pass any
such in payment, knowing the same to be counterfeit
or base, every such person shall, on legal conviction,
suffer death, without benefit of clergy.

CHAP. XI.

An ordinance for augmenting the ninth regiment of regular forces, providing for the better defence of the frontiers of this colony, and for raising six troops of horse.

[Amended,
post c. XIII]

WHEREAS it hath become necessary; for the better defence of this country, to augment the ninth regiment of regular forces, so as to make the same equal with the other regiments: *Be it therefore ordained, by the delegates and representatives of the several counties and corporations of Virginia, now assembled in general convention, and it is hereby ordained by the authority of the same,* That the ninth regiment of regular forces raised for the defence and protection of this country, and stationed in the counties of Northampton and Accomack, be augmented by the addition of two hundred and four men, to be divided into companies of sixty eight each rank and file, under the command of one captain, two lieutenants, one ensign, and four serjeants, and each company to be allowed a drummer and fifer.

The ninth
regiment of
regulars aug-
mented.

And be it farther ordained, That the captains and subaltern officers of one of the said companies shall be appointed by the committee for the said county of Northampton, and the captains and subaltern officers to the other two companies by the committee of the said county of Accomack; which officers and men, so to be appointed and raised, shall be considered as a part of the said ninth regiment, and receive the same bounty, pay, and allowance, and be subject to the same regulations and authority, as the other part of the said regiment.

And whereas there is too much reason to apprehend the enemies of America are endeavouring to kindle an Indian war on our frontiers, which ought timely to be provided against: *Be it therefore farther ordained, by the authority aforesaid,* That four hundred men be employed for the defence of the north and north-western frontiers, and stationed at the following places, that is to say, two hundred at Point Pleasant, fifty at the mouth of Little Kanawah, fifty at the mouth of Wheeling, and one hundred at Fort Pitt, for so long time as

Officers,
how appoint-
ed.

the committee of safety, or others having the executive powers of government during the recess of the legislature, shall judge them necessary.

Forces to be stationed at certain places on western frontiers.

And be it further ordained, That the captain of the company of regulars now stationed at Fort Pitt shall be, and he is hereby empowered and required to advance and allow to each private man of his company a bounty of twenty shillings, provided he shall be willing to continue in the service for the time above required, and to engage others in the room of such as may refuse to serve, so as to complete his company to one hundred men, to remain at that station; that the captain of the company now stationed at Point Pleasant do, in like manner, retain so many of his men as shall be willing to continue in service, or enlist others in the room of such as may refuse, so as to complete his company to one hundred men, to remain at their said station.

Bounties to men, to continue in that service.

Committees of Botetourt, Augusta and Hampshire, to appoint officers for those companies, to be stationed at Point Pleasant, mouth of Little Kanawah, and Wheeling.

And that the committee of the county of Botetourt shall appoint one captain, three lieutenants, and one ensign, to command another company of one hundred men to be raised for the said garrison at Point Pleasant, which company shall also be allowed four serjeants, a drummer, and fifer; and the officers so appointed shall proceed to enlist their men in the following proportions, that is to say: The captain forty, the first lieutenant twenty, the second lieutenant eighteen, the third lieutenant sixteen, and the ensign twelve, to be reviewed by three of the committee of the said county of Botetourt, to be by the committee appointed for that purpose. And that the committee of the county of Augusta shall appoint one captain, one lieutenant, and one ensign, to command a company of fifty men to be stationed at the mouth of Little Kanawah, which company shall also be allowed three serjeants, a drummer, and fifer; and the officers so to be appointed shall proceed to enlist the men for the said company in the following proportions, that is to say: The captain twenty five, the lieutenant eighteen, and the ensign twelve, to be reviewed by three of the committee of the said county of Augusta, appointed by the committee for that purpose. And that the committee of the county of Hampshire shall appoint one captain, one lieutenant, and one ensign, to command a company of fifty men to be stationed at the mouth of Wheeling, which company shall also be allowed three serjeants, a drummer, and fifer; and the officers are to proceed to enlist the

men for the said company, by retaining so many of the men now at the station as may be willing to engage on the terms of others, and enlisting so many as may be wanting in the proportions mentioned for the company for the Little Kanawah; the new recruits to be reviewed by three of the committee of the county of Hampshire, to be appointed by the committee for that purpose.

And be it farther ordained, That the several men to be raised and employed by virtue of this ordinance shall be entitled to the same bounty, and the officers and men to the same pay and allowance, and subject to the like regulations and restrictions, as by ordinance of convention is provided for other regulars, except that they shall not be marched out of the colony without the mutual consent of themselves and the executive power, and shall not be compelled to serve longer than two years from the tenth of October next; and that the whole four hundred men, with their officers, be under the command of a major, to be chosen by the general convention.

And be it farther ordained, That the several persons appointed to review the men shall respectively certify the time each company is complete, which shall entitle the officers of such companies to commissions of that date, from those having the executive powers of government; and all vacancies which may happen among the officers shall be filled up by succession, according to seniority of rank among those of the station where the vacancy happens.

And be it farther ordained, That the committee of safety, or those having the executive powers of government, shall appoint a paymaster, and one or more commissary or contractors for provisions, for the several forces to be raised and employed on the frontiers; each of which paymaster and commissary shall have such pay and allowance for his services as shall be judged reasonable by those having the executive powers of government, exclusive of his necessary expenses.

And whereas it is judged necessary, for the better and more effectual defence and protection of this colony, that certain troops of horse should be raised; *Be it therefore ordained, by the authority aforesaid,* That six troops of horse, consisting of thirty each, rank and file, be immediately raised, under proper officers, and taken into the service of this colony; and that each of the said companies be under the command of a captain, a lieu-

Pay and bounty.

Commissions for officers, how obtained.

Paymaster, contractor, &c. how appointed.

Six troops of horse to be raised.

Officers.

tenant, a cornet, to be chosen by the convention, and three corporals, to be chosen by the captain, and be allowed a trumpeter, to be also appointed by the captain. And that the several officers and troopers shall, at their own expense, be furnished with horses, proper arms, and accoutrements, and shall be allowed the following pay per day, besides rations and forage, to wit: The captain 7s. 6d. the lieutenant 6s. the cornet 5s. the corporals 3s. each, a trumpeter 3s. and a trooper 2s. 6d. which pay of the officers shall commence from the time of receiving their commissions, and of the troopers from the time of their being provided with a sufficient horse, and properly armed, in the opinion of any field officer of the militia of the county wherein they are enlisted. And that the officers and troopers so to be raised shall continue in the service for such time as shall be judged necessary by the committee of safety, or others having the executive powers of government, but shall not be compelled to continue in the service longer than one year; and that they shall be subject to the articles of war established for the regular forces, and to such orders as they shall from time to time receive from the commanding officer of the continental troops in this colony.

And be it farther ordained, That so much money as shall be necessary for the purposes of this act shall from time to time be paid by Robert C. Nicholas, esq. treasurer, or the treasurer for the time being, out of the public money in his hands, by warrant from the committee of safety, or others having the executive powers of government, and an account thereof rendered to the general convention.

Horses, arms,
and accoutrements,
how provided

Pay.

Term of enlistment.

Appropriation for.

CHAP. XII.

An ordinance for amending an ordinance for raising and embodying a sufficient force for the defence and protection of this colony, and for other purposes therein mentioned.

WHEREAS by an ordinance, intituled An ordinance for raising and embodying a sufficient force for the protection and defence of this colony, all overseers of four tithables residing on a plantation, and all millers, are exempted from being enlisted into the militia of their respective counties, which said exemption of overseers and of millers residing in the counties of Accomack and Northampton, on the eastern shore, hath been found inconvenient and unnecessary: *Be it therefore ordained, by the delegates and representatives of the several counties and corporations of Virginia, in general convention assembled, and it is hereby ordained by the authority of the same,* That all overseers, and all quakers and menonists, in Virginia, and all millers residing in the counties of Accomack and Northampton, shall be enlisted into the militia by the commander in chief of the respective counties, and be subject to the same rules and regulations, and liable to the same pains, penalties, and forfeitures, as the rest of the militia; and the said overseers, quakers, and menonists, shall be immediately allotted to the several divisions of militia in their respective counties, in the manner prescribed by a former ordinance respecting the division of the militia in this colony, except in the counties of Accomack and Northampton; but the said quakers and menonists shall not be obliged to attend general or private musters.

And be it farther ordained, That where it shall be necessary to call on duty the militia of any colony, upon an invasion or insurrection within the same, or any county adjoining, the commanding-officer shall have full power and authority to order into service such part of the militia of his said county as to him shall seem necessary, and shall also call in the divisions, or any part thereof, according to allotment; and the militia first called on duty shall be discharged as soon as the

All overseers, quakers, and menonists, and all millers in Accomack and Northampton, to be enrolled in militia.

But quakers and menonists not obliged to attend musters

Power of commanding officer of county, to call militia into service.

His power to excuse, on account of sickness, &c.

divisions called in shall be ready to perform the service required of such division. And where any soldier of the militia shall fail to appear at musters through sickness, the captain, or other commanding-officer of such company present, shall and may hear any evidence offered on behalf of such person failing to attend, and admit the excuse, if to him it shall seem just, and for that purpose is hereby empowered to administer an oath to any witness who shall appear before him to prove such sickness.

Minute companies not complete, to return to the main body of the militia.

And where any minute company hath heretofore been completed, and hath been reduced by enlistment into regular service, if the captain hath thirty two men remaining in his company, he shall go into the training duty, and receive pay in the same manner as if his said company was actually complete; and where any minute company hath not been raised pursuant to the directions of a former ordinance of convention, and shall not be raised within two months from the passing of this ordinance, the men enlisted shall return into, serve in the militia, and be allotted as is directed in the case of overseers.

Number of private musters reduced.

And whereas, by the said ordinance, it is farther ordered, that there shall be a private muster of the several companies of each county once a fortnight, which, from experience, is found burthensome: *Be it therefore farther ordained, by the authority aforesaid, That there shall be a private muster of the several companies in each county or corporation once in four weeks, and no oftener.*

Minute company of Williamsburg, how disposed of.

And for as much as the minute company in the city of Williamsburg, by the frequent enlistments of the privates into the regular service, is reduced to so small a number that the same cannot be again completed: *Be it therefore ordained, by the authority aforesaid, That the remaining minute-men in the said city shall be discharged, and from that service return to be enlisted with the militia thereof.*

Courts-martial, in Williamsburg, instead of court of Hustings, to punish delinquents.

And whereas, by the said recited ordinance, the court of Hustings in the city of Williamsburg is to have jurisdiction and to adjudge all penalties to be inflicted under the same on the militia officers and soldiers in the said city, either for neglect of duty or misbehaviour, and it is represented to this convention that it is difficult and inconvenient to hold such courts: For remedy whereof, *Be it therefore ordained, That courts-martial*

for punishing delinquents of the militia in the said city shall be held by the field-officers and captains therein, and not by the court of Hustings.

And for as much as the mode of draughting the militia, and arranging them into divisions, as the said recited ordinance requires, hath been found inconvenient in the counties of Accomack and Northampton, *Be it therefore ordained*, That draughts of the militia of the said counties of Accomack and Northampton, when necessary, shall be made in the manner directed by the last act of general assembly for making provision against invasions and insurrections.

Drafts in Accomack and Northampton, how made.

And be it farther ordained, That so much of the recited ordinance, together with so much of the ordinance intituled An ordinance for raising an additional number of forces for the defence and protection of the colony of Virginia, and for other purposes therein mentioned, as comes within the purview of this ordinance, shall be, and the same is hereby repealed.

Part of former ordinances repealed.

CHAP. XIII.

An ordinance to supply certain defects in a former ordinance of this convention for raising six troops of horse.

[See ante chap. XI.]

WHEREAS, by an ordinance passed the present session of convention, six troops of horse are directed to be raised for the farther protection and defence of this colony, which ordinance, so far as it respects such troops, is found defective in many instances:

For remedy whereof, *Be it ordained, by the delegates and representatives of the several counties and corporations of Virginia, now assembled in general convention, and it is hereby ordained by the authority of the same*, That the commissions to the several officers appointed to command the said six troops of horse shall issue as follows: To a captain, when it shall appear he hath enlisted fifteen troopers; to a lieutenant, when it shall appear he hath enlisted twelve troopers; and to a

When commissions to officers of cavalry to issue.

cornet, when it shall appear he hath enlisted nine troopers; upon their respectively producing certificates that such troopers have been reviewed according to the directions of the said ordinance, but the commissions shall be issued in such manner as to preserve the rank of each according to the election made by this convention.

When their pay to commence.

And be it further ordained, by the authority aforesaid, That the pay of the said officers shall commence from the time of their appointment; and if any of the said officers shall fail to raise their number of men, according to the aforesaid proportion, on or before the last day of August next, it shall and may be lawful for the committee of safety, or others having the executive powers of government in this colony, to appoint any other person that they shall think proper to supply the place of the officer so failing, or to continue such officer, as appears to them the most likely to complete such troop.

Arms, &c. of troopers, of what to consist.

And be it farther ordained, That each trooper shall be furnished with the following arms and accoutrements, that is to say: A carbine with bucket and straps, a pair of horseman's pistols and holsters, a tomahawk, a spear, a good saddle well fixed with girths and sursingle, and curb bridle.

Horses, arms, &c. to be furnished troopers by the public.

And be it farther ordained, That instead of the corporals, trumpeters, and private troopers, furnishing their own horses, arms, and accoutrements, according to the directions of the said recited ordinance, and receiving the pay therein allowed, the said horses, arms, and accoutrements, shall be furnished at the expense of the publick, and the pay of each corporal and trumpeter shall be reduced to two shillings, and of each trooper to one shilling and six pence per day, which shall commence from the time of their enlistment. And to preserve equality, as near as may be, in the kind of horses, that the price of each horse be limited to thirty pounds; and each trooper shall moreover be allowed a bounty of twenty shillings upon his enlistment to serve until the first day of December 1778, unless he be sooner discharged by the executive powers of government, in which case he shall receive one month's pay.

Their pay.

Limit of price of horses.

Major-commandant of cavalry, how appointed, his pay.

And be it farther ordained, That there shall be allowed a major-commandant over the whole six troops, who shall be appointed by the general convention or general assembly, and be allowed the pay of ten shil-

lings per day, to commence from the time that the whole troops shall be completed, or he shall be called into service, and that the several officers and troopers shall be allowed the like tents, rations, and forage, as are allowed to the infantry.

And be it farther ordained, That every cadet who shall enter into the service, with the approbation of the captain of the respective troop which he is willing to join, and furnish himself with a good horse, and the arms and accoutrements herein directed, shall be allowed the pay and provisions of a private soldier, and one tent for every four cadets. Cadets in cavalry, provision for

And be it farther ordained, That there shall be allowed a quartermaster to every two troops, who shall be paid five shillings per day; a rough rider, or horse breaker, for each troop, who shall be discharged after the horses are properly trained, at the pay of five shillings per day; and a drummer for each, who shall be furnished with a horse and accoutrements at the publick expense, at two shillings per day: besides their rations. and forage. Quartermaster, rough rider, horse breaker, drummer, for cavalry

CHAP. XIV.

An Ordinance for making farther provision for the defence and protection of this colony.

WHEREAS it hath become expedient and necessary, Preamble that farther provision should be made for the support and maintenance of such regular forces, minute men, and militia, as now are, or at any time hereafter may be, occasionally employed in the defence of the frontiers, and other parts of this colony, and of such troops as now do, or may henceforward remain, upon the colonial establishment and pay, for the purpose of defraying the expenses of building vessels, furnishing them with seamen and marines, supplying all necessaries for the navy, and satisfying publick claims, and the contingent charges of government; and whereas, from the many

unavoidable disbursements hitherto made out of the treasury, the balance in the hands of the treasurer is inadequate to the several purposes aforesaid:

Additional
poll-tax.

BE it therefore ordained, by the delegates and representatives of the several counties and corporations within the colony and dominion of Virginia, now met in general convention, and it is hereby ordained by the authority of the same, That an additional tax or duty of one shilling and three pence shall be paid for every tithable person in this colony, to the sheriff or collector of the county where such person shall be enlisted, by the person enlisting the same, on or before the tenth day of June 1777; and the farther tax or duty of one shilling and three pence shall be paid, in like manner, for every such tithable person, during the six following years, on or before the said tenth day of June, in each respective year.

Additional
land-tax,
whether pa-
tented, or
land, in Fin-
castle, and
West Au-
gusta, not
patented.

And be it farther ordained, That an additional duty or tax of one shilling for every hundred acres of land in this colony, and after that rate for a greater or lesser quantity, whether of patented land, or land in the county of Fincastle, and district of West Augusta, for which no patents have been obtained, the rights of the holders whereof to vote at elections of delegates and committee men, have been stated and allowed, by an ordinance of convention, shall be paid, on or before the tenth day of June, 1777, to the sheriff or collector of the county or district where such land may lie, by the proprietor, or parents or guardians of infants, if resident in the county or district where such lands may be situated, or by their respective tenants, stewards, or overseers, in case such proprietor, parent or guardian, shall live in another county, to be repaid them by the proprietor, parent or guardian; and the farther tax or duty of one shilling shall be paid, in like manner, for every such hundred acres of land, and after that rate for a greater or lesser quantity, during the six following years, on or before the said tenth day of June, in each respective year.

Proviso.

Provided always, That nothing herein contained shall be construed so as to alter any contract heretofore made between landlords and their tenants, whereby the payment of taxes shall have been stipulated to be made by either of them.

How
collected.

And be it farther ordained, by the authority aforesaid, That the said taxes shall be collected, according to the lists of titbables by act of Assembly required to be gi-

ven in, and the quantities of land returned pursuant to an ordinance, intituled, “ An ordinance for appointing commissioners to settle the accounts of the militia lately drawn out into actual service, and for making provision to pay the same, as well as the expense of raising and providing for the forces and minute men directed to be embodied for the defence of this colony;” and the several sheriffs or collectors shall give bond and security, have the power of collecting, levying, and distraining for the said taxes or duties, and account for and pay the same at such time, and in such manner, as by the said ordinance is directed; and, together with their securities, shall be liable to the same penalties and judgments as by the said ordinance are prescribed in case of failure in their duty.

But, forasmuch as the taxes or duties imposed by this ordinance, being necessarily and unavoidably made payable at so distant a day, cannot answer the immediate exigencies of this colony, for which they were imposed: *Be it therefore ordained, by the authority aforesaid,* That it shall and may be lawful for Robert C. Nicholas, esq. or the treasurer for the time being, appointed by or pursuant to an ordinance of convention, to issue and emit treasury notes to satisfy the demands which shall be made upon him for the purposes aforesaid, so as the whole sum of such notes, so to be issued, shall not exceed one hundred thousand pounds, which several notes shall be prepared, printed, and engraved, in such form, after such method, or on such paper, as the said treasurer shall judge most safe against counterfeits and forgeries; one thousand of which notes shall be of the value or denomination of four pounds, one thousand of three pounds, one thousand of two pounds, and one thousand of twenty shillings, all of which shall be numbered by John Pinkney, gentleman, and signed by Richard Morris and George Seaton, gentlemen; also ten thousand of the denomination of 12s. 6d. ten thousand of 10s. ten thousand of 7s. 6d. and ten thousand of 5s. all of which shall be numbered by John Pinkney, gentleman, and signed by Richard Morris and George Seaton, gentlemen; also thirteen thousand three hundred and thirty three of the denomination of 2s. 6d. to be numbered by Adam Craig, gentleman, and signed by John H. Norton, gentleman; and thirteen thousand three hundred and thirty three of the denomination of 1s. 3d. to be numbered by Adam

Paper money or treasury notes to be emitted.

Denomination.

By whom signed and numbered.

Craig, gentleman, and signed by John Dixon, gentleman; and the residue of the said 100,000l. shall consist of bills or notes of the denomination of dollars, and parts of dollars, each dollar to be of the value of a Spanish milled dollar, and the parts of dollars of the same proportionate value, to be numbered by John Pinkney, Littlebury Mason, or Jacob Bruce, gentlemen, and shall be signed, as follows, to wit, all of the value of two dollars and upwards by Richard Morris and George Seaton, and the residue by John Carter Littlepage, gentleman. And William Pierce and John Carter Littlepage, gentlemen, shall be, and are hereby appointed to overlook the press during the time of printing the notes to be issued pursuant to this ordinance, one of whom shall constantly attend the same, and use the utmost care, attention, and diligence, that the number and amount of the said notes, according to their respective denominations aforesaid, be not exceeded, nor any fraudulent practice used by the printer, his agents, servants, or any other person; and the signers of the said notes shall, each of them, receive of the said treasurer the sum of 7s. 6d. for every thousand notes by them signed, the numberers thereof the sum of 5s. for every thousand notes by them numbered, and the overlookers of the press the sum of 15l. each for their services.

Overlookers
of the press.

Compensation.

Vacancies
in signers,
&c. how supplied.

And be it farther ordained, by the authority aforesaid, That if all, or any of them, the said John Pinkney, Richard Morris, George Seaton, John Hatley Norton, Adam Craig, John Dixon, Littlebury Mason, Jacob Bruce, William Pierce, and John Carter Littlepage, shall die before finishing the work to them hereby respectively assigned, or refuse to undertake or perform the same, in that case it shall and may be lawful for the treasurer to appoint some other person or persons to sign the said notes, number them, or overlook the press, in the room of him or them so dying before the finishing the said work, or refusing to undertake or perform the same; which signing, numbering, or overlooking of the press, shall be as effectual, to all intents and purposes, and entitled to the same reward, as if such notes had been signed or numbered, or the press overlooked, by the persons herein named. And publick notice of such alteration shall be given by the treasurer in the Virginia Gazette, for three weeks, immediately after such alteration shall take place.

And be it farther ordained, by the authority aforesaid, Notes, when redeemable. That all the treasury notes to be issued by virtue of this ordinance shall be redeemable on the first day of January one thousand seven hundred and eighty four, and shall then be taken in, paid, and discharged, by the treasurer for the time being, appointed as aforesaid, and shall be burnt and destroyed by the committee appointed by the ordinance before mentioned and referred to; and that the treasurer for the time being shall pay away the same, and receive the taxes imposed for the redemption thereof, for which services, and the paying away all such other sums of money as shall from time to time be issued, receiving the taxes imposed for the redemption thereof, and performing the whole business of treasurer, he shall be allowed and receive a salary of 700l. per annum.

And be it farther ordained, Paper money a lawful tender. That all such notes, and also those issued or to be issued pursuant to the said recited ordinance, shall be received and pass as a lawful tender in payment of any debt, duty, or demand whatsoever, so long as the same shall continue in circulation. And if any person or persons within this colony shall, during the time the said treasury notes are to remain current as aforesaid, offer to sell, or expose to sale, any goods or chattels, lands or tenements whatsoever, and shall deny or refuse to sell the same, or demand a greater price, unless he be paid for the same in gold or silver coin, and not in the said notes, or if any person or persons shall exchange gold or silver coin for the said bills, and demand or take any allowance for the difference of the value thereof, or shall offer to buy or sell bills of exchange at a greater or higher difference of exchange for the said treasury bills than for gold or silver coin, or shall use any other device, means, or method whatsoever, whereby the credit of the said notes may be impaired, every person so offending shall forfeit and pay after the rate of twenty five per centum upon the value of the goods or chattels, lands or tenements, so offered or exposed to sale, or of the money so exchanged, or of the bills of exchange so bought or sold, to be recovered by the informer, to his own use, before a justice of the peace, where the penalty does not amount to more than twenty five shillings; and, where it shall exceed that sum, the said penalty shall be one half to the executive power, in trust, for the use of the colony of Virginia, and to be paid to the treasurer for the time being appointed

Penalty for refusing it.

as aforesaid, and the other half to the informer, and shall and may be recovered with costs, by action of debt or information, in any court of record within this colony.

Forging, or counterfeiting, death without clergy.

And be it farther ordained, by the authority aforesaid, That if any person or persons shall forge or counterfeit, alter or erase, any such treasury note, or shall tender in payment by way of barter or otherwise, to any person whatsoever, or shall demand a redemption of any such note at the treasury, knowing the same to be forged or counterfeited, altered or erased, every person so offending, if lawfully convicted thereof, shall suffer death without benefit of clergy.

Taxes pledged for redemption of the paper money,

And be it farther ordained, That the monies to be raised by the duties or taxes imposed by this ordinance shall stand, be, and remain, as a security for the redemption of the said treasury notes so to be issued. And the treasurer for the time being, appointed as aforesaid, is hereby required to apply all such money as shall come to his hands, by virtue of this ordinance, for and towards the redemption of the said treasury notes, and to none other use, intent, or purpose, whatsoever; and the said treasurer shall account with the convention, or general assembly, for the same. And if the said taxes shall prove deficient in the redemption of the said treasury notes so to be issued, the whole estates, real and personal, of the inhabitants of this colony, shall be, and are hereby pledged as a security for making good such deficiency, by some future ordinance of convention, or act of the legislature.

Also the whole property of the inhabitants of the country.

Bond to be given by the treasurer.

And be it farther ordained, That Robert C. Nicholas, esq. treasurer, or the treasurer for the time being, shall give bond, with such security as shall be approved by the executive power, in the sum of 100,000*l.* payable to the supreme magistrate, or the members who form the executive power, in trust, for the use of the publick, conditioned for his faithful accounting for and paying all such sums of money as shall be received by him from time to time by virtue of this ordinance; and in case of the death, resignation, or disability, of the said treasurer, the treasurer to be appointed in his stead shall give the like security before he enters on the execution of his said office.

Vacancy in office of treasurer, how supplied.

And be it farther ordained, That in case of the death, resignation, or disability of the said Robert Carter Nicholas, esq. to act in his said office, it shall be law-

ful for the executive power, if the convention or legislature are not sitting, to appoint another fit and able person to be treasurer in his room, who shall be authorised to act in all things pertaining to the said office till the meeting of the next convention or legislature.

CHAP. XV.

An Ordinance for establishing a board of Commissioners, to superintend and direct the naval affairs of this colony.

WHEREAS the naval preparations of this colony will be carried on with greater expedition and success if proper persons are appointed, whose business it shall be particularly to superintend and direct the same: Naval commissioners appointed.

Be it therefore ordained, by the delegates of Virginia, now met in general convention, and it is hereby ordained by the authority of the same, That Thomas Whiting, John Hutchings, Champion Travis, Thomas Newton, junior, and George Webb, esquires, be, and are hereby appointed and declared a board of commissioners for the purposes hereinafter mentioned; and the said board shall, as soon as possible, assemble at such convenient time and place as may be appointed by the person first named of the said board, and being so assembled, and having taken an oath, to be administered to the member first named by any two other members, and afterwards by him to the rest of the board, well and faithfully to execute the duties of his or their office, shall proceed to the election of a person to preside over the board; who shall be called first commissioner of the navy. And the board shall also appoint a clerk, and such other assistants as they may judge necessary, who for their services shall receive such salary or reward as may be judged reasonable and adequate thereto by the general convention, or legislature. And the board shall have power to adjourn from time to time, and to such place as they may think fit or convenient. And if any exigency should require an intermediate meeting of the How organized.

board, the first commissioner, and in case of his absence any other member of the board, may convene the same, and proceed to business in the same manner as if such meeting had been holden at the time to which it was adjourned.

Majority
may act.

Provided always, That a majority of the board shall have full power and authority to enter upon and execute the duties to them by this ordinance assigned; and in case of the death, sickness, or absence of the first commissioner, may choose any other of their members to preside, *pro tempore*.

Their pow-
ers and du-
ties.

And be it farther ordained, by the authority aforesaid, That the business of the said board shall be to superintend and direct the building of all vessels, whether such as are employed for the immediate annoyance of the enemy, or for expediting the transportation of troops over rivers; to manage the outfits of the same, furnish them with necessary ordnance, victualling, provisions, and naval stores; to take under their care the publick rope-walk already erected, or to erect other rope-walks and dock yards, as occasion may require; to contract with workmen, builders, or other persons, for these purposes; to provide as large quantities of timber for ship-building as to them shall seem fit; to audit and pass all accounts of the expenditure of money, howsoever incurred in the naval department; to recommend proper persons to the governour and council, or the executive power, to fill vacancies in the navy or marines, who are to be approved or commissioned by him or them; to inform themselves of the state of the navy, as often as possible, by requiring proper returns and reports from the officers thereof; to draw warrants upon the treasury for the sums of money necessary for the purposes aforesaid; to keep an accurate list thereof; to cause their proceedings to be fairly recorded; to hold them in readiness to be laid before the convention or legislature, whenever thereto required; to remove or suspend all officers in the naval department, upon neglect of duty or misbehaviour; and generally superintend and direct all matters and things to the navy relating.

Not to affect
contracts
made by
committee
of safety.

Provided always, That nothing herein contained shall be construed to empower the board to alter, or in any manner affect, any contract heretofore made by the committee of safety with builders or other persons, to build vessels without application to them for that purpose made by the legislature (in which case they shall

determine upon the dimensions, form, size, and burthen of the same) to draw warrants upon the treasury at pleasure, without having them countersigned by the executive power, or to interfere in any manner with the jurisdiction of the court of admiralty.

And be it farther ordained, That the board shall forthwith provide for, and superintend, the building, preparing, and outfitting of the two row galleys directed to be built for the defence and protection of the counties of Northampton and Accomack, and of the boats necessary for the commodious transportation of troops over the several navigable rivers.

Two row-galleys to be immediately built.

And be it farther ordained, That no member of this board, after he shall have accepted the said office, and undertaken to perform the duties thereof, shall hold any military office whatsoever, or be capable of sitting or voting as a member of the legislature; and that each of the commissioners by this ordinance appointed shall receive twenty shillings for each day's attendance at, or travelling to or from the board, in full satisfaction for his services and expenses.

Naval committee excluded from military and legislature.



GENERAL ASSEMBLY,

BEGUN AND HELD

At the Capitol in the City of Williamsburg, on Monday the seventh day of October, in the year of our Lord one thousand seven hundred and seventy six, and in the first year of the Commonwealth.

Patrick Henry, esq. Governor.

CHAP. I.*

An Act for reviving several publick warehouses for the reception of Tobacco, and other purposes.

WHEREAS the several acts of assembly for amending the staple of tobacco expired on the first day of October one thousand seven hundred and seventy five, and it is thought expedient that some temporary method should be provided for the reception and inspection of tobacco at or near the heads of the rivers and creeks: Preamble.

Be it therefore enacted, by the general assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same, That publick warehouses for the receipt and inspection of such tobacco as shall be carried to the same, by the proprietors thereof, shall be revived and established at the several places following, that is to say: In the county of Accomack, at Pitt's landing, upon Pokomoke, at Guilford, and at Pungoteague, where the warehouses were lately established, under one inspection; in the county of Caroline, at Roy's and Conway's; in the county of Dinwiddie, at

Warehouses for inspection of tobacco revived, and established.

* In the original, none of the acts of this session are distinguished by *chapters* or *sections*. Such of them as were published in the Chancellors' Revisal, edi. 1785, were for the first time so distinguished.

Bolling's Point, Bollingbroke, and Cedar Point; in the county of Essex, at Piscataway, at Layton's, and Port Micou, under one inspection; in the county of Fairfax, at Colchester, at Pohick, and at the falls of Potowmack; in the county of Gloucester, at Poropotank, and Deacon's Neck; in the county of Hanover, at Crutchfield's, at Page's, and at Meriwether's; in the county of Chesterfield, at Cary's, at Warwick, at Osborne's, at Rocky Ridge, and at John Bolling's; in the county of Henrico, at Byrd's and Shocko's; in the county of Isle of Wight, at Smithfield, and at Fulgham's, under one inspection; in the county of King and Queen, at Turner's and Shepard's, under one inspection; and at Mantapike and Quarles's, in the county of King William, under one inspection, and at Todd's and at Aylett's, in the county of King William, under one inspection; in the county of King William, at Williams's, and at the Piping Tree, under one inspection; in the county of King George, at Bray's church, at Falmouth, at Dixon's, at Gibson's, and at Morton's; in the county of Lancaster, at Davis's and at Lowry's, under one inspection; in the county of Northumberland, at Wicomico, at Dymers's, and at Indian Creek, under one inspection, and at Deep Creek, and at Glascock's, under one inspection; in the county of Middlesex, at Urbana; in the county of Nansemond, at Milner's; in the county of Northampton, at Cherrystone's, Hungar's, and at Nasswaddox, under one inspection; in the county of New Kent, at Littlepage's; in the county of Northumberland, at Coan's; in the county of Prince George, at Boyd's, at Davis's, at Blandford, and at Noble's; in the county of Prince William, at Quantico and Dumfries; in the county of Richmond, at Cat Point and Beckwith's, under one inspection, and at Totuskey; in the county of Surry, at Cabin Point; in the county of Stafford, at Aquia, and at Cave's; in the county of Spotsylvania, at Fredericksburg, and at Royston's; in the county of Warwick, at Denbigh; in the county of Westmoreland, at Nomony, at Machotack, and Mattox, under one inspection, at Yeocomico, and Rust's, under one inspection; at the College Landing, in the county of James City, and Capitol Landing, in the county of York, under one inspection, and at Roe's, in the county of York.

Rents of
warehouses.

And be it farther enacted, That there shall be paid and allowed, for the rents of the said warehouses, ten-

pence for every hogshead of tobacco that shall be received into the same and inspected, to be proportioned between the publick and private proprietors, as the case may be, according to the late acts of assembly respecting the inspection of tobacco.

And be it farther enacted, by the authority aforesaid, Owners of
That the owners and proprietors of the several ware- warehouses
houses formerly used for the reception of tobacco, at formerly
the several places before mentioned, shall be obliged to used, to let
let the same to the inspectors during the continuance them to the
of this act, at the rent hereby established; and if such inspectors.
houses shall want repairs, or shall not be sufficient to
contain the tobacco brought for inspection, the inspec-
tors shall represent the same to their county court, who
shall order the proprietors to make such repairs, or
build new houses, as the case may require, and on their
refusal may order the same to be done at the publick
expense. And the treasurer shall pay the money for
such repairs or buildings, upon the certificate of such
court; and thereafter a proportion of the rents shall be
paid by the inspectors to the treasurer, for the use of
the publick, for reimbursing such expenses. If any
person shall break, tear, or commit waste or destruc- Penalty for
tion of any warehouse, it shall be lawful for any just- damaging
ice of peace of the county, on complaint of the prop- warehouse.
rietor of such warehouse, to give judgment and award
execution against the body or estate of such offender
for the damages and costs, provided that in such just-
ices judgment the damages do not exceed forty shil-
lings; and if they exceed that sum, then the proprietor
may recover such damages and costs by action, in any
court of record. And where such damage shall be
done to any of the warehouses built at the expense of
the publick, the inspectors shall give information there-
of to a justice of the peace, who shall proceed against
such offender in the same manner as before directed;
and in both cases, where, in the opinion of the justice,
the damage shall exceed forty shillings, such justice
shall commit the offender until he give security to ap-
pear before the next court to answer for the said of-
fence, and on his conviction, by the verdict of a jury,
he shall pay such damages as shall be assessed by such
jury to the treasurer, for the use of the publick, and
pay the costs to the officers, attornies, and witnesses,
and execution may issue for the same.

Weights &
scales.

And be it further enacted, That the courts of the several counties wherein warehouses are hereby established shall, at the next court to be held for their respective counties after the passing of this act, appoint two of their members to examine and adjust the scales and weights at such warehouse, and have them repaired, or provided, as shall be necessary, at the publick expense; and any money by them contracted for on that account shall be paid by the treasurer, on their certificate.

Inspectors,
how appointed.

All tobacco brought to any of the said warehouses shall be viewed and examined by two persons who shall be called inspectors, and be appointed in the following manner, that is to say: The court of each of the counties wherein any of the said warehouses lie shall, at the first or second court to be held for their respective counties after passing this act, nominate four fit and able persons for each inspection in their county, for executing the office of inspectors; and where two warehouses under one inspection lie in different counties, the court of each county shall nominate two such persons; and out of the persons so recommended, the governour, with the advice of the council, shall appoint and give commissions to two inspectors for each inspection. And to prevent delays which might happen from sickness or necessary absence, the governour, with the advice of the privy council, shall grant a commission to one of the persons so as aforesaid recommended, who shall have full power to execute the office of assistant inspector at the warehouse to which he shall be commissioned, which assistant inspector shall officiate as such only in cases of the disagreement in opinion of the principal inspectors as to the quality of tobacco brought for their inspection, or where either of them shall, through sickness or otherwise, be absent from his duty, or shall bring his own tobacco to the warehouse whereof he is inspector to be viewed. And the said assistant inspector shall receive for his trouble, in proportion to the time he continues to act, out of the salary of the inspector whose absence he is to supply, and shall be liable to the like pains and penalties as the principal inspector for any misconduct or failure of his duty during such time, and supply vacancies as they may happen, by death or resignation, from time to time.

Provided, That where any court shall fail to nominate inspectors as directed by this act, the governour,

with advice of his privy council, is hereby empowered to appoint and commission inspectors to act in such counties. Every person so appointed inspector, before he enters upon the execution of his office, shall enter into bond and security in the penalty of five hundred pounds, payable to the governour and his successours for the use of the state, with condition for the true and faithful performance of his duty, according to this act, and also shall take the following oath, to wit: You shall swear, that you will diligently and carefully view and examine all tobacco brought to the publick warehouse where you are appointed inspector, and that not separately and apart from your fellow, but in his presence; that you will not receive any tobacco which is not in your judgment sound, well conditioned, merchantable, and clear of trash; and that you will not change, alter, or give out any tobacco, other than such hogsheads or casks for which the note was given; but that you will in all things well and faithfully discharge your duty in the office of an inspector, according to the best of your skill and judgment, and according to the act intituled *An act for reviving several publick warehouses for the reception of tobacco, and other purposes, without fear, favour, malice, partiality, or fraud.* So help you God. Which oath and bond may be taken before the governour, or in the court of the county wherein the inspector resides.

Court failing to nominate, governor & council may commission.

Bond and oath of inspectors.

And whereas many and great inconveniencies have arisen from inspectors undertaking to deliver tobacco, the property of others, in their warehouses, without order from the proprietor of the same: *Be it therefore enacted, by the authority aforesaid,* That from and after the passing of this act, if any inspector presumes to deliver any tobacco in his warehouse without order from the owner or proprietor of such tobacco, every inspector so offending, and being thereof duly convicted in the court of the county where he officiates, is declared incapable of serving for ever after as an inspector in this commonwealth, and moreover shall be liable to the penalty of five pounds for every hogshead of tobacco so as aforesaid delivered without order of the owner or proprietor thereof; to be recovered by such owner or proprietor, if he shall prosecute within three months after the offence committed, or if he declines the prosecution, then after that time by any person who shall

Penalty on inspectors delivering tobacco without order from owner.

inform or sue for the same, by action of debt, bill, plaint, or information, in any court of record within this commonwealth.

When inspectors to attend.

The inspectors shall attend constantly, except Sundays, and the usual holidays at Christmas, Easter, and Whitsuntide, from the first day of December next, until the tenth day of September one thousand seven hundred and seventy seven, for the receipt and inspection of tobacco; and afterwards one of them shall attend, when necessary, to deliver out the tobacco inspected. And every inspector failing to attend accordingly, not being hindered by sickness, shall forfeit to the party grieved twenty shillings for every day he shall be so absent, or be liable to the action of such party grieved for all damages sustained by such default, and costs, at the election of such party.

Tobacco notes, how to be given.

If the inspectors, upon uncasing and breaking a hogshhead of tobacco, shall agree that the same is merchantable, they shall weigh such tobacco and the cask, entering in their books, and stamping on the cask, the mark, number, gross, tare, and neat weight thereof, and give to the owner a note or receipt for the same, distinguishing whether the tobacco be Cronoko or sweet-scented, leaf or stemmed, bearing date the day the tobacco is inspected.

Refused tobacco, to be picked or burnt.

And be it further enacted, That when any tobacco shall be refused by the inspectors the proprietor shall either carry the said refused tobacco from the inspection, or be at liberty to separate the good from the bad; but if he shall neither carry away the same, nor have it picked within one month, then the inspectors shall employ some person to pick the tobacco, and give the owner credit for so much as shall be found merchantable, after paying the person or persons who separates the same one tenth part of the quantity saved, and the inspectors shall cause the tobacco which is by them judged unfit to pass to be immediately burnt, or otherwise destroyed. If any owner shall desire transfer notes for any hogshhead of tobacco by him inspected, or shall pass any tobacco in parcels, the inspectors shall give him so many transfer notes as he shall desire for the quantity of tobacco passed, allowing thirty pounds of tobacco for every good cask in which such tobacco shall be brought; and such notes shall be current in all tobacco payments within the county where the inspection lies, and in any other county next adjacent there-

Transfer notes, how obtained.

Currency of such notes.

to, and not separate therefrom by any of the great rivers or bay herein after mentioned, that is to say: James river, below the mouth of Appamattox; York, below West Point; Rappahannock, below Taliaferro's Mount, or by the bay of Chesapeake; and shall be discharged by the inspectors in such manner, with such allowance, and subject to the like rules, regulations, and penalties, as are contained in the thirty-fifth section of the act made in the year 1764, For amending the staple of tobacco, and preventing frauds in his majesty's customs, except that the allowance of two shillings per hogshead for prizing such transfer tobacco shall be to the inspectors, and not paid into the treasury.

Provided always, That the notes of the warehouses hereafter mentioned shall pass in payment of levies, officers fees, and other tobacco debts payable in the counties following, that is to say: Crutchfield's, Page's, Meriwether's, Fredericksburg, Royston's, Rocky Ridge, Cary's, Osborne's, Shocko's, Byrd's, Warwick, Blandford, Bolling's Point, Bollingbroke, John Bolling's, Boyd's, Davis's, and Cedar Point, in the counties of Albemarle, Amelia, Amherst, Bedford, Buckingham, Cumberland, Dinwiddie, Goochland, Orange, Halifax, Louisa, Lunenburg, Prince Edward, Charlotte, Mecklenburg, Pittsylvania, and Henry; the notes of Cabin Point and Noble's, in the counties of Brunswick, Sussex, and Dinwiddie; of Falmouth, Dixon's, Aquia, Quantico, Dumfries, in the counties of Culpeper, Fauquier, Loudoun, Fairfax, Frederick, Berkeley, and Dunmore; of Colchester, Pohick, and falls of Potowmack, in the said counties of Frederick, Berkeley, and Dunmore; of Smithfield and Fulgham's, and of Milner's, in the counties of Norfolk, Princess Anne, Brunswick, and Sussex. For every hogshead of tobacco inspected there shall be paid the sum of three shillings, upon delivering the note for the same, and the like sum of three shillings for every hogshead of tobacco prized to 1000 pounds neat, and delivered by the inspectors in lieu of transfer notes, besides the reward for prizing; which money shall be paid to the inspectors, and by them accounted for to the treasurer, for reimbursing the expenses of this act. All inspectors shall account with the treasurer, upon oath, for the said inspection tax, on or before the twenty-fifth day of October next, in which account they shall be allowed their salaries, the rents of the warehouses, and

Currency or
crop notes.

Tax on each
hogshead.

When in-
spectors to
account.

Penalty for failure.

Inspectors ineligible to general assembly.

Penalty for giving notes for tobacco not received

Salaries of inspectors.

all other disbursements herein directed; and on failure to account, the general court, or the court of the county wherein they reside, may, on motion of the treasurer, give judgment against them for the penalty of their bonds respectively, to be discharged by their accounting afterwards and paying what is really due, and costs, and thereon to award execution, provided ten days previous notice be given of such motion. And if after accounting any inspector shall fail to pay the balance found to be due, the like judgment, on such motion and notice, may be given for the balance and costs. No inspector while in office shall be eligible to either house of assembly, nor shall he receive any gratuity or reward for any thing to be done by him in pursuance of this act, other than his salary, and other payments herein directed to be made to him, under the penalty of fifty pounds to the informer; to be recovered with costs in any court of record, and of being disabled to act as inspector. Any inspector who shall give notes for tobacco, not actually received, shall forfeit and pay at the rate of forty shillings for every hundred weight mentioned in such note. There shall be paid to each of the inspectors attending the warehouses herein appointed the following salary respectively, that is to say: At Pitt's, Guilford's, and Pungoteague, under one inspection, forty pounds per annum; at Roy's, fifty pounds; at Conway's, forty pounds; at Bolling's Point, seventy pounds; at Bollingbroke, seventy pounds; at Cedar Point, sixty pounds; at Piscataway, thirty pounds; at Layton's and Port Micou, under one inspection, forty pounds; at Colchester, forty pounds; at Pohick, thirty pounds; at the falls of Potowmack, forty pounds; at Poropotank, thirty pounds; at Deacon's Neck, thirty five pounds; at Crutchfield's, sixty pounds; at Page's, sixty pounds; at Meriwether's, forty five pounds; at Warwick, sixty pounds; at Rocky Ridge, seventy pounds; at Cary's, sixty pounds; at Osborne's, seventy pounds; at John Bolling's fifty pounds; at Byrd's, seventy pounds; at Shocko's, seventy pounds; at Smithfield and Fulgham's, under one inspection, thirty five pounds; at Turner's and Shepherd's, under one inspection, thirty five pounds; at Mantapike and Quarles's, under one inspection, thirty pounds; at Todd's and Aylett's, under one inspection, forty five pounds; at Williams's, and the Piping Tree, under one inspection, thirty pounds; at Bray's Church, thirty pounds; at

Dixon's fifty pounds; at Falmouth, fifty pounds; at Gibson's, thirty pounds; at Morton's, thirty pounds; at Davis's and Lowry's, under one inspection, thirty pounds; at Wicomico, forty pounds; at Dwyer's and Indian Creek, under one inspection, forty pounds; at Deep Creek, and Glascock's, under one inspection, thirty pounds; at Urbanna, thirty pounds; at Milner's, fifty pounds; at Cherrystone's, Hungar's, and Nasswaddox, under one inspection, thirty pounds; at Littlepage's, thirty five pounds; at Coan's, thirty five pounds; at Blandford, seventy pounds; at Boyd's seventy pounds; at Davis's, sixty pounds; at Noble's, forty pounds; at Cave's, twenty five pounds; at Quantico, sixty five pounds; at Dumfries, sixty five pounds; at Cat Point, and Beckwith's, under one inspection, thirty five pounds; at Totuskey, thirty five pounds; at Cabin Point, fifty pounds; at Aquia, fifty pounds; at Fredericksburg, sixty pounds; at Royston's, sixty pounds; at Denbigh, twenty five pounds; at Nomony, thirty pounds; at Machotack, and Mattox, under one inspection, forty pounds; at Yeocomico and Rust's, under one inspection, forty pounds; at the College and Capital Landings, under one inspection, thirty five pounds; and at Rowe's, twenty five pounds.

Provided nevertheless, That if the money herein before directed to be paid for inspection shall not at any warehouse amount to a sum sufficient to pay the salaries of the inspectors, the rents of the warehouses, and other disbursements, in that case the inspectors shall have for their salaries only what shall remain after paying such rents and disbursements. The inspectors shall not suffer the proprietors, or any other person, to make use of the warehouses. No person shall kindle a fire in any warehouse, or near the same, except in the chimney belonging to the said warehouse, on pain, if a freeman, of forfeiting ten shillings to the informer, recoverable with costs, before a justice of the peace; or if a servant or slave, of receiving, by order of such justice, ten lashes for every offence. All inspectors shall carefully enter in a book, to be kept for that purpose, the owner's name, with the marks, numbers, gross, tare, and neat weight; of all tobacco viewed and passed by them, with the name of the person to whom the same is delivered out of the warehouse. If any person shall forge or counterfeit the note of any inspectors, or tender in payment or demand the tobacco of the inspec-

If inspection fees not sufficient.

Proprietors not to use warehouse.

No fires to be kindled near.

Books, how kept.

Forging or counterfeiting tobacco notes, death.

Lost notes,
how resto-
red.

tors upon such forged or counterfeited note, knowing it to be such, every such person, being thereof convicted, shall be adjudged a felon, and shall suffer death without benefit of clergy. If any inspector's note shall be casually lost or destroyed, the proprietor of them may make oath before a justice of the peace to the number and date of the note, to whom payable, the quantity of tobacco therein mentioned, that the note is lost, destroyed, or mislaid, and that he or she is entitled to receive the said tobacco; upon a certificate whereof being lodged with the inspectors, they shall pay the tobacco to such proprietor (if the same hath not been paid, and the note taken in) and be thereby discharged from all actions and demands on account of the said note. And if any person shall be convicted of making a false oath, or producing a forged certificate, in the case aforesaid, he shall forfeit twenty shillings for every hundred weight of tobacco contained in the certificate, and moreover suffer as in case of wilful and corrupt perjury. The inspectors shall permit all persons, in due turn, to make use of the prizes for prizing the tobacco saved by picking, for making their tobacco heavier, or for putting in the heads after inspection.

Free use of
prizes.

No tobacco
to be trans-
ported to
Great Bri-
tain.

Provided nevertheless, That no tobacco shall henceforward be transported from this state to Great Britain, or any of the dominions thereunto belonging; and that every master of any ship, sloop, boat, or other vessel wherein any tobacco shall be laden, shall, at the time of clearing out, enter into bond with sufficient securities, payable to the governour and his successor for the use of the commonwealth, in the penalty of one thousand pounds, on condition not to carry the said tobacco, or any part thereof, to any part of Great Britain, or to any of the dominions thereunto belonging.

Late duties
on tobacco
exported to
cease.

Provided also, That the late impost or duty of two shillings sterling per hogshead, and all other duties and taxes, shall cease to be collected upon any tobacco to be shipped from this country; any law, custom, or usage, to the contrary notwithstanding.

Tobacco
burned or
destroyed by
flood, owner
to bear the
loss.

Provided also, That if any of the tobacco shall happen to be burnt without the default of the inspectors, or while under care of the inspectors be by floods destroyed, the loss shall be sustained by the owner or owners thereof; and in case of such accident, no inspectors shall be sued or molested for or by reason of any receipts by them given for any tobacco in such manner

destroyed, but shall be altogether acquitted and discharged of and from the payment of the tobacco in such receipts mentioned.

And be it farther enacted, by the authority aforesaid, That the several ordinances heretofore made regulating tobacco payments, and for other purposes therein mentioned, be, and the same are hereby repealed. Ordinance regulating tobacco payments repealed.

And be it farther enacted, That no inspector to be appointed by virtue of this act, nor any picker to be employed at a publick warehouse, shall, directly or indirectly, for himself or any other person, buy or receive, by way of barter, loan, or exchange, any tobacco whatsoever, under the penalty of twenty shillings for every hundred pounds of tobacco so bought or received; to be recovered by information before a justice of the peace, provided the sum does not exceed twenty five shillings, or if above that sum, by petition or action in the court of the county wherein the offence is committed, one moiety thereof to the use of the informer, or person suing for the same, and the other moiety to the use of the commonwealth. Nor shall it be lawful for any inspector to employ his servant or slave as a picker at the warehouse where he is inspector. Inspectors and pickers not to deal in tobacco.

And be it farther enacted, That when any of the warehouses by this act established shall be empty, or not necessary for the reception of tobacco, the several inspectors shall suffer the proprietors to make use of the earth in such warehouses for the purpose of making salt petre, so long as the said warehouse or warehouses shall be unnecessary for the reception of tobacco. And if the proprietor or proprietors shall not, within three months after the passing of this act, begin to work the earth as aforesaid, that the inspectors shall suffer any other person or persons to work the same, upon their undertaking to return the earth so taken and repair the floors. And where such warehouse or warehouses shall be the property of the publick, the courts of the several counties are hereby authorised to contract with any person or persons for making saltpetre for public use, any thing in this act to the contrary notwithstanding. Privilege of proprietors, in making salt petre from earth in warehouse.

And be it farther enacted, That this act shall continue and be in force for and during the space of one year, and from thence to the end of the next session of assembly, save only so much thereof as repeals the several imposts, duties, or taxes, heretofore laid on any tobaccos exported, which repeal is hereby declared to be perpetual. Continuance of this act.

CHAP. II.

[Chan. Rev.
pa. 39]

An act for exempting the different societies of Dissenters from contributing to the support and maintenance of the church as by law established, and its ministers, and for other purposes therein mentioned.

Preamble.

Acts of parliament punishing religious opinions, &c. declared void.

I. WHEREAS several oppressive acts of parliament respecting religion have been formerly enacted, and doubts have arisen, and may hereafter arise, whether the same are in force within this commonwealth or not: For prevention whereof, *Be it enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same.* That all and every act of parliament, by whatever title known or distinguished, which renders criminal the maintaining any opinions in matters of religion, forbearing to repair to church, or the exercising any mode of worship whatsoever, or which prescribes punishments for the same, shall henceforth be of no validity or force within this commonwealth.

Dissenters exempt from levies for support of the church.

II. And whereas there are within this commonwealth great numbers of dissenters from the church established by law who have been heretofore taxed for its support, and it is contrary to the principles of reason and justice that any should be compelled to contribute to the maintenance of a church with which their consciences will not permit them to join, and from which they can therefore receive no benefit: For remedy whereof, and that equal liberty, as well religious as civil, may be universally extended to all the good people of this commonwealth, *Be it enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same,* That all dissenters, of whatever denomination, from the said church, shall, from and after the passing this act, be totally free and exempt from all levies, taxes, and impositions whatever, towards supporting and maintaining the said church, as it now is or hereafter may be established, and its ministers.

III. *Provided nevertheless, and it is farther enacted, by the authority aforesaid,* That the vestries of the s^c

veral parishes, where the same hath not been already done, shall and may, and they are hereby authorised and required, at such time as they shall appoint, to levy and assess on all tithables within their respective parishes, as well dissenters as others, all such salaries and arrears of salaries as are or may be due to the ministers or incumbents of their parishes for services to the first day of January next; moreover to make such assessments on all tithables as will enable the said vestries to comply with their legal parochial engagements already entered into; and lastly, to continue such future provision for the poor in their respective parishes as they have hitherto by law been accustomed to make.

IV. *And be it further enacted, by the authority aforesaid,* That there shall in all time coming be saved and reserved to the use of the church by law established the several tracts of glebe land already purchased, the churches and chapels already built, and such as were begun or contracted for before the passing of this act for the use of the parishes, all books, plate, and ornaments, belonging or appropriated to the use of the said church, and all arrears of money or tobacco arising from former assessments or otherwise; and that there shall moreover be saved and reserved to the use of such parishes as may have received private donations, for the better support of the said church and its ministers, the perpetual benefit and enjoyment of all such donations.

V. And whereas great variety of opinions hath arisen, touching the propriety of a general assessment, or whether every religious society should be left to voluntary contributions for the support and maintenance of the several ministers and teachers of the gospel who are of different persuasions and denominations, and this difference of sentiments cannot now be well accomodated, so that it is thought most prudent to defer this matter to the discussion and final determination of a future assembly, when the opinions of the country in general may be better known: To the end, therefore, that so important a subject may in no sort be prejudged, *Be it enacted, by the authority aforesaid,* That nothing in this act contained shall be construed to affect or influence the said question of a general assessment, or voluntary contribution, in any respect whatever.

VI. And whereas, by the exemptions allowed dissenters, it may be too burthensome in some parishes to the

Exception as to arrears of salary, prior contracts, and provision for the poor.

Glebes, &c. saved to the parishes.

Donations held sacred.

Question between general assessments and voluntary contributions, deferred.

Act making provision for the clergy suspended.

members of the established church if they are still compelled to support the clergy by certain fixed salaries, and it is judged best that this should be done for the present by voluntary contributions: *Be it therefore enacted, by the authority aforesaid,* That so much of an act of the general assembly made in the twenty-second year of the reign of king George the second, intituled An act for the support of the clergy, and for the regular collecting and paying the parish levies, or any other act as provides salaries for the ministers, and authorises the vestries to levy the same, except in the cases before directed, shall be, and the same is hereby suspended, until the end of the next session of Assembly.

Lists of tithables, how taken.

VII. And whereas it is represented that in some counties lists of tithables have been omitted to be taken: For remedy whereof, and for the regular listing all tithable persons, *Be it farther enacted,* That the court of every county where lists of the tithables, agreeable to the directions of the laws now in force, are not already taken, it shall and may be lawful for the courts of such counties, and they are hereby required, at the first or second court after the end of this session of Assembly, to divide their counties into convenient precincts, and appoint one of the justices for each precinct to take a list of all the tithables therein; and every such justice so to be appointed, shall give publick notice of his being so appointed, and at what place or places he intends to receive the lists, by advertisements thereof affixed to the doors of the churches and meeting-houses in the parish where the precinct lies, and shall accordingly attend on the said day by him to be appointed, and at the second court next following shall deliver a fair list of the names and number of the tithables by him taken, to the clerk of the court, who on the next court day shall set up fair copies of such lists in his courthouse, there to remain during the sitting of that court, for the better discovery of such as shall be concealed.

Penalty on justices, owners, and overseers, in relation to tithables.

VIII. And if the justices of any county, where lists of tithables have not been already taken, shall fail to appoint some of their members to take the lists of tithables in the manner directed by this act, every such justice so failing shall forfeit and pay ten pounds; to be recovered in the general court with costs, by action of debt or information against such justices jointly. And if any justice so appointed shall refuse or fail to give notice as aforesaid, and to take and return such list as

aforesaid, he shall forfeit and pay two thousand pounds of tobacco, or ten pounds; to be recovered with costs, in any court of record in this commonwealth. And every master or owner of a family, or in his absence or non-residence at the plantation, his or her agent, attorney, or overseer, shall, on the said time appointed by the justice for taking in the lists, deliver, or cause to be delivered, under his or her hand, to the justice appointed for that precinct, a list of the names and number of all tithable persons who were abiding in or belonging to his or her family on the ninth day of June last. Every master or owner, or in his or her absence or non-residence, every overseer, failing herein, shall be adjudged a concealer of such and so many tithables as shall not be listed and given in, and for every tithable person so concealed shall forfeit and pay five hundred pounds of tobacco, or fifty shillings; to be recovered by action of debt or information, in any court of record. And when any overseer shall fail to list the tithables upon the plantation whereof he is overseer, the master or owner shall be subject to the payment of his levies, in the same manner as he would have been if they had been listed. Every person, at the time of giving in lists of tithables, shall also give in a list of his or her wheel carriages subject to a tax, to the several justices appointed to take the lists of tithables, under the like penalty for each failure, and to be recovered in the same manner as is herein directed for concealing tithables. All the penalties hereby imposed shall be, one moiety to the informer, and the other moiety to the use of the county where the offence shall be committed, towards lessening the county levy.

List of carriages, when given in.

CHAP. III.

[Chan. Rev. p. 40.] *An act declaring what shall be Treason.*

- Treason defined.** I. WHEREAS divers opinions may be what case shall be adjudged treason, and what not: *Be it enacted, by the General Assembly of the commonwealth of Virginia,* That if a man do levy war against this commonwealth in the same, or be adherent to the enemies of the commonwealth within the same, giving to them aid and comfort in the commonwealth or elsewhere, and thereof be legally convicted of open deed by the evidence of two sufficient and lawful witnesses, or their own voluntary confession, the cases above rehearsed shall be judged treason, which extendeth to the commonwealth, and the person so convicted shall suffer death without benefit of clergy, and forfeit his lands and chattels to the commonwealth, saving to the widows of such offenders their dower in the lands.
- Evidence.**
- Punishment.**
- Dower saved.**
- No corruption of blood.** II. *Provided always, and it is enacted,* That no such attainer shall work any corruption of blood.
- Pardon only by general assembly.** III. *And it is farther enacted, by the authority aforesaid,* That the governour, or in case of his death, inability, or necessary absence, the counsellor who acts as president, shall in no wise have or exercise a right of granting pardon to any person or persons convicted in manner aforesaid, but may suspend the execution until the meeting of the general assembly, who shall determine whether such person or persons are proper objects of mercy or not, and order accordingly.

CHAP. IV.

An Act to enable the late Sheriffs of those counties which have not recommended Sheriffs to act, until others can be recommended and qualified.

WHEREAS by an ordinance passed the last convention, intituled An ordinance to enable the present magistrates and officers to continue the administration of justice, and for settling the general mode of proceedings in criminal cases till the same can be more amply provided for, it is ordained that the sheriffs then in office should continue to act until the 25th of October last past; and whereas many of the county courts have omitted to nominate proper persons for that office, within the time prescribed by law, whereby justice in those counties is, and may be greatly impeded:

BE it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same, That each of the several county courts that have failed or omitted to nominate proper persons for the office of sheriff, as aforesaid, shall, and they are hereby required and directed to nominate and recommend three persons of their body to the governour; out of whom he, with the advice of the privy council, shall commission one to execute the said office of sheriff.

And be it further enacted, by the authority aforesaid, That the late sheriffs of those counties where the courts have failed to nominate proper persons as aforesaid may, and they are hereby empowered to execute the office of sheriff until the persons nominated and commissioned under this act be duly qualified; and where in any such county the late sheriff is dead, refuses to act, or is incapable of holding the office, the court shall appoint out of their own body some fit person to act as sheriff *pro tempore*, who upon taking the oath prescribed by law, and giving security for the performance of his duty, shall be vested with all the powers and authorities belonging to the said office of sheriff, until the said person, or persons, to be commissioned by the governour under this act in manner aforesaid, be duly qualified.

County courts to nominate sheriffs.

Former sheriffs to act.

Limitation
of their pow-
er.

Provided nevertheless, That the said late sheriffs of such counties as have failed to nominate as aforesaid, or in case of the death, refusal to act, or inability of any of the said late sheriffs, the person, or persons, to be appointed *pro tempore*, shall not continue in office, or exercise the powers and authorities hereby given them for a longer time than one month after the first court held for such counties respectively.

CHAP. V.

An Act for the punishment of certain offences.

Preamble.

WHEREAS, in the present time of danger, the safety of the people more especially requires that all persons who are so wicked as to devise the destruction of good government, or to obstruct the operation of the laws, should suffer punishment suitable to their crimes: *Be it therefore enacted by the General Assembly of the commonwealth of Virginia,* That if any person residing or being within this commonwealth shall, from and after the publication hereof, by any word, open deed, or act, advisedly and willingly maintain and defend the authority, jurisdiction, or power, of the king or parliament of Great Britain, heretofore claimed and exercised within this colony, or shall attribute any such authority, jurisdiction, or power, to the king or parliament of Great Britain, the person so offending, being legally convicted thereof, shall be punished with fine and imprisonment, to be ascertained by a jury, so that the fine exceed not the sum of twenty thousand pounds, nor the imprisonment the term of five years.

Punishment
of those as-
serting the
power of the
king or par-
liament of
Great Bri-
tain.

Or, who op-
pose the go-
vernment of
this com-
monwealth.

And be it further enacted, by the authority aforesaid, That any person who shall maliciously and advisedly endeavour to excite the people to resist the government of this commonwealth as by law established, or persuade them to return to a dependence upon the crown of Great Britain, or who shall maliciously and advisedly excite or raise tumults and disorders in the state, or who shall maliciously and advisedly terrify and dis-

courage the people from enlisting into the service of the commonwealth, or dispose them to favour the enemy, every person so offending, and being thereof legally convicted, shall be punished with fine and imprisonment as aforesaid.

And be it farther enacted, That all merchants, traders, and others, who shall knowingly import into this commonwealth from Great Britain, Ireland, or the British plantations in the West Indies, any goods, wares, or merchandise whatsoever, except salt from Bermuda and the Bahama islands, and such other articles as may be allowed by the general congress, and all merchants, traders, and others, who shall directly or indirectly, put on board for exportation, or shall export, any merchandise or commodity whatsoever to Great Britain, Ireland, or the British West Indies, from this commonwealth, except such articles of produce (beef and pork excepted) as may be exchanged for salt imported from Bermuda and the Bahama islands, and such other articles as may be allowed by the general congress, and being thereof legally convicted, shall forfeit all such goods, wares, and merchandise, together with the vessel or vessels importing or exporting the same.

Penalty for importing articles, except salt, or exporting, except allowed by congress,

And be it farther enacted, by the authority aforesaid, That this act shall be publickly read by the sheriff of every county in this commonwealth at the door of the courthouse of his county, on some court day on or before the first day of April next, and also by every minister of the gospel or reader immediately after divine service, at every church or meeting house where they officiate, on some Sunday within the said time; and every sheriff, minister, or reader, failing so to do, shall forfeit and pay the sum of ten pounds, to be recovered with costs by the informer before the court of the county where the offence shall be committed.

How this act to be published.

And be it further enacted, by the authority aforesaid, That this act shall continue and be in force during the present war, and no longer.

CHAP. VI.

An Act for appointing commissioners of Oyer and Terminer for the trial of Criminals now in the publick jail.

Preamble.

WHEREAS, by the dissolution of the government exercised by the king of Great Britain, courts of oyer and terminer cannot now be held for the trial of criminals committed to the publick jail, and their being sundry persons confined in the said jail on suspicion of felony, it is necessary that some temporary mode should be directed for bringing them to a speedy trial:

Special
court of
oyer and
terminer
constituted.

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, That five commissioners, to be chosen by joint ballot of both houses of assembly, or any three of them, be, and they are hereby empowered and required to meet at the Capitol, in the city of Williamsburg, on the third Thursday in January next, then and there to hold a court of Oyer and Terminer, for the trial of the criminals in the publick jail; and the said commissioners of Oyer and Terminer, having taken the following oath, to wit, I A. B. do solemnly promise and swear that I will be faithful and true to the commonwealth of Virginia, and that I will well and truly execute the office of commissioner of Oyer and Terminer, to which I have been appointed by the general assembly, without favour, affection, or partiality. So help you God. To be administered to the commissioner first name and present by any of the others, and by him to the others, shall then and there proceed to the trial of all the said criminals, in like manner as is directed for courts of Oyer and Terminer, in and by an act intituled An act directing the method of trial of criminals for capital offences, and for other purposes therein mentioned, and may adjourn from day to day until all the said criminals are tried. And the sheriff of York county shall summon grand and petit juries for such trials, and attend the said commissioners according to the directions of the said act; and against such criminals as shall be found guilty, by verdict of the petit jury, the said commissioners shall proceed to judgment according to law, and award execution thereupon, sav-

ing to the governour his right of granting pardons to all capital offenders, according to the constitution of government.

And be it farther enacted, That the clerk of the secretary's office shall immediately issue writs of *venire facias* for the summoning a *venire* from the county, in the case of each criminal who, according to the said act, hath a right to be tried by a jury of the vicinage, and shall also issue summons for the witnesses against each criminal, and those he or she may desire to be summoned in his or her behalf, to attend at the time aforesaid.

Venire facias;
how issued.

CHAP. VII.

An act for farther continuing the act intituled An act to make provision for the support and maintenance of Ideots, Lunaticks, and other persons of unsound minds.

[Chan. Rev.
p. 40.]

I. WHEREAS the act of assembly made in the year 1769, intituled An act to make provision for the support and maintenance of ideots, lunaticks, and other persons of unsound minds, will expire at the end of the present session of assembly, and it is necessary that the same should be farther continued:

Act making
provision for
idiots and
lunatics, fur-
ther contin-
ued.

II. *Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same,* That the said act shall continue and be in force from and after the end of this present session of assembly for and during the term of one year, and from thence to the end of the next session of assembly.

CHAP. VIII.

[Chan. Rev.
p.40.]

An act to increase the reward for apprehending horsestealers, and for other purposes therein mentioned.

Preamble.

I. WHEREAS the reward offered for apprehending horsestealers, by an act intituled An act to prevent losses from drivers passing with horses and cattle through this colony, and for laying a duty on horses imported, and the more effectual preventing horsestealing, is found not to be a sufficient inducement to persons to undertake the pursuit of those offenders, who are of late greatly multiplied, more especially on the frontier parts of the country, to the great detriment and loss of the inhabitants:

Additional
reward for
apprehend-
ing horse-
stealers.

II. *Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same,* That all and every person and persons who shall apprehend and take any person guilty of the stealing of any horse, and shall prosecute him, her, or them, so apprehended and taken, until he, she, or they, be convicted thereof, such apprehenders or takers, for his, her, or their reward, shall have and receive the sum of ten pounds, over and above the reward given by the said act, to be paid by the treasurer for the time being, upon such certificate of the conviction of the felons as is in the said act directed and required.

Witnesses,
how enti-
tled.

III. *Provided always, and be it farther enacted,* That no person who is or shall be admitted as a witness against the person or persons so apprehended and prosecuted, upon his, her, or their trial for the said offence, shall be entitled to the rewards given by this and the said recited act, or any part thereof, unless the judges before whom the criminal shall be tried shall be of opinion there was other sufficient evidence to corroborate the testimony of such apprehender, so as to induce them by their certificate to entitle him or them to such reward.

Reward le-
vied on es-
tate of offen-
der.

IV. *And be it farther enacted, by the authority afore-
said,* That the reward to be paid by this, or the said recited act, shall be by the general assembly levied up-

on the estate of the offender, if the same be sufficient, and paid to the treasurer for the time being, for the use of the public:

CHAP. IX.

*An act for the revision of the Laws.**

WHEREAS on the late change which hath of ne-^{Preamble.}cessity been introduced into the form of government in

* In pursuance of this act, a committee was appointed, on the 5th day of November 1776, who did not report until the 18th of June 1779, as the following authentic documents prove.

IN GENERAL ASSEMBLY, Tuesday the 5th day of November, 1776.

RESOLVED, That Thomas Jefferson, Edmund Pendleton, George Wythe, George Mason, and Thomas Ludwell Lee, esquires be appointed a committee to revise the laws of this commonwealth.

Teste,

JOHN TAZEWELL, c. n. d.

JOHN PENDLETON, Jun. c. s.

In the HOUSE OF DELEGATES, the 18th day of June, 1779.

The speaker laid before the House a letter from Thomas Jefferson, esq. governor of the commonwealth, and George Wythe, esq. two of the committee of revisors, in the words following:

WILLIAMSBURG, June 18, 1779.

SIR,

The committee appointed in pursuance of an act of general assembly passed in 1776, intituled "An act for the revision of the laws," have according to the requisitions of the said act gone through that work, and prepared 126 bills, the titles of which are stated in the inclosed catalogue. Some of these bills have been presented to the House of Delegates in the course of the present session two or three of them delivered to members of that house at their request to be presented, the rest are in the two bundles which accompany this; these we take the liberty through you of presenting to the General Assembly.

In the course of this work we were unfortunately deprived of the assistance and abilities of two of our associates appointed by the General Assembly, of the one by death, of the other by resignation. As the plan of the work had been settled, and agreeable to that plan it was in a considerable degree carried into execution before that loss, we did not exercise the powers given us by the act, of filling up the places by new appointment, being desirous that the plan agreed on by members who were specially appointed by the Assembly, might not be liable to alteration from others who might not equally possess their confidence, it

this country it is become also necessary to make corresponding changes in the laws heretofore in force, many of which are inapplicable to the powers of government as now organised, others are founded on principles heterogeneous to the republican spirit, others which, long before such change, had been oppressive to the people, could yet never be repealed while the regal power continued, and others, having taken their origin while our ancestors remained in Britain, are not so well adapted to our present circumstances of time and place, and it is also necessary to introduce certain other laws, which, though proved by the experience of other states to be friendly to liberty and the rights of mankind, we have not heretofore been permitted to adopt; and whereas a work of such magnitude, labour,

has therefore been executed by the three remaining members, one of whom being prevented from putting his signature hereto, by the great distance of his residence from this city, has by letter authorized us to declare his concurrence in the report.

We have the honor to be with the utmost respect,

Sir, Your most obedient and most humble servants,
T. JEFFERSON,
G. WYTHE.

Mon. Benjamin Harrison, Esquire,

Speaker of the House of Delegates.

Ordered that the said letter with its enclosures do lie on the table.

Extract from the journal.

JOHN BECKLEY, C. H. D.

Some of the bills thus reported were enacted into laws, at the sessions of 1779, 1785, and 1786; but the bills never seem to have been taken up by the legislature as a complete code. In the mean time provision was made for a *collection* of our laws, by the following resolution of the 16th of June 1783.

“*Resolved*, That it be an instruction to the executive to cause the several acts of the General Assembly subsequent in date to the revisal in the year 1769, and the ordinances of Convention which are now in force to be collected into one code with a proper index, and marginal notes, to be revised and examined by any two judges of the high court of Chancery: that copies of this code be printed in sufficient numbers for the use of the two houses of Assembly, the several executive boards, the superior courts of justice and the county and corporation courts, that they be covered with paste board: And that the executive be empowered to defray the expense of this collection and of printing the same out of any money in the treasury. *Provided nevertheless*, That the whole expence attending the same do not exceed the sum of seven hundred and fifty pounds.”

[Passed the house of Delegates the 13th of June, and agreed to by the Senate, the 16th of June, 1783. See M. S. Journ. of H. D. May 1783, pa. 165, 182.]

This edition, which was printed in 1785, has been generally called *The Chancellors' Revisal*.

☞ For a general view of the several authoritative EDITIONS of our LAWS, see 2 Rev. Code of 1819, pa. 323—325.

and difficulty, may not be effected during the short and busy term of a session of assembly:

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same, That a committee, to consist of five persons, shall be appointed by joint ballot of both houses (three of whom to be a quorum) who shall have full power and authority to revise, alter, amend, repeal, or introduce all or any of the said laws, to form the same into bills, and report them to the next meeting of the general assembly. Committee of revisors, how appointed.

And to prevent any delay which may happen in the proceedings of the said committee, by the death or disability of any member thereof, *Be it further enacted,* That if either of the said members should die, refuse to act, or be disabled by sickness from proceeding in the said work, it shall be lawful for the remaining members to appoint some other person in his stead and place, which person so appointed is hereby declared a member of the said committee, in like manner as if he had originally been appointed by joint ballot of both houses. Vacancies, how supplied.

And be it further enacted, That the said committee shall have power to meet at such times and places as they shall think proper for the purpose of proceeding on the said revisal, to appoint a clerk for their ease and assistance in the work, and to send for any copies of records to the clerk in whose custody they are, which such clerk is hereby directed forthwith to transmit to them. Further powers.

Provided, That such bills so to be prepared and reported by the committee of revisors shall be of no force or authority until they shall have gone through their several readings in both houses of assembly, and been passed by them in such manner and form as if the same had been originally introduced without the direction of this act. Bills to be passed by general assembly.

CHAP. X.

An act for the farther continuance of certain powers given to the Governour and Council, by an ordinance of the last convention.

Powers of committee of safety, further continued in governour and council.

WHEREAS so much of an ordinance intituled An ordinance prescribing the oaths of office to be taken by the governour and privy council, and other officers of the commonwealth of Virginia, and for other purposes therein mentioned, as gives the governour, with the advice of the privy council, all such powers and authorities as were heretofore given to the committee of safety, and also to direct such military movements and operations as in their judgment shall be necessary for the safety and security of the commonwealth, is nearly expired, which, if permitted in this time of war and imminent danger, may be attended with fatal and destructive consequences to the community:

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same, That the said powers and authority shall be vested in and continue with the governour and council to the end of the next session of assembly, and no longer.

CHAP. XI.

An act for raising six additional battalions of infantry on the continental establishment.

WHEREAS it hath been thought necessary, by the American congress, that the armies of the United States should be augmented to eighty eight battalions, to be enlisted to serve during the continuance of the present war, unless sooner discharged, and that fifteen of the said battalions should be furnished by this commonwealth, and the said congress, by their resolutions, have engaged to give to every non-commissioned officer and private soldier a present bounty of twenty dollars, an annual bounty of a suit of clothes, to consist for the present year of two linen hunting shirts, two pair of overalls, a leathern or woollen waistcoat with sleeves, one pair of breeches, a hat or leathern cap, two shirts, two pair of hose, and two pair of shoes, amounting in the whole to the value of twenty dollars, or that sum to be paid to each soldier who shall procure those articles for himself, and to provide the following portions of land, to be given at the close of the war, or whensoever discharged, to the officers and soldiers who shall engage in the said service, or to their representatives, if slain by the enemy, to wit: To every non-commissioned officer or soldier one hundred acres, to every ensign one hundred and fifty acres, to every lieutenant two hundred acres, to every captain three hundred acres, to every major four hundred acres, to every lieutenant-colonel four hundred and fifty acres, and to every colonel five hundred acres.

And whereas there are already in the continental service eight battalions of regulars raised in this commonwealth, who were enlisted to serve for certain terms only, and one other battalion formerly in the said service, and dissolved by the expiration of the time of their enlistment, has been ordered to be re-established, by new levies, which nine battalions are to be taken as part of the fifteen from this commonwealth, provided they shall re-enlist for the continuance of the war, and there are also in the service of this commonwealth five companies of land forces stationed at different posts on

Additional forces on continental establishment to be raised for the war.

Bounty.

Cloathing

Land bounty.

Forces, already in continental service, estimated as part of the fifteen battalions, to be raised by Virginia.

the river Ohio, whom it may be expedient to engage in the six new battalions now necessary to be raised, to complete the said number of fifteen battalions.

Powers of
governor,
&c to aid re-
cruiting ser-
vice.

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, That it shall and may be lawful for the governour, with the advice of his privy council, and he and they are hereby required, to take such measures as to them shall seem most expedient for engaging the said nine battalions, and also so many of the companies stationed on the Ohio as shall be willing to be of the armies of the United States, on the new establishment before recited; and, for that purpose, to give recruiting powers to the officers commanding the same, or to send special commissioners, if that measure shall appear more effectual, or to adopt any other ways or means most likely to procure their speedy enlistment.

Number of
captains and
subalterns to
be appointed
by commit-
tees of *Yoko-*
ganin, Mo-
nongalia, and
Ohio coun-
ties, and the
field officers
of other
counties.

And for raising the said six battalions, *Be it farther enacted,* That the committees to be elected for the counties of *Yohogania,* Monongalia,** and *Ohio,** and the field officers and captains of the militia, or a major part of them, in the other counties in this commonwealth, and in the city of *Williamsburg,* to be called for this express purpose by their commanding officers respectively, shall appoint the following officers respectively, to wit: *Charlotte,* one captain, one second lieutenant, one ensign; *Prince Edward,* one first lieutenant, one second lieutenant; *Mecklenburg,* one captain, one first lieutenant, and one ensign; *Amherst,* one captain, one first lieutenant, one second lieutenant, and one ensign; *Albemarle,* one captain, one first lieutenant, one second lieutenant, one ensign; *Buckingham,* one captain, one ensign; *Louisa,* one first lieutenant, and one second lieutenant; *King George,* one first lieutenant, one second lieutenant; *Stafford,* one captain, one ensign; *Loudoun,* two captains, two first lieutenants, one second lieutenant, and one ensign; *Berkeley,* one captain, one first lieutenant, one second lieutenant, two ensigns; *Frederick,* one captain, one first lieutenant, two second lieutenants, one ensign; *Spotsylvania,* one first lieutenant, one second lieutenant; *Orange,* one captain, one ensign; *Prince William,* one captain; one first lieutenant, one second lieutenant, one ensign; *Caroline,* one

* The names of these counties, for the first time, occur in this act. They were formed, during the present session, out of the district of *West Augusta.* See post, chap. 45.

captain, one first lieutenant, one second lieutenant, one ensign; Chesterfield, one captain, one first lieutenant, one second lieutenant, one ensign; Cumberland, one captain, one first lieutenant, one second lieutenant, one ensign; Fairfax, one captain, one first lieutenant, one second lieutenant, one ensign; Halifax, one captain, one first lieutenant, one second lieutenant, one ensign; Norfolk, one captain, one first lieutenant, one second lieutenant, one ensign; Fauquier, one captain, one first lieutenant, one second lieutenant, one ensign; Ocockland;* one captain, one ensign; Henrico, one first lieutenant, one second lieutenant; Amelia, one captain, one first lieutenant, one second lieutenant, two ensigns; Brunswick, one captain, one first lieutenant, two second lieutenants, one ensign; Lunenburg, one captain, one first lieutenant; Charles City, one first lieutenant, one ensign; New Kent, one captain; James City, one second lieutenant; Dummore, one captain, one first lieutenant, one second lieutenant, one ensign; Culpeper, one captain, one first lieutenant, one second lieutenant, one ensign; Hanover, one captain, one first lieutenant, one second lieutenant, one ensign; King and Queen, one captain, one second lieutenant, one ensign; Middlesex, one first lieutenant; Dinwiddie, one captain, one second lieutenant; Prince George, one first lieutenant, one ensign; Surry, one captain; York, one first lieutenant; Williamsburg, one second lieutenant; Elizabeth City, one ensign; Southampton, one captain, one second lieutenant, one ensign; Sussex, one first lieutenant, one second lieutenant, one ensign; Isle of Wight, one captain, one first lieutenant; Northumberland, one captain, one second lieutenant, one ensign; Westmoreland, one captain, one first lieutenant; Richmond, one first lieutenant, one ensign; Lancaster, one second lieutenant; King William, one first lieutenant, one second lieutenant; Essex, one captain, one ensign; Gloucester, one captain, one first lieutenant, one second lieutenant, Nansmond, one captain, one second lieutenant, one ensign; Princess Anne, one first lieutenant, one ensign; Hampshire, one captain, one first lieutenant, one second lieutenant, one ensign; Botetourt, two captains, one first lieutenant, one second lieutenant, one ensign; Bedford, one captain, one first lieutenant, two second lieutenants, two ensigns; Pittsylvania, one captain, two first lieutenants, one second lieutenant, one ensign; Augusta, two captains, two first lieutenants, two second

* So in the original, but it should be Goochland.

lieutenants, two ensigns; Fincastle, one captain, one first lieutenant, one second lieutenant, one ensign; Yohogania, five captains, five first lieutenants, five second lieutenants, five ensigns; Monongalia, three captains, three first lieutenants, three second lieutenants, three ensigns; and Ohio, two captains, two first lieutenants, two second lieutenants, and two ensigns; which several officers, so to be appointed, shall immediately proceed to enlist, upon the terms before recited, the several quotas of men following, that is to say: Every captain shall enlist twenty eight men, every first lieutenant twenty, every second lieutenant sixteen, and every ensign ten, and shall be at liberty to do the same as well within their respective counties as without, and be allowed a dollar and one third for each man for recruiting expenses. And if any officer shall fail to recruit his quota of men before mentioned, on or before the first day of January next, the committee of the county, or the militia officers, as the case shall be, by whom such officer was appointed, may either appoint another in his stead, or may continue him, if it shall appear to them that the quota of such officer may be sooner completed by his continuance; but if he, or the officer appointed in his stead, shall farther fail to raise the said quota, before the said first day of February next, then the committee of the county, or the militia officers, as the case shall be, who appointed such officer, shall make report of the whole matter to the governour, who, with the advice of the privy council, shall take such measures thereon as shall seem most likely to expedite the raising the said quota, whether it be by continuing the same officer, or by making a new appointment. And wheresoever any new appointment shall be made, on failure of any officer or officers to raise their quotas, the men enlisted by such officer or officers so failing shall be delivered over to the officer appointed to succeed him, he refunding to the officer who enlisted the same such recruiting expenses.

And be it farther enacted, That the several committees, or the militia officers, as the case shall be, at the time of appointing the captains and other inferiour officers, as aforesaid, shall fix on some certain convenient place where the several officers shall rendezvous, the quotas of men by them to be enlisted, and also shall nominate two of their members residing as near as may be to such place of rendezvous to review the said men

Quota of men to be recruited by each officer.

Effect of failure.

Rendezvous of recruits how appointed.

Review and certificate thereof.

so to be enlisted; which members, having examined the persons enlisted, and found them to be able-bodied healthy men, not under five feet two inches high, and to have been regularly enlisted, shall certify the same, together with the time at which such review was had, to the governour, or in his absence to the president of the council, who shall thereupon take proper measures for procuring from congress commissions for such officers, giving them seniority according to the times of their respective reviews. And in case it shall appear, from such certificates, that two or more quotas have been reviewed on the same day, the governour, or in his absence the president of the council, shall settle the priority of rank between the officers of those quotas by fair and equal lot.

Commissions from congress.

Grade, how settled.

And be it farther enacted, That, to each of the said six additional battalions, one colonel, one lieutenant-colonel, and one major, shall be appointed, by joint ballot of both houses of Assembly, and one chaplain, and one surgeon, by the field officers and captains of each battalion respectively; and that all chaplains and surgeons, as well of the said six battalions as of the nine battalions now in continental service, shall at all times be removeable, and others appointed in their stead, by the said field officers and captains of their respective battalions, for good cause to them shewn. And the surgeons mates shall be appointed by the surgeons themselves, with the approbation of the commanding officer of the battalion, and the adjutant, regimental quartermaster serjeant-major, quartermaster's serjeant, and drum-major, by the said commanding officer of the battalion.

Field officers and staff, how appointed.

And be it farther enacted, That the quotas of men raised by the officers to be appointed by the committees of Yohogania, Monongalia, and Ohio, shall be formed into distinct companies by the said committees respectively, which companies shall constitute one of the said six additional battalions; and the quotas raised by the officers to be appointed by the militia officers of the other counties shall by them respectively be formed into one or more companies, or parts of a company, according to the nature and number of the quotas. And the said companies, and parts of companies, shall be formed into battalions of ten companies each by the governour, or in his absence by the president, who shall allot to each battalion such of the field offi-

Organization of recruits.

cers to be appointed by the two houses of assembly as he shall judge best suited to the same, and shall deliver to the continental commander in this colony a roll of each battalion, as soon as the same shall be so embodied and officered.

CHAP. XII.

An act for the appointment of naval officers and ascertaining their fees.

Naval officers to be appointed.

For what districts.

Bond.

Oath.

WHEREAS it is expedient to adopt some regular mode for the appointment of naval officers within this commonwealth, as well as for fixing the duty and ascertaining the fees of such officers: *Be it therefore enacted by the General Assembly of the commonwealth of Virginia*, that naval officers shall be appointed for the respective districts following, by joint ballot of both houses of assembly, to wit: For the lower district of James river, extending from Hampton to the mouth of Kyth's or Lawn's creek, one; for the upper district of the said river, extending from Kyth's or Lawn's creek, upwards, one; for the district of Elizabeth river, one; for the district of York river, one; for the district of Rappahannock river, one; for the district of South Potowmack, one; for the district of the Eastern Shore, two, namely, one in Accomack, and one other in Northampton county; which officers so to be appointed shall be commissioned by the governour, and at the time of receiving their commissions shall enter into bond, with good and sufficient security, in the penalty of five thousand pounds, for the due and faithful discharge of their office according to law, and take the following oath for that purpose, to be administered by the governour and council, to wit: "I A. B. do swear, that I will be faithful and true to the commonwealth of Virginia, and will well and duly discharge the duty of naval officer for the district of _____, according to law, to the best of my skill and judgment, without favour, affection, or partiality. So help me God."

And be it further enacted, That in case of vacancies, Vacancies, how supplied. occasioned by the death, resignation, or other disability, of any of the said officers, the governour, with the advice of the privy council, shall, and he is hereby authorised and empowered to appoint some fit and proper person to execute the said office, and take bond, administer an oath, and grant commission, to such person, in manner aforesaid, who shall continue in office till the end of next session of assembly.

And be it further enacted, That every naval officer shall and may grant permits, Permits for exportation: under his hand and seal, to all owners or masters of ships or vessels within his district who shall apply for the same, to export out of this commonwealth, tobacco, wheat, flour, corn, grain, or other commodities, to any port, island, or place allowed of by law, particularising in every such permit the name of the vessel, her owner, and master, the cargo she has on board, her tunnage, where built, and other necessary descriptions, and taking bond of the master, with good security, according to the burthen of his vessel, as followeth: Bonds of masters of vessels. If the ship or vessel be under, and not exceeding one hundred tuns, the bond shall be for one thousand pounds current money, if upwards of one hundred tuns, the bond shall be for two thousand pound current money, conditioned, that he will not proceed with the same to any port, island, or place, prohibited by law; and may also grant permits to the master or owner of any ship or vessel which shall import into this commonwealth any goods, wares, or merchandise (except the same shall be imported contrary to law) to proceed to any part thereof, and dispose of the same. Permits for importation. And no master of a ship or vessel so importing shall be permitted to break bulk, or trade, until he shall have procured such permit, Effect of permits. under penalty of one hundred pounds for every such offence, to be recovered with costs, by action of debt or information, in any court of record.

And be it further enacted, That the master or owner of every ship or vessel, obtaining permit to export as aforesaid, shall, within eighteen months therefrom, produce to the officer granting the same a certificate under the hand and seal of a principal magistrate, or of two or more creditable merchants residing at the port or island he proceeded to, that the commodities by him exported in such ship or vessel were carried to and dis-

posed of at some port, island, or place, allowed of by law, upon receipt of which certificate the naval officer is hereby required to cancel the bond given by such person; and in case of failure or neglect in the master or owner of any ship or vessel, so exporting, to produce such certificate within the term aforesaid, the penalty of his bond shall be forfeited to the use of this commonwealth, and may be sued for and recovered, with costs, by action of debt or information, in any court of record within this commonwealth.

Provided, That no action shall be admitted for the forfeiture of any such bond unless the same shall be commenced within one year after the bond became forfeited.

Bond cancelled.

Penalty for failure.

Limitation of action.

Bonds to prevent sailing in contempt of embargoes.

And for prevention of the dangerous consequences that may arise from the breach and contempt of embargoes, *Be it farther enacted,* That all masters of ships and vessels, when they make their entry, shall give bond with sufficient security, to the naval officer, according to the burthen of their ships or vessels, as followeth: If the ship or vessel be under one hundred tuns, the bond shall be for one hundred pounds current money; if one hundred tuns, and not two hundred tuns, the bond shall be for two hundred pounds current money; if two hundred tuns and upwards, the bond shall be for five hundred pounds current money; to all which bonds the condition shall be, not to depart this commonwealth when an embargo is laid during the continuance of such embargo, and also to observe and follow such rules and directions as shall be thought farther necessary to be given therein.

Duty of naval officers, in relation to embargoes.

Provided always, That when an embargo is laid, the naval officers, upon receipt of the order for such embargo, shall forthwith give notice to the several masters of ships or vessels within their respective districts of the said embargo, and the time of the continuance thereof; and that no bond whatsoever required and given by virtue of this act shall be adjudged, deemed, or taken to be forfeited, unless notice hath been given as aforesaid, and breach be made of the condition of the said bond after such notice, any thing to the contrary notwithstanding.

Oath of master, &c. of vessel; to prevent carrying out

And be it farther enacted, That every naval officer, at the time of clearing, and before he clears out hence any ship or vessel, shall administer to the master thereof the following oath: I A. B. master of the ship or ves-

sel C. do swear, that I will make diligent enquiry and search in my said ship or vessel, and will not knowingly or willingly carry, or suffer to be carried, in my said ship or vessel, out of this commonwealth, without such pass as is directed by law, any person or persons whatsoever that I shall know to be removing hence in order to defraud their creditors, nor any servant or slave that is not attending his or her master or owner; and shall, moreover, administer an oath of the same effect to the mate and boatswain of every such ship or vessel. And also, at the time of clearance as aforesaid, shall require of the master of every ship or vessel who unladed ballast a certificate, under the hand and seal of the proper officer, that such ballast was unladen and brought on shore, according to law; and in case of failure or neglect in the master of every ship or vessel so unloading ballast to produce such certificate, he shall forfeit and pay the sum of fifty pounds to the use of this commonwealth, to be recovered with costs, by action of debt or information, in any court of record.

debtors, ser-
vants, and
slaves.

Certificate,
as to unlad-
ing ballast.

And be it farther enacted, That every naval officer, at the time of granting a permit to trade, shall take a bond of the master of the ship or vessel, in the penalty of two hundred pounds, and shall take a like bond of every master of a ship or vessel intending to take tobacco on board for exportation; conditioned, that he will not crop, cut away the bulge; draw the staves, or otherwise abuse or injure, any tobacco cask freighted in his ship or vessel, nor cause or suffer the same to be done, with his knowledge, privity, or procurement, without the approbation or consent of the freighter or freighters, and shall also administer an oath (or the person being a Quaker, may make solemn affirmation) to the same effect; and if any naval officer shall fail so to do, in either of the premises, he shall forfeit and pay the sum of two hundred pounds, one moiety to the use of this commonwealth, for and towards the better support of government and the contingent charges thereof, the other moiety to the informer, recoverable with costs, by action of debt or information, in any court of record.

Bond, and
oath as to
exporting
tobacco.

And be it farther enacted, That upon any suspicion of fraud or concealment, or that the master of any ship or vessel doth make a false report of his lading, it shall be lawful for the naval officer of the district, for discovery of the said fraud or concealment, and for the bet-

Power of na-
val officer to
examine on
oath.

ter finding out the truth of the matter, to examine, upon oath, the mate, boatswain, or any other of the seamen belonging to the said ship or vessel, as also any other person or persons whatsoever, concerning the lading of the said ship or vessel, as to him shall seem fit and convenient.

Fees of naval officers.

And be it farther enacted, That the naval officers fees shall be as followeth, that is to say: For entering and clearing any ship or vessel of fifty tuns and under, except all vessels transporting goods from one district to another, ten shillings; for entering and clearing any ship or vessel above fifty and under one hundred tuns, fifteen shillings; for entering and clearing any ship or vessel of one hundred tuns, or above, one pound ten shillings; for taking a bond, two shillings and sixpence; for a permit to break bulk and to load, two shillings and sixpence; for a bill of health, five shillings; for a bill of stores to be granted during an embargo on provision, but not otherwise, two shillings and sixpence; for a certificate for all imported goods that shall be removed out of one district or river into another, after they are once landed (to be paid to the officer of the district from whence the said goods are brought,) two shillings and sixpence; all which fees shall be paid in current money of this commonwealth.

Penalty for exceeding legal fees.

And be it farther enacted, That it shall not be lawful for any naval officer within this commonwealth to demand and take any fee or fees for any other business, matter, or thing by him done or performed as naval officer, than the particulars before enumerated in this act, or to demand and take any greater fee for any of the particulars before enumerated than the fee given and allowed by this act for the same; and if any naval officer shall offend in either of the premises, and be thereof lawfully convicted, he shall for the first offence forfeit and pay one hundred pounds, one moiety to this commonwealth, for and towards the better support of government and the contingent charges thereof, and the other moiety to the party injured, to be recovered with costs, by action of debt or information, in any court of record in this commonwealth. And if the naval officer shall offend a second time, and be thereof lawfully convicted, he shall be thereby disabled in law, and made utterly incapable to hold, execute, and enjoy his place and office of naval officer, or any profit or advantage arising therefrom, for ever; and the said

place and office shall, immediately after such conviction, be void, to all intents and purposes, as if the said naval officer had been naturally dead, and moreover shall forfeit and pay to the informer the sum of twenty pounds, to be recovered with costs as aforesaid.

And be it farther enacted, That if any person injured by a naval officer, demanding and taking any fee or fees contrary to this act, shall fail to inform against such naval officer for the said offence, within three months after the offence committed, it shall be thereafter lawful for any other person or persons whatsoever to prosecute the offender, and recover, any thing in this act before contained to the contrary notwithstanding. Who may prosecute.

Provided, That no naval officer shall be impeached or questioned, for or concerning any offence aforesaid, unless he be prosecuted within one year next ensuing such offence committed. Limitation

And be it farther enacted, That every naval officer within this commonwealth shall be, and he is hereby strictly enjoined and required to set up, or cause to be set up, in his office, a fair written table or copy of his fees according to this act, and from time to time to continue the same, by setting up a new or fresh table or copy, as occasion may require. Table of fees to be set up.

And be it farther enacted, That if any naval officer, or any other person or persons deputed by him, shall, directly or indirectly, take or receive any bribe, recompense, or reward, in any kind whatsoever, or shall connive at a false entry, or any entry whatsoever made contrary to law, the person or persons so offending shall forfeit and pay the sum of one hundred pounds current money, and be for ever afterwards disabled in the said office, and rendered incapable of holding any office or employment relating to the customs within this commonwealth; and the person or persons giving or offering any bribe, reward, or recompense, shall forfeit and pay one hundred pounds current money. Bribery in naval officer, how punishable.

And be it farther enacted, That every naval officer shall be obliged, on receiving any fee or fees, to give a receipt to the person paying the same, with a particular account of the services for which such fees are demanded, under the penalty of ten pounds for every refusal, to be recovered with costs, by action of debt, by the informer, in any court of record within this commonwealth. Receipts to be given for fees.

Oath to be administered in clearing out.

And be it farther enacted, That no naval officer shall clear out any ship or vessel without administering to the master thereof on oath that the produce and commodities by him to be exported have been duly shipped according to law, or until he shall produce to him a certificate that the produce and commodities to be exported have been duly shipped, inspected, stamped, and branded, according to law; and the naval officer failing or neglecting so to do shall for every offence forfeit and pay the sum of fifty pounds, recoverable with costs, by the informer, in any court of record within this commonwealth. And every naval officer shall and may go on board any ship or vessel in which any produce or other commodities, not inspected, stamped, or branded according to law, have been shipped, and seize, secure, and bring on shore the same, which, or the value thereof, shall be forfeited to the informer, recoverable before a justice of peace; and such naval officer, for seizing the same, may demand and take the like fee as for serving an execution, to be paid by the party from whom such seizure shall be. And if any naval officer shall be sued for any thing by him done in pursuance of this act, he may plead the general issue, and give this act in evidence.

Power of seizure.

No vessel crossing the seas, deemed to be built of this commonwealth until registered.

And be it farther enacted, That from and after the first day of January next no ship or vessel whatsoever crossing the seas, or trading to any foreign port, island, or place, shall be deemed or pass as a ship or vessel of the built of this commonwealth, so as to be qualified to trade in manner aforesaid, until the person or persons claiming property in such ship or vessel shall register the same, as followeth, that is to say: Every owner of a ship or vessel shall take an oath, to be administered by the naval officer of the district where the vessel shall be built or purchased, in the tenour following: Virginia, to wit: Jurat A. B. that the ship of whereof is at present master, being a of tuns, was built in the year and that of and of &c. are at present owners thereof. Which oath shall be attested by such naval officer under his hand, and the seal of his office, thereto affixed; and the said naval officer is hereby required to register the same in a book of registers to be kept for that purpose, and afterwards deliver the same to the master or owner of the ship or vessel for the security of her navigation. And every

Form of register.

transfer of property, in any ship or vessel so registered, shall be endorsed by some naval officer under his hand and seal. And the naval officer, for preparing, recording, or entering a register in his book of registers, may demand and take five shillings current money, and for every endorsement of transfer of property two shillings and sixpence current money, and no more, any thing in this act before contained to the contrary notwithstanding.

Transfer of vessel to be endorsed, by naval officer, on the register.

Fees for register.

And be it farther enacted, That every naval officer shall enter in a book, to be kept for that purpose, a fair list of the entries and clearances of all vessels with their cargoes, and once in every three months transmit a copy thereof to the governour.

Entries and clearances of vessels, to be noted by naval officer.

And be it farther enacted, That the several bonds hereby directed to be taken shall be made payable to the governour, for the use of the commonwealth; and that the several fines hereby inflicted, and not otherwise appropriated, shall be one moiety to the informer, and the other moiety for the use of the commonwealth, to be recovered with costs, by action of debt or information, in any court of record within this commonwealth.

Bonds, payable to governour.

And be it farther enacted, That all and every other act and acts, clause and clauses, heretofore made, for or concerning any matter or thing within the purview of this act, shall be, and the same are hereby repealed.

Repeal of former acts.

And be it farther enacted, That this act shall continue and be in force from and after the said first day of January, for and during the term of two years, and from thence to the end of the next session of assembly.

Limitation of this act.

In Act for making a farther provision for the internal security and defence of this country.

Preamble.

WHEREAS it is judged necessary, as well for the internal security of this country as for the protection of its trade and commerce, that proper fortifications should be erected at the most convenient harbours: *Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same,* That the governour, with the advice of the privy council, or the president or vice president, as exigencies may arise, with the advice of the said council, may, and he is hereby authorised to direct such fortifications as they may judge necessary and proper to be erected at the following places, to wit: At Portsmouth, in the county of Norfolk; at Yorktown; at Hampton; at Corotoman, in the county of Lancaster; and at Cherrystone's, in the county of Northampton; the two former to be strengthened in the most effectual manner on the land side also, and the whole to be provided with proper ordnance and all other necessaries.

Fortifications to be erected.

Engineer appointed.

And the governour, with the advice of the council, is farther empowered to appoint a skilful engineer for the general service of this commonwealth, who shall hold the rank of and be entitled to the same rations as a lieutenant-colonel, allowed two dollars per day for his pay, a theodolite and chain, a servant and horse, and forage for two horses.

His rank and pay.

Three battalions to be raised to garrison the fortification.

And for garrisoning the said fortifications, and for the farther defence of this country, *Be it enacted by the authority aforesaid.* That three battalions of infantry be forthwith raised, to consist of ten companies each of sixty eight able-bodied men rank and file, each battalion to be commanded by a colonel, lieutenant-colonel, and major, ten captains, twenty lieutenants, ten ensigns, and forty serjeants, and to be allowed a drummer and fifer to each company; and to each of the said battalions there shall be moreover allowed a commissary of provisions, a paymaster, a chaplain, an adjutant, a regimental quartermaster, one surgeon, two surgeons mates, one serjeant-major, one drum major, and one quartermaster serjeant.

Officers.

Staff.

And be it farther enacted, That the field officers shall be appointed by joint ballot of both houses of assembly, and commissioned by the governour; the captains and subalterns, the commissary, and paymaster, by the governour, with the advice of the council; the chaplain and surgeon of each regiment, by the field officers and captains; the surgeons mates by the surgeon himself, to be approved by the commanding officer; the adjutant, regimental quartermaster, serjeant-major, quartermaster-serjeant, and drum-major, by the commanding officer of each regiment; provided, that all the captains and subalterns of minute men within this commonwealth, who have been called out into actual service, and volunteers formerly called into duty for the assistance of North Carolina, and since employed in the service of this commonwealth, who shall be willing to serve in the battalions now to be raised in their present ranks, shall be first appointed to the several offices which they now respectively hold.

Officers, how appointed.

To prevent disputes which might arise between continental officers and those of the like rank in this commonwealth, when they shall act together, *Be it enacted,* That in all such cases the officers of this state shall yield to all continental officers of the same rank, and that in all cases where the militia are called into service, at any place where any of the continental forces, or those raised for the defence of this country, shall be employed, such militia shall be under the direction of the commanding officer of the continental or regular forces during the time of their continuance in such service, provided he be of equal or superiour rank to any officer in such militia.

Continental officers. take precedence of state.

And be it farther enacted, That the said captains and subalterns shall immediately, after their respective appointments, proceed to enlist their several quotas of men following, that is to say: Every captain shall enlist twenty eight men, every first lieutenant twenty, every second lieutenant sixteen, and every ensign ten; and shall be at liberty to do the same in any part of this commonwealth, and be allowed one dollar and a third of a dollar for each man, for recruiting expenses; and if any officer shall fail to recruit his quota of men before mentioned, on or before the first day of March next, the governour, with the advice of the privy council, shall take such measures thereon as shall seem most likely to expedite the raising such quota, whether it be by con-

Quota to be recruited by respective officers.

Recruiting expenses.

Officers failing to recruit, may be superseded.

tinuing the same officer or by making a new appointment. And whenever any new appointment shall be made, on failure of any officer or officers to raise their respective quotas, the men enlisted by such officer or officers so failing shall be delivered over to the officer appointed to succeed him, he refunding to the officer who enlisted the same such recruiting expenses.

Effect thereof.

Rank of officers how settled.

And for settling the rank of such officers to be appointed as before directed, *Be it enacted*, That the field officers of each battalion shall be entitled to rank according to the preference given in their election, and the captains and subalterns (except the minute and volunteer officers before mentioned) shall hold rank as shall be settled by the governour, with the advice of the council, according to the priority of the completion of their respective companies.

Recruits how reviewed.

To the end that recruits raised by virtue of this act may be more conveniently reviewed and passed, *Be it enacted*, That two of the field officers of the militia of any county, where recruits shall be raised upon request of the captains or subaltern officers, shall review and examine such recruits, and pass a certificate for such and so many as the said field officers shall judge sufficient for the service.

Pay &c. the same as continental troops.

And be it further enacted, That the officers and soldiers shall be entitled to the same pay and rations, be subject to the same laws, articles, and regulations, as are established by the general congress for the pay and government of the continental troops.

Not to be marched out of this country.

Provided always, That the troops so to be raised shall not be marched out of this country, on any pretence whatever, without the consent of the general assembly, or during their recess by order of the governour, with the advice of the council.

Term of enlistment.

And as an encouragement to men to enlist in the said service, *Be it enacted*, That there shall be paid to each soldier enlisting, who is to serve three years from the first day of March next, unless sooner discharged, a bounty of twenty dollars; and each soldier shall moreover be furnished, at the publick expense, with a hunting shirt, a pair of leggins, and a blanket, every year during his continuance in the service, or the sum of ten dollars in lieu thereof.

Bounty.

Clothing.

Hospital provided.

And be it farther enacted, That the governour, with the advice of the council, may, and he is hereby authorised to provide, at the expense of the publick, proper

hospitals and barracks for the said soldiers, and a fit and able person to be physician and director general of the said hospital. And if any of the said soldiers shall be wounded and disabled from getting a comfortable livelihood, they shall be maintained and supported during their lives at the expense of the publick; and if any soldier, having a family, shall happen to be killed, his family shall be also supported at the publick expense.

Physician
and director
general.

Pensions.

And be it farther enacted, That the five companies of riflemen heretofore raised in this commonwealth, and now at New York, be joined to five of the companies to be enlisted pursuant to an act of this present general assembly, and considered as part of the quota of fifteen battalions to be furnished by this commonwealth; and that a like number of companies to be raised under the said act of assembly be taken into the service and pay of this commonwealth, and considered as composing a part of the troops to be raised by virtue of this act, for the better internal security and defence of the same.

Exchange of
5 rifle com-
panies, now
at New York,
with conti-
nent.

And whereas the several companies of marines in the pay of this commonwealth have not been found fully to answer the end for which they were raised, and the time of their enlistment is nearly expired, and they may be usefully employed in the land service of the state.

Marines, may
be taken, for
garrison du-
ty.

Be it therefore enacted, That the said companies of marines, or so many of them as shall be willing to serve, be taken into and compose part of the three battalions to be raised by virtue of this act, for the internal security and defence of this country; and the several officers of the said marines shall bear the same rank as they now respectively hold, and shall forthwith proceed to complete their several companies by new enlistments, in the same proportion as is directed for the other officers of the said three battalions.

And be it farther enacted, That if so many of the said officers of marines, and of the minute battalions herein before mentioned, shall be willing to enter into the said service, as, with the officers of the five companies so as aforesaid exchanged with the continent, will exceed the number required for the said three battalions, the governour, with the advice of the council, shall set aside the supernumerary officers out of such of the said minute-men and volunteers as shall be latest in completing their companies.

If officers
supernume-
rary, those
set aside,
who were
latest in
completing
their compa-
nies.

Magazines of provisions, to be provided. *And be it farther enacted,* That the governour, with the advice of the privy council, may, and he is hereby empowered to provide, at the publick expense, a magazine or magazines of provisions, at such place or places as he may judge proper, sufficient for the subsistence of ten thousand men at least, in the course of the next year, exclusive of what may be necessary for the regular troops which may be in the pay of this commonwealth.

Two frigates and 4 gallies to be built. *And for the farther defence and protection of this country,* *Be it enacted,* That the commissioners of the navy may, and they are hereby authorised and empowered forthwith to provide necessary plank and timber for the building two frigates, to carry thirty two guns each, and immediately to direct the building of four large gallies, fit for river or sea service, to be mounted with proper cannon.

Virginia fleet, how manned. *And for manning the said gallies, as well as the others which are now building,* *Be it farther enacted, by the authority aforesaid,* That the commissioners for naval affairs may, and they are hereby empowered and required to raise any number of men they shall think necessary for the same, not exceeding in the whole one thousand three hundred exclusive of officers, to serve on board the Virginia fleet, for the term of three years from the first day of March next; and for that purpose, the said commissioners may, from time to time, settle and determine the proper officers and number of men for each galley, as well as the proportion or quota of men to be enlisted by each officer. The said officers to be recommended by the said commissioners, approved of by the governour and privy council, and commissioned by the governour; which officers, so appointed, shall proceed to enlist the men accordingly, and shall have rank from the completion of their said quotas, and be entitled to the same pay and allowances respectively, and subject to the same rules and regulations, with the other officers of the Virginia navy. And if any such officer shall fail to enlist his quota of men, the governour, by and with the advice of the privy council, shall have power either to continue such officer or appoint another in his stead, as they shall judge best for the publick service.

Seamen classed.

And whereas it may be difficult to raise in due time a sufficient number of seamen, the crews of the said gallies shall consist of three classes, the first of able seamen,

who shall be allowed the pay of three shillings per day, Their pay: the second of ordinary seamen, who shall be allowed the pay of two shillings per day, and the third of common landmen; who shall be allowed the pay of one shilling and sixpence per day. And for increasing the number of seamen in the service of this commonwealth, the captain of each vessel of war is hereby empowered and required, from time to time, as any landmen shall become capable, to enter them upon the vessel's books ordinary seamen, and as any ordinary seamen shall become capable to enter them as able seamen, and thenceforward they shall be entitled to the same pay with the classes to which they are respectively raised. And for the more speedy manning the said gallies, as well as Bounty completing the crews of the other vessels of war in the service of this commonwealth, every seaman and landman enlisting as aforesaid shall receive a bounty of twenty dollars; and that the pay of a second mate be four shillings and sixpence, of a boatswain four shillings, per day.

And for the more speedy and effectual supplying the necessary sail duck for the aforesaid gallies, and for the other exigencies of the state, *Be it enacted*, That Sampson Matthews and Alexander Sinclair, gentlemen, be, Sampson Matthews and Alexander Sinclair, trustees for establishing a manufactory of sail duck. and they are hereby appointed trustees, to erect at the publick expense, and superintend, a manufactory, at such place as they shall think proper, for the making sail duck; and the better to enable the said trustees to carry on the said work, they may, and they are hereby empowered, from time to time, to draw on the treasurer of this commonwealth for any sum or sums of money which they may judge necessary for effectually erecting and supporting such manufactory, which several draughts the said treasurer is hereby empowered and required to pay out of the publick money which shall then be in his hands.

Provided, That the whole sum to be drawn does not exceed the sum of one thousand pounds; and on the death, inability, or refusal, of either of the said trustees to act, it shall be lawful for the governour, with the advice of the privy council, to appoint another in the room of such trustee so dying, disabled, or refusing to act. Appropriation for, limited. Vacancies, how supplied.

And be it farther enacted, That the said trustees shall, Trustees to report to general assembly. once in every year at least, lay an account of the state of such manufactory, and of the several sums of money

they shall have disbursed, before the general assembly of this commonwealth.

Artillery
company to
be formed in
Alexandria.

And be it farther enacted, That the governour, by and with the advice of the privy council, may, and he is hereby authorised and empowered to form out of the two militia companies in the town of Alexandria, in the county of Fairfax, one artillery company, to consist of fifty matrosses, with proper officers, to be duly exercised at the batteries in the said town twice in every week, and to mount proper guards at the same; and the officers and matrosses of the said company, when on duty, shall receive the same pay and provisions, and be subject to the like rules and regulations, as the other artillery companies in the service of this state receive and are subject to.

Minute com-
panies total-
ly dissolved.

And whereas the minute companies formerly raised in this country are already greatly reduced by enlistments into the regular service, and are likely to be more so by future enlistments, so that there remains little prospect of their answering the purposes of their institution, and moreover it will tend to weaken the militia of this commonwealth, and may create discontents, if such broken companies of minute-men continue exempt from militia duty, *Be it therefore enacted, by the authority aforesaid,* That from and after the passing this act all the minute battalions, companies, and parts of companies, throughout this state shall be totally dissolved and discharged, and the said minute-men shall thereafter be considered as militia, and be subject to all such rules and regulations as are or shall be established for the better training and disciplining the militia; and the captains of each minute company shall, and they are hereby required to receive of each man in their respective companies all such arms and other accoutrements as have been provided at the publick expense, and deliver, or cause the same to be delivered, to the county lieutenant of each county, to be disposed of as the governour, with the advice of the council, shall direct.

Minute-men
considered
as militia.

CHAP. XIV.

An Act for appointing a Treasurer. [Chan. Rev.
pa. 41]

I. WHEREAS Robert Carter Nicholas, esq. hath been from time to time appointed and continued treasurer of this commonwealth, to receive all taxes and duties imposed by any act of general assembly, or ordinance of convention, and pay the same away in discharge of the demands against the public, which office he hath faithfully discharged, and the accounts of the treasury have been examined, and passed by the general assembly to the nineteenth day of October last past; and whereas, by the constitution of government as settled by the last convention, all persons holding lucrative offices are declared incapable of being elected members of either house of assembly, and the said Robert Carter Nicholas, rather than incur such incapacity, hath made his election to resign the said office of treasurer:

Preamble
reciting resignation of Robert Carter Nicholas esq. and his faithful discharging his duties as treasurer.

II. *Be it therefore enacted, by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same,* That from and after the end of this present session of assembly such person as shall be chosen by the joint ballot of the two houses of assembly shall be treasurer of the revenues arising from the taxes on lands and tithables, and of all other public money payable into the treasury of this state for public uses, by virtue of any acts of assembly or ordinance of convention, to hold the said office for one year, and afterwards to the end of the next session of assembly; and the said treasurer is hereby authorised, empowered, and required, to demand, receive, and take, of and from the several collectors of the said taxes, all and every the sum or sums of money arising by force and virtue of the said acts or ordinances of convention, or any or either of them, and shall apply and utter the same to and for such uses only, and on such warrants, as by the said acts or ordinances for laying the said taxes, or by any other act or acts of assembly, is or shall be appointed or directed, and shall be accountable for the said money to the general assembly.

Treasurer, appointed pursuant to the constitution, his powers and duties.

III. *And be it farther enacted, by the authority aforesaid,* That there shall be allowed to the said treasurer the sum of seven hundred pounds per annum, for his trouble in executing the duties of his office.

His salary

Vacancy in
office, how
supplied.

IV. And to the end a treasurer may not be wanting, in case of the death, resignation or disability of the treasurer hereby appointed, *Be it farther enacted*, That in either of these cases it shall and may be lawful for the governour with the advice of the council, if the assembly is not then sitting, to appoint some other fit and able person to be treasurer in his room, who shall have power to act in all things pertaining to the said office until the meeting of the next general assembly, and no longer.

His bond.

V. *And be it farther enacted*, That the said treasurer, or the treasurer for the time being appointed pursuant to this act, shall not be capable of executing the said office of treasurer until he hath given bond, with such security as shall be approved by the governour, with the advice of the council, in the sum of four hundred thousand pounds, payable to the governour and his successours, in trust, for the use of the commonwealth, and conditioned for the faithful accounting for and paying all such sums of money as shall be received by him from time to time in virtue of this or any other act of assembly, or any ordinance of convention; to be recovered, upon a breach thereof, on the motion of the succeeding treasurer, in any court of record, for the publick use, provided that ten days notice be given in writing of such motion. And moreover, the said treasurer before he enters into his said office, shall take an oath before the governour to the effect following, to wit: "I do swear, that, to the best of my judgment, I will truly and faithfully execute the office of treasurer in all things, according to the true intent and meaning of the act of assembly intituled An act for appointing a treasurer. So help me God."

Oath of.

Accounts of,
how to be
kept;

VI. *And be it farther enacted*, That the said treasurer shall keep, in a book or books to be provided for that purpose, at the publick charge, true, faithful, and just accounts of all the money by him received from time to time on the respective taxes and impositions by virtue of any act or acts of assembly, or ordinance of convention, and also of all such sum or sums of money as he shall pay out of the treasury pursuant to an act or resolution of assembly or ordinance of convention; which accounts shall be so kept as that the neat produce of the several and respective taxes and impositions, and the money paid out of the treasury for every particular

service, may appear separate and distinct from each other.

VII. *And be it farther enacted*, That if the said treasurer, or the treasurer for the time being, shall divert or misapply any part of the money paid into the treasury for the publick use, contrary to the directions of the acts of assembly, or ordinances of convention, by which the same is raised, then the said treasurer for such offence, shall forfeit his office, and be incapable of any office or place of trust whatsoever, and, moreover shall be liable to pay double the value of any sum or sums of money so diverted or misapplied; to be recovered for the publick use, by motion of the succeeding treasurer, in any court of record, provided ten days notice be given in writing of such motion.

Penalty on, for misapplication of public money.

VII. *And be it farther enacted*, That Richard Cary, Thomas Everard, John Tazewell, Robert Prentis, Joseph Prentis, Edmund Randolph, and William Norvell, esquires, or any three of them, be, and they are hereby appointed a committee to examine the accounts of the treasury from the said nineteenth day of October last past to the end of this present session of assembly, and shall give a certificate thereof to the said Robert Carter Nicholas. And the said committee shall, moreover, in the month of January in every year, examine into the state of the treasury; and the said treasurer is hereby required to lay before the said committee, at the time aforesaid, all the accounts of the treasury, and produce the money in his hands, and thereupon the said committee shall cause all the treasury notes which appear to have been received for taxes and impositions, appropriated for the redemption of treasury notes, to be burnt and destroyed in their presence, and shall give a certificate thereof to the said treasurer, who shall be allowed for the same in his account. And if the said committee shall discover that any sum or sums of money, paid into the treasury upon taxes and impositions aforesaid, hath or have been diverted to any use or uses contrary to the direction of the acts of assembly, or ordinances of convention, by virtue whereof the said taxes and impositions were raised, the said committee shall certify the same to the next session of assembly.

Accounts of, how to be examined.

CHAP. XV.

An act for establishing a Court of Admiralty.

Court of admiralty established.

Number of judges; and how appointed and commissioned.

Their oath.

Penalty for acting without oath.

FOR establishing a court of admiralty, *Be it enacted, by the General Assembly of the commonwealth of Virginia,* That at some place, to be appointed by act of general assembly, there shall be held, as often as there may be occasion, a court of admiralty, to consist of three judges, to be chosen by joint ballot of both houses of assembly, and commissioned by the governor, any two of them to make a court, and to hold their office for so long time as they shall demean themselves well therein.

Every person so commissioned, before he enters upon the duties of his office, shall in open court take and subscribe the oath of fidelity to the commonwealth, and take the following oath of office, to wit: "You shall swear, that well and truly you will serve this commonwealth in the office of a judge of the court of admiralty; that you will do equal right to all manner of people, great and small, high and low, rich and poor, of what country or nation soever they be, without respect of persons. You shall not take by yourself, or by any other, any gift, fee, or reward, of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done by virtue of your office, except such fees or salary as shall be by law appointed. You shall not maintain by yourself, or by any other, privily or openly, any plea or quarrel depending in the said court. You shall not delay any person of right for the letters or request of any one, nor for any other cause; and if any letter or request come to you contrary to the law, you shall nothing do for such letter or request, but you shall proceed to do the law, any such letter or request notwithstanding. And finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial justice, without fraud, favour, affection, or partiality." And if any person shall presume to execute the said office without having taken the said oaths, he shall forfeit and pay the sum of five hundred pounds for his said offence,

one moiety to the use of this commonwealth, and the other to the informer, to be recovered with costs, by action of debt, in any court of record.

The said court shall have cognizance of all causes heretofore of admiralty jurisdiction in this country, and shall be governed in their proceedings and decisions by the regulations of the continental congress, acts of general assembly, English statutes prior to the fourth year of the reign of king James the first, and the laws of Oleron, the Rhodian and Imperial laws, so far as the same have been heretofore observed in the English courts of admiralty, save only in the instances hereafter provided for.

Jurisdiction.
By what laws govern- ed.

If in any case the regulations of the American congress shall differ from those established by act of the general assembly of this commonwealth, if such case relates to a capture from any publick enemy with whom the United States of America are or may be at war, the said regulations of the congress shall be observed. In all other cases, the supremacy of the laws of this commonwealth within the same shall prevail.

Provision, where regu- lations of congress conflict with laws of this state.

To prevent all doubts which may arise, it is declared that the said court shall have jurisdiction in no case whatever of any capital offence.

No jurisdic- tion of capi- tal offence.

The said judges shall have power to appoint an advocate, a register, and marshal, each of whom, before he enters upon the execution of his office, shall take the oath of fidelity to the commonwealth; and the said register and marshal shall each give bond, with sufficient security, to be approved by the court, payable to the governour and his successors, the said register in the penalty of one thousand pounds, and the marshal in the penalty of ten thousand pounds, with condition for their true and faithful performance of the duty of their respective offices, and accounting for and paying all money which may come to their hands by virtue thereof; which bonds may severally be put in suit and prosecuted by and at the costs of any party grieved, and shall not become void on the first recovery, but may from time to time be again put in suit by parties injured, and at their costs, until the whole penalty shall be recovered thereupon.

Advocate, register, marshal.

How appoin- ted and qual- ified.

The said court shall administer the oath of fidelity to the commonwealth to all proctors before they shall be allowed to practice in the said court. The said court shall have power to direct sale to be made at any time

Proctors, how qualifi- ed.

Sale of perishable goods. of perishable goods, taking sufficient caution that the proceeds of such sale be secured to the person to whom the same shall be decreed.

Rules of practice. Every person commencing a suit in the said court shall file his libel, setting forth the ground of his claim with the register, who shall thereupon issue a citation directed to the marshal, commanding him to serve the same on any ship or vessel, with their cargoes, rigging, apparel, and furniture, which may be claimed, or against

Libel. which satisfaction for any demand may be required by the libel, as also to summon the master or owner of such

Citation. ship or vessel, if to be found, to appear on a certain day, and at the place therein mentioned, to show cause, if any he or they can, why the claim of the libellant should not be allowed, and the marshal shall return the truth of the case upon every such citation; and if the same shall be returned served upon such master or owner, and no person shall appear on the court day to which the same is returnable to gainsay the proceeding, the libel shall be taken as confessed, and the court shall proceed to pronounce such sentence thereupon as shall be agreeable to law. But if the master or owner, or any other person in his or their behalf, shall appear and enter into a defence of the suit, in such case the court shall proceed to trial, sentence, and execution.

Defence.

Proclamation, in what cases.

And if the marshal shall return, on the citation, that the master or owner of any such ship or vessel is not to be found, then the court shall cause proclamation to be published in the Virginia Gazette, for three weeks successively, requiring any persons interested to appear and defend the claim of the libellant; and if no person shall appear to make a defence at or before the expiration of the third week of proclamation, the libel shall be taken as confessed, and the court shall proceed to judgment and execution thereupon, taking cautionary security of the libellant to have the effects forthcoming, subject to the future decree of the court. And the court shall direct a copy of the decree to be published for three weeks in the Virginia gazette; and if within one year after pronouncing such decree the master or owner, or others in their behalf, shall apply to the court, desire to be admitted to a defence of the suit, and give

Judgment by default.

When judgment opened.

sufficient security for payment of such costs as shall be awarded against him or them, if cast therein, in that case such defence shall be admitted, and the court shall

proceed to trial, in like manner as if such appearance had been made at the return of the citation.

In all cases of claim to any ship or vessel, their cargoes or appurtenances, after a final or conditional judgment, the court shall have power, if they see cause, to require security for costs.

Security for costs, when.

The court shall and may award costs in all such cases as appear reasonable, and executions for such costs may be issued by the register against the body or estate of the person adjudged to pay the same, directed to any sheriff of the commonwealth, who shall execute the same in like manner, and for the same fees, and be subject to the like penalties and forfeitures for the non-execution or undue execution thereof, and to the same remedy for not paying the money levied thereupon, or which ought to have been levied, as is directed by law in the case of such executions sued out of the courts of common law.

Costs discretionary.

Remedy for

Provided always, That in all cases of condemnation of vessels, their cargoes and appurtenances, the costs shall be paid out of the sales of the said vessels, cargoes, and appurtenances, and not be levied on the master or owner defending the same.

In case of condemnation costs to be paid out of the sales.

All matters of fact put in issue shall be tried by jury, unless in cases of captures from an enemy, which shall be tried by the court; but if such capture be from an enemy with whom the United States of America are or may be at war, then such trial shall be by court or jury, as the American congress shall direct.

When facts tried by jury, when by the court.

Where any person or persons, bodies politick or corporate, shall think himself or themselves aggrieved by the final sentence of the said court, in any case of capture from an enemy with whom the United States of America are at war, such appeal shall be allowed as directed by the American congress; and in all other cases he or they may be allowed an appeal from such sentence to the court of appeals, or may sue out a writ of error to such sentence, returnable to the court of appeals, the party appealing or suing out such writ entering into bond, with sufficient security, payable to the other party, with condition for prosecuting the appeal or writ of error, and paying all such costs and damages as shall be awarded in case the sentence be affirmed, and thereupon the register of the admiralty shall transmit a copy of the record and proceedings, and the appeal or writ of error shall be heard thereupon in

Appeal, right of, and to what tribunal.

like manner, and the damages, on affirmance, shall be the same as is directed by law in the case of appeals from the high court of chancery.

Fees of register and marshal.

The fees of the register shall be such as shall be settled by the general assembly, and until such regulation shall be made the said fees shall be settled and adjusted by the said court, and those of the marshal for any services shall be such as are allowed by law to sheriffs for the like services; save only where the amount of the sales upon any execution shall be so great as that the marshal's fees would exceed the sum of one hundred pounds, in which case the marshal shall be entitled to the said sum of one hundred pounds only, as a full fee for his services in levying the said execution.

In what cases sales of condemned vessels may be ordered.

Provided always, and be it enacted, That in all cases of condemnation of vessels with their cargoes and appurtenances, as lawful prize taken from the enemy, by a private ship or vessel of war, wherein neither the continent in general, or this commonwealth in particular, are interested, if the libellant or his agent shall desire it, the court shall have power to order the sale of the vessel, cargo, and appurtenances, to be made by such libellant or his agent, and an account of sales to be returned to the court by him or them, without any fee or reward to be given or paid to the marshal for such sale.

Suits depending before admiralty commissioners transferred to court of admiralty.

And whereas, by the expiration of the ordinance constituting judges to hear and determine causes maritime, the several suits depending before the said judges are discontinued: *Be it therefore enacted,* That the said suits shall be again reinstated in the condition in which they stood at the time of discontinuance, and transferred, together with all the records of the said judges, into the court of admiralty established by this act, by which such sentence, and other proceedings, shall be had in the said suits, as if the same had been originally commenced in the said court of admiralty.

CHAP. XVI.

An act to enable persons living in other countries to dispose of their estates in this commonwealth with more ease and convenience. [Chan. Rev. p. 42.]

I. WHEREAS the several acts of assembly which require the recording of deeds, and other conveyances of lands and tenements within this commonwealth, have been found beneficial, and a very great security to creditors and purchasers, but the necessity of an acknowledgment, or proof by witnesses, of the execution of such deeds, being made in open court previous to their admission to record, hath made it very difficult and troublesome for the proprietors of lands who reside in other countries to convey or settle their said lands, and it hath been doubted whether any feme covert, being out of the commonwealth can legally pass her estate in lands here by conveyance, in which she may be willing to join with her husband, no certain and determinate method having been provided for the privy examination of such feme covert, essentially necessary to give validity to her conveyance: Preamble.

II. *Be it therefore enacted by the General Assembly of this commonwealth, and it is hereby enacted by the authority of the same,* That from and after the passing of this act all deeds and conveyances whatsoever made in writing, indented and sealed by any person or persons whatsoever residing in any other country, for passing any lands and tenements, or other estate situate in this commonwealth, which shall be acknowledged by the party or parties making the same, or proved by three or more witnesses to be his her or their act and deed, before the mayor or other chief magistrate, of the city, town, or corporation, wherein, or near to which, he she or they shall reside, and such acknowledgment or proof, certified by the mayor or other chief magistrate, under the common seal of the said city, town, or corporation, annexed to the deed, shall be admitted to record in the general court, or court of the county where the lands or other estate lie, and shall be as effectual for passing the estate therein mentioned as if the conveyance had been acknowledged or proved in such court; or where Conveyances by non-residents, how authenticated.

the parties making such deeds shall reside in any of the states of America, and there shall happen to be no city or town corporate within the county wherein they shall dwell, a certificate under the hands and seals of two justices or magistrates of the county, that such proof or acknowledgment hath been made before them, together with a certificate from the governour, under the seal of such state, or from the clerk of the county court, under the common seal of the county, that the persons certifying such proof or acknowledgment are justices or magistrates within the same, shall authorise the recording of such deeds, and make them effectual as aforesaid.

Privy examinations of non-resident femes covert, how made.

III. *Provided always, and be it farther enacted,* That where any person, making such conveyance, shall be a feme covert, her interest in any lands or tenements shall not pass thereby unless she shall personally acknowledge the same before such mayor or other chief magistrate, or before two justices or magistrates as aforesaid, according to her place of residence, and be by him or them previously examined, privily and apart from her husband, whether she doth the same freely and voluntarily, and without his persuasions or threats, and a certificate made as before directed of such privy examination, and her free acknowledgment of the deed or conveyance; but upon such certificate annexed to the deed or conveyance being produced to the general court, or court of the county wherein the lands lie, the same shall be admitted to record, and be as effectual for passing the estate of such feme covert, in the lands mentioned in the conveyance, as if such feme had acknowledged the same in open court, and been there privily examined.

IV. And whereas many femes covert, residing out of this commonwealth, have heretofore joined with their husbands in making deeds or settlements of their estates here, and have acknowledged the conveyances, after a privy examination, before such mayor or other chief magistrate, without any commission, or before two justices or magistrates of the county where she resided, by virtue of commissions issued from the courts here, and others have acknowledged deeds without any certificate of their privy examination, and doubts may arise about the validity of such deeds or settlements, whereby bona fide purchasers, or persons claiming under family set-

lements, made upon good and legal considerations, may be involved in great expense and difficulties:

V. For prevention whereof, *Be it further enacted, by the authority aforesaid,* That all deeds and settlements heretofore bona fide made by any husband and wife residing out of this commonwealth, for conveying or settling the lands of the wife, which have been personally acknowledged by her, and a certificate made thereof, and of her privy examination before the mayor or other chief magistrate of a city, town, or corporation, under the common seal, though no commission hath issued for taking the same, or where a certificate hath been made of such privy examination and acknowledgment before two justices or magistrates, by virtue of a commission issued for that purpose from the general court, or court of the county where the lands lie, and the deeds and certificates have been recorded, in either case such conveyance shall be as effectual for passing the estate of the feme covert thereby conveyed as if she had been privily examined, and made the acknowledgment in open court.

Former acknowledgments confirmed.

VI. *And be it further enacted, by the authority aforesaid,* That where any deed hath heretofore been made by any husband and wife residing out of this commonwealth, of her lands, and the same hath been admitted to record, upon proof or certificate of her having acknowledged the same without any certificate of her privy examination, in one of the ways before mentioned, it shall and may be lawful for the clerk of the court where the deed is recorded, at the request of the person or persons claiming under the same, to issue a commission for taking the privy examination and acknowledgment of the feme, to be directed to the mayor or other chief magistrate of a city, town, or corporation; or if she resides in America, to two justices or magistrates, as before directed, whose certificates, under seal as aforesaid, of the privy examination and free acknowledgment of such deed by the feme, being returned with the commission and deed annexed, shall be recorded, and be as effectual as if the feme had been privily examined, and acknowledged the deed in court.

How defective privy examinations may be perfected.

VII. And whereas several persons have purchased lands in this commonwealth, from commissioners and sheriffs who sold the same under decrees and judgments of the courts of this commonwealth whilst it was the

colony of Virginia, which purchasers, notwithstanding they have conveyances from such commissioners and sheriffs, have only an equitable title to such lands, which in many instances may prejudice the interest of such purchasers, and those claiming under them:

Conveyances by commissioners and sheriffs, under judgments and decrees, confirmed.

VIII. *Be it further enacted, by the authority aforesaid,* That all conveyances of commissioners and sheriffs heretofore made for lands sold in virtue of any decree or judgment of any court within this commonwealth, as aforesaid, and all such conveyances which shall hereafter be made, shall be, and they are hereby declared to be good and effectual for passing the absolute title of such lands to the purchasers thereof, and all persons claiming under them, any law to the contrary, notwithstanding; saving to the commonwealth, and to all and every other person and persons, bodies politic and corporate, their respective heirs and successors, other than the parties to such conveyances, decrees, or judgments, and those claiming under them, all such right, title, interest, and demand, as they, every, or any of them, would have had in case this act had not been made.

Not to affect causes now depending in court.

IX. *Provided always,* That nothing in this act contained shall extend to any conveyance now in controversy in any suit commenced, and actually depending, in any court within this commonwealth.

CHAP. XVII.

An Act to repeal so much of an ordinance as fixes the stations of the troops raised for the protection of the frontiers.

So much of ordinance as fixes stations of troops repealed.

WHEREAS so much of the ordinance intituled 'An ordinance for augmenting the ninth regiment of regular forces, providing for the better defence of the frontiers of this colony, and for raising six troops of horse,'

which was made at the last convention of delegates for this colony, as relates to fixing the stations of the troops raised for the protection of the frontiers, is found inconvenient:

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same, That so much of the said recited ordinance, as fixes the stations of the said troops, be, and the same is hereby repealed.

CHAP. XVIII.

An Act to empower the Governour to issue Commissions without the seal of the commonwealth, and to confirm those already issued. [Chan. Rev. p. 43.]

I. WHEREAS, by an ordinance of convention, it is declared that all commissions shall run in the name of the commonwealth of Virginia, and bear teste by the governour with the seal of the commonwealth annexed, and certain persons were directed to provide the said seal, but, from unavoidable delays, they have not been able to execute the same; and whereas, in some instances, of great and pressing necessity, the governour, with advice of council, hath already granted commissions, the validity of which may be drawn into question, to remedy which inconveniencies, it is necessary that some provision should now be made: Governor, &c may issue commissions without a seal, until one is provided.

II. *Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same, That the governour, with the advice of council, shall have full power and authority henceforth to issue commissions under his signature, without any seal, until the seal of this commonwealth shall be provided, as by the said ordinance is directed; and that all commissions heretofore granted, or which may be hereafter so granted, shall be as efficacious and valid, to all intents and purposes, as if the same had issued according to the above recited ordinance.*

CHAP. XIX.

[Chan. Rev. P. 45.] *An Act to empower the eldest Privy Counsellor to act as Lieutenant Governour, in case of the death, inability, or necessary absence of the Governour and President of the Council.*

Preamble. I. WHEREAS by the constitution, or form of government, it is directed that a privy council, or council of state, consisting of eight members, should be chosen by joint ballot of both houses of assembly, to assist in the administration of government, which said council was also directed annually to choose out of their own members a president, who, in case of the death, inability, or necessary absence of the governour from the government, should act as lieutenant governour, but in case of the death, inability, or necessary absence of the governour and president of the privy council at the same time, no provision is made for the exercise of the executive powers of government.

First privy
councillor,
when to act
as lieutenant
governour.

II. For remedy whereof, *Be it enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same,* That in case of the death, inability, or necessary absence of the governour and president of the privy council, as aforesaid, the first privy counsellor, according to the order of priority in election and nomination, who shall be present and able, is hereby empowered to act as lieutenant-governour, and be vested with all the powers and authority aforesaid.

CHAP. XX.

An Act for giving salaries to the Speakers of the two houses of the General Assembly. [Chan. Rev. pa. 41.]

I. WHEREAS it is necessary in order to enable the speakers of the two houses of the general assembly to support their dignity, and employ their time in the service of the country, that a proper allowance should be made each of them:

II. *Be it therefore enacted by the General Assembly of the commonwealth of Virginia,* That the treasurer, out of the publick money in his hands, shall, and he is hereby required to pay to Archibald Cary, esq. speaker of the senate, and Edmund Pendleton, esq. speaker of the house of delegates, or to the speakers thereof respectively for the time being, the following sums of money, that is to say: To the speaker of the senate, the sum of two hundred pounds annually, and to the speaker of the house of delegates, in consideration of the great trouble and constant attendance so necessary for discharging the duties of that office, the sum of four hundred pounds annually, exclusive of their daily allowance as members of the respective houses of assembly, to be paid to each of them in four equal payments, to commence from the seventh day of October last past.

Salaries to the speakers of the senate and house of delegates.

 CHAP. XXI.

An Act to amend an act intituled An act for raising six additional Battalions of Infantry on the continental establishment. [See ante chap. XI.]

WHEREAS by an act passed this present session of assembly, intituled 'An act for raising six additional battalions of infantry on the continental establishment,' Term of enlistment of troops altered, from the war, to three years.

the said battalions, together with nine others formerly raised by this commonwealth, were directed to be enlisted to serve during the continuance of the present war, unless sooner discharged, and whereas the congress, since the passing of the said act, hath come to a resolution that all non-commissioned officers and soldiers, who do not incline to engage their service during the continuance of the present war, and shall enlist to serve three years, unless sooner discharged by congress, shall be entitled to and receive all such bounty and pay as are allowed to those who enlist during the continuance of the present war, except the one hundred acres of land, which land is to be granted to those only who enlist without limitation of time, and each recruiting officer is required to provide two distinct enlisting rolls, one for such to sign who enlist during the continuance of the war, and the other for such as enlist for three years, if their service shall be so long required.

The same
pay & bounty,
except
in land.

Be it therefore enacted by the General Assembly of the Commonwealth of Virginia, That the officers belonging to the fifteen battalions raised and to be raised within this commonwealth, pursuant to the said act of assembly, shall, and they are hereby directed to pursue in their enlistments the directions of the said recited resolution of congress, any thing in the said act to the contrary thereof notwithstanding.

CHAP. XXII.

[Chas. Rev. p. 44.] *An act to restrain the operations of the acts for limitation of actions and recording deeds in certain cases.*

Preamble. I. WHEREAS during the confusions in this commonwealth, occasioned first by the expiration of the fee bill on the twelfth day of April one thousand seven hundred and seventy four, and the suspension of government subsequent thereto, the justices in many places, omitted to hold their courts, whereby deeds for conveying lands, slaves, or other estate, which by law

are required to be recorded within a limited time from the date thereof, could not be proved and recorded, and the titles claimed under such deeds may be drawn into dispute, and although such purchasers in many cases, might have relieved themselves by taking new deeds, yet such persons, through ignorance or mistake, have omitted to use such precaution, and others have been deprived of an opportunity of such renewal, by the removal, death, or refusal of the venders.

II. For remedy herein, *Be it enacted by the General Assembly of the commonwealth of Virginia*, That all deeds, and other conveyances, of lands, slaves, or other estate, made according to the directions of the several acts of assembly relating thereto, which bear date at any time within the times respectively prescribed by law, next before the said twelfth day of April, one thousand seven hundred and seventy four, and also all other such deeds and conveyances bearing date between the said twelfth day of April one thousand seven hundred and seventy four, and the end of this present session of assembly, which have been acknowledged by the parties, or proved by three witnesses, or shall be so acknowledged or proved within eight months from the passing of this act, shall be recorded, and be as effectual for passing the estate thereby conveyed as if such deeds had been recorded within the times respectively prescribed by law from the date thereof, any thing in the said laws to the contrary notwithstanding.

Certain deeds, not recorded within the prescribed term, may yet be recorded.

III. And whereas it would be unreasonable that persons should be barred of their just rights by acts of limitation in respect to the time which hath occurred during the said confusions, and omissions to hold courts: *Be it therefore enacted*, That in all questions which may arise in any court of record, upon any act for limitation of actions, making entries into lands, or limitation of evidence in the computation of time, the period between the said twelfth day of April one thousand seven hundred and seventy four, and the end of this session of assembly, shall not be accounted any part thereof, so as to bar such action, entry, or evidence, but in all such computations the progression shall be from the said twelfth day of April to the day after the end of this session, as one day.

Period excepted out of the act of limitations

CHAP. XXIII.

[Chan Rev. p. 44.] *An Act to amend the act intituled, An act for better securing the payment of levies and restraint of vagrants, and for making provision for the poor.*

Preamble.

I. WHEREAS it is represented to this present general assembly that there hath of late been a great increase of idle and disorderly persons in some parts of this commonwealth, who are deemed rogues and vagabonds, as described by an act intituled 'An act for the better securing the payment of levies and restraint of vagrants, and for making provision for the poor,' and that upon such persons being committed to the county jail, by a warrant from a justice of peace, according to the direction of the said act, they have been immediately rescued and set at liberty by their associates, whereby the good purposes of the said act are not only defeated, but continual expenses are incurred in repairing the jails:

Vagabonds
how dealt
with.

II. For remedy whereof, *Be it enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same,* That when any person or persons shall, upon examination before a justice of peace, appear to be under the description of vagabonds within the said act, it shall and may be lawful for the justice to require every such vagabond to give sufficient security for his good behaviour, and for betaking himself to some lawful calling or honest labour; and if he shall fail so to do, either to commit him to the common jail of the county, there to remain until such security be given, or until the next court, whereupon such proceedings shall be had as in the said recited act is directed. Or if the justice shall apprehend there is danger of such person's being rescued, he shall call to his assistance another justice of peace in the same county, being of the quorum; and if both shall concur in the apprehension of danger, they may, by warrant under their hands and seals, order and direct him or them to be conveyed by the sheriff of his county to the publick jail, which warrant the sheriff is hereby required

to obey, and to convey and deliver the person or persons therein named to the said publick jail in the city of Williamsburg. And the keeper of the said publick jail is hereby required to receive such person or persons into his custody, and him or them safely keep until security be given, or until they be discharged in the manner herein after mentioned; and for such removal the sheriff shall be entitled to the like allowance as is by law allowed for removing criminals from the county jail, which allowance, together with the charge of maintaining the vagabonds in the publick jail, shall be levied and paid by the justices of the county from whence he is removed, in their county levy, to be repaid them by the publick.

III. *And be it further enacted, by the authority aforesaid,* That if any vagabond, so committed to the publick jail, shall not within three months after his commitment give security as aforesaid, it shall and may be lawful for the governour, with the advice of his privy council, to cause all such vagabonds as shall be able to undergo the fatigues of the same to be put on board any of the row galleys, or other armed vessels that may be engaged in the service of this commonwealth, for and during the term of one year, upon the like wages as landmen receive who voluntarily enlist into the said service; and for the keeper of the publick jail, with the consent of the nearest county court to the said jail, to put all such vagabonds committed to his custody, who shall not be able bodied enough to do duty on board the said row galleys, or other armed vessels, to service upon wages, for the term of one year, to any person or persons approved of by the said court, which wages, in both cases, shall be applied in the first place towards reimbursing the expenses of removal and maintenance of such vagabonds, and the surplus, if any, in the former case, paid to such vagabonds, as it grows due, and in the latter, upon the expiration of his or her service.

When they may be put on board the armed vessels.

Or, other labor.

Wages of, how applied

IV. *And be it further enacted, by the authority aforesaid,* That all able bodied men who shall neglect or refuse to pay their publick county and parish levies, and who shall have no visible estate whereon sufficient distress may be made for the same, shall be held, deemed, and taken to be vagabonds within this and the said recited act, and may be proceeded against accordingly.

Who accounted vagabonds.

CHAP. XXIV.

[See ante
chap. VI.]

An Act for extending the powers of the Commissioners of Oyer and Terminer, and for other purposes therein mentioned.

Preamble.

Powers of
commission-
ers of oyer &
terminer, ex-
tended.

WHEREAS by act of this present session of assembly, intituled 'An act for appointing commissioners of Oyer and Terminer for the trial of the criminals now in the publick jail,' a method has been adopted for trying all the criminals now in that jail, and it is judged expedient that the powers of the said commissioners should be extended to try all other criminals which may be committed to the said jail, until a general court can be established, *Be it therefore enacted, by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same,* That the commissioners who may be appointed by virtue of that act, or any three of them, may, and they are hereby required and empowered to hold another court of Oyer and Terminer, at the capitol in Williamsburg, on the second Tuesday in April next, for the trial of all such criminals, as may then be in the publick jail, and to proceed as that act directs respecting such criminals, who shall be entitled to the same advantages and mode of trial, and be subject to the same judgment and execution, as the law in such cases direct.

Sheriff of
York may
qualify be-
fore two jus-
tices.

And whereas, by the laws now in force, every person accepting of a sheriff's commission is required, before his being sworn into or executing his office, to give bond, with two sufficient securities at the least, for the true and faithful performance of his office before the justices of his county court; and whereas, by the before mentioned act, the sheriff of York county is directed to summon a grand jury and attend the said court of oyer and terminer appointed to be held on the third Thursday in January next, and it may happen that a court will not be held for the said county of York before that time, so that the sheriff lately recommended and commissioned cannot be qualified: *Be it farther enacted,* That it shall and may be lawful for any two justices of the peace of the said county of York to administer the oath of office to the said sheriff, and also to such person or persons as he shall appoint to be his under sher-

iffs, and at the same time to cause the said sheriff to enter into bonds, with two sufficient securities, according to law; which bonds shall be returned to the next succeeding court held for the said county of York, there to be recorded, and thereupon the said sheriff shall be deemed duly qualified to enter upon and execute his said office.

Provided always, That in case the said court shall adjudge the said sureties to be insufficient, the said sheriff shall give such farther security as the said court shall require. Proviso

And whereas, by an act passed this present session of assembly, intituled 'An act for establishing a court of admiralty,' some place is to be appointed by the general assembly for the purpose of holding the said court, and determining all matters relative thereto, *Be it therefore farther enacted,* That the said court shall be held in the city of Williamsburg, or in such other place as the judges may appoint, each of whom shall receive forty shillings for each day's attendance, and travelling to and from the said court, to be paid out of the money arising from the sales in all cases of condemnation; and where there shall be an acquittal, by the treasurer, out of the publick money in his hands. Court of admiralty where to be held.
Salary of judges.

CHAP. XXV.

An Act to make provision, for defraying the expenses of erecting fortifications, and for other purposes therein mentioned.

WHEREAS it is necessary, for defraying the expenses of erecting fortifications, raising and supporting a proper number of forces for the particular and immediate defence of this commonwealth, building, equipping, and manning vessels of war and other armed vessels, and establishing manufactories for discharging the publick debts incurred the last year, and for defraying the expenses of the civil establishment for the year to come, that some certain adequate provision should be made: Preamble.

New taxes
on carriages,
tithables, &
lands.

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same, That an annual tax or duty of forty shillings upon every coach, chariot, or four wheeled carriage, and twenty shillings for every chair or two wheeled carriage, except common waggons and carts, also a tax or duty of five shillings for every tithable person, also a tax or duty of five shillings for every hundred acres of land, and after that rate for a greater or less quantity, shall be paid yearly, on the tenth day of June, the first payment to commence in the year of our lord one thousand seven hundred and eighty four, and the several other payments to continue to and be paid on the same day in the year one thousand seven hundred and ninety, the tax on carriages to be paid by their several proprietors, that on tithables by the tithable himself, if a freeman, or by his parent or guardian, if an infant, or by the masters or owners of all servants or slaves, and the tax on lands by the proprietor, or the parents or guardians of infants, if resident in the county where the lands lie, or by their respective tenants, stewards, or overseers, in case such proprietor, parent, or guardian, shall live in another county, to be repaid by such proprietor, parent, or guardian.

Not to affect
contracts be-
tween land-
lords and te-
nants.

Provided always, That nothing herein contained shall be construed so as to alter any contract heretofore made, or which shall hereafter be made, between landlords and their tenants, whereby the payment of taxes shall have been or may be stipulated to be made by either of them.

Lists of taxa-
ble property
when & how
given in.

And be it farther enacted, That every person chargeable with the said duties or taxes shall, at the time of delivering in his or her list of tithables, also give in a list of his or her wheel carriages subject to the tax hereby imposed; and the proprietor, parent, guardians, steward, or overseer, chargeable as aforesaid, shall at the same time give in the quantity of land by him or her held, or on which they shall live, to the several justices, or other persons appointed to take such lists of tithables, under the like penalty for each failure, to be recovered in the same manner as is directed by the acts of assembly made to punish the concealment of tithables.

Effect of fail-
ing to give
in.

Provided always, That if the collector of all or any of the taxes or duties hereby imposed shall discover any person or persons chargeable therewith who hath

failed to give in his or her list as aforesaid, such collector shall proceed to collect or levy the said duties respectively, account for on oath, and pay the same to the treasurer of this commonwealth for the time being appointed by or pursuant to act of assembly; and the landholders in the counties of Montgomery,* Washington,* Kentucky,* Ohio, Yohogania, and Monongalia, whose rights of voting at elections of delegates are allowed and fixed, shall also, in manner aforesaid, give in a list of their lands within the said counties, and the land tax aforesaid shall be collected and paid for the same notwithstanding no patents may have been obtained for such lands. And in case of failure in payment of the said duties and taxes at the times herein before limited for payment thereof respectively, it shall be lawful for the sheriff or collector of each county to levy the same by distress and sale of the slaves, goods, or chattles, of the person so failing, in like manner as is directed in cases of other distresses; and where there are no effects to be found on the lands hereby made chargeable with the said tax, it shall be lawful for the sheriff or collector of the county where such lands lie, or the sheriff or collector of the county where the proprietor lives, to levy the said tax upon the estate of such proprietor, wheresoever the estate can be found. And every sheriff or collector of the duties or taxes aforesaid shall account for and pay the said taxes due from the several persons residing in his county, after being allowed for insolvents, and a commission of five per centum for his expense and trouble in collecting the same, to the treasurer for the time being appointed as aforesaid, on or before the twentieth day of November in every year.

Landholders of certain counties entitled to vote at elections for delegates to pay a land tax, for lands unpatented.

Remedy by distress.

And be it farther enacted, by the authority aforesaid, That for the purposes before recited there shall also commence on the same day, and continue for the same time, a farther tax or duty of forty shillings for every ordinary license, and twenty shillings for every marriage license, to be paid by the person desiring the same to the clerk of the county court, before such license shall be granted, also a tax of two shillings and sixpence for every original writ in any action or suit at common law, and subpœna or subpœnas in chancery,

Taxes on ordinary and marriage licenses.

Law process

* The counties of Montgomery, Washington, and Kentucky, were formed during the present session out of Fincastle. See post. chap. 44.

in the general court, or high court of chancery, and for every summons on any petition for lapsed land, and for every caveat entered in the secretary's office, and one shilling and threepence for every writ or subpoena issued from any county or other inferior court, to be paid by the plaintiff in any such suit to the clerk of the court before such process shall be issued, or caveat entered and taxed in the bill of costs. And such clerk shall respectively account for and pay all such taxes and duties to the treasurer for the time being appointed as aforesaid, in the months of April and October annually, deducting a commission of five per centum for his trouble; provided, that no plaintiff shall pay for more than one process in any one suit.

Sheriffs to
give bonds.

And be it farther enacted, That the sheriffs or collectors in their several county courts, before they enter on their office, shall give bonds with sufficient securities, in reasonable penalties, payable to the treasurer for the time being, with condition for the collection and payment of all taxes and duties imposed by this act.

Remedy by
motion a-
gainst sher-
iffs, &c.

And be it farther enacted, That if any sheriff, collector, or clerk, shall refuse or neglect to collect, account for, and pay the several taxes and duties imposed by this act, it shall and may be lawful for the general court, or the court of the county where such sheriff, collector, or clerk resides, upon a motion of the treasurer, to give judgment against them respectively, and the securities of such sheriffs or collectors, for all such taxes and duties by them received, or which they might have received; provided, that ten days previous notice be given, in writing, of such motion. And if any sheriff or collector shall fail to attend and settle his accounts, such court shall give judgment for the penalty of his bond.

Treasurer
authorised
to borrow
money.

And whereas the payment of the said taxes and duties being unavoidably postponed to such distant days, to suit the distressed circumstances of the inhabitants of this commonwealth, will not enable the treasurer to pay the money required by this act so soon as the exigencies of the state may require, so that it becomes necessary to circulate treasury notes in the meantime on the credit of the said taxes and duties, this being the only expedient that can be adopted, *Be it therefore enacted, by the authority aforesaid,* That Robert Carter Nicholas, esq. or the treasurer for the time being appointed by or pursuant to act of assembly, shall be, and he is hereby empowered to borrow, at an interest of four per

centum per annum, from any person or persons willing to lend the same, upon the credit of the taxes hereby imposed, so much money as he can procure, in sums not less than three hundred dollars of any one person, and give bond for such money lent on account of the publick, and to issue treasury notes in dollars, and parts of a dollar, for any sum or sums which may be requisite for the purposes of this act, and which he may not be able to borrow as aforesaid, so that the money to be borrowed or issued do not exceed in the whole the sum of five hundred thousand pounds, including the one hundred thousand pounds directed to be emitted by resolution of the present general assembly, each dollar to be of the value of a Spanish milled dollar, and the parts of a dollar of the same proportionate value; and the said Robert Carter Nicholas, or the treasurer for the time being appointed as aforesaid, may, and he is hereby authorised to appoint proper persons to overlook the press, to number and sign the said notes, and shall cause the said notes to be printed and engraved in such manner as he shall judge most likely to secure the same against counterfeits and forgeries.

Loans, how secured.

Treasurer may issue treasury notes, or paper money.

And be it farther enacted, That all such notes to be issued shall be received and passed as a lawful tender in payment of any debt, tax, or duty whatever, so long as the same shall continue in circulation.

Notes a lawful tender.

And if any person or persons within this commonwealth, during the time the said treasury notes are to continue current, shall offer to sell, or expose to sale, any lands or tenements, goods or chattles whatsoever, and shall deny or refuse to sell the same, or demand a greater price unless he be paid for the same in gold or silver coin, and not in the said notes, or if any person or persons shall exchange gold or silver coin for the said bills, and take or demand any allowance for the difference of the value thereof, or shall offer to buy or sell bills of exchange at a greater or higher difference of exchange for the said treasury bills than for gold or silver coin, or shall use any other device, means, or method whatsoever, whereby the credit of the said notes may be impaired, every person so offending shall pay after the rate of twenty five per centum on the value of the said lands or tenements, goods, or chattles, so offered or exposed to sale, or of the money so exchanged, or of the bills so bought or sold, to be recovered by the informer to his own use before a justice of the peace, where the penalty does not

Penalty for refusing notes, or depreciating their value.

amount to more than twenty five shillings, and where it shall exceed that sum the said penalty shall be one half to the chief magistrate, for the use of the commonwealth, to be paid to the treasurer for the time being, and the other half to the informer, to be recovered by action of debt in any court of record.

Notes, when
redeemable.

And be it farther enacted, That all the notes to be issued by virtue of this act shall be redeemable on the first day of January in the year one thousand seven hundred and ninety, and shall then be taken in and discharged by the treasurer for the time being appointed as aforesaid, and shall be burnt and destroyed by a committee to be appointed by the general assembly for that purpose. And the person or persons who may be appointed to overlook the press shall receive for his trouble fifteen pounds for every one hundred thousand pounds printed, the numberers each for his trouble seven shillings and six pence for every thousand notes by him numbered, and the signers each for his trouble ten shillings for every thousand notes by him signed.

Forging and
counterfeit-
ing, death.

And be it farther enacted, by the authority aforesaid, That if any person or persons shall forge or counterfeit, alter or erase, any such treasury note, or tender in payment any such, or demand a redemption thereof knowing the same to be forged or counterfeited, altered or erased, every person so offending, and being thereof lawfully convicted, shall suffer death without benefit of clergy.

Taxes pled-
ged for re-
demption of
notes.

And be it farther enacted, by the authority aforesaid, That all the monies to be raised by the taxes imposed by this act shall stand, be, and remain as a security for the re-payment of the money to be borrowed, and for the redemption of the said treasury notes so to be issued; and the treasurer for the time being, appointed as aforesaid, is hereby required to apply all such money as shall come to his hands for the said taxes for and towards the re-payment of the money to be borrowed, and the redemption of such treasury notes, and to no other use or purpose whatever. And the said treasurer shall account with the general assembly for the same, after deducting the allowance for his salary. And if the said taxes shall prove deficient, the whole estates, real and personal, of the inhabitants of this colony, shall be, and they are hereby pledged as a security for making good such deficiency by some future

act of the general assembly, who shall also provide for the payment of the annual interest of the money to be borrowed.

And be it farther enacted, That in case of the death, resignation, or inability of the treasurer now to be appointed, it shall be lawful for the governour, with the advice of the council, if the assembly is not sitting, to appoint another fit and able person to be treasurer in his room, who having taken the oath directed by law to be taken by the treasurer, and entered into bond with sufficient security, to be approved of by the governour and council, in the penalty of three hundred thousand pounds, payable to the governour and his successors for the use of the commonwealth, shall have power to act in all things pertaining to his said office until the meeting of the next general assembly.

Vacancy in office of treasurer, how supplied.

And be it farther enacted, That from henceforth no fee shall be paid or payable to the governour of this commonwealth for any marriage or ordinary license to be issued pursuant to any former act of assembly, any thing in the said acts to the contrary notwithstanding.

Fees of governour, for ordinary, & marriage licenses, abolished.

And whereas, from the want of trade, the people in many parts of this commonwealth will be unable to pay their taxes in the ensuing year, *Be it therefore enacted, by the authority aforesaid,* That the collection of the same upon land and tithables shall be postponed, and paid in the following manner, viz. Tenpence for every hundred acres of land, and the like sum for each tithable person, in the year one thousand seven hundred and seventy eight, and the next five following years, so that the entire tax for the said year one thousand seven hundred and seventy seven shall be collected and paid before the year of our Lord one thousand seven hundred and eighty four.

Taxes reduced and postponed.

CHAP. XXVI.

[Chan. Rev.
p. 45.]

An Act declaring tenants of lands or slaves in taille to hold the same in fee simple.

Preamble.

I. WHEREAS the perpetuation of property in certain families, by means of gifts made to them in fee taille, is contrary to good policy, tends to deceive fair traders, who give a credit on the visible possession of such estates, discourages the holder thereof from taking care and improving the same, and sometimes does injury to the morals of youth, by rendering them independent of and disobedient to their parents; and whereas the former method of docking such estates taille by special act of assembly, formed for every particular case, employed very much of the time of the legislature, and the same, as well as the method of defeating such estates, when of small value, was burthensome to the publiek, and also to individuals:

Tenants in taille, to hold their estates in fee-simple.

II. *Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by authority of the same,* That any person who now hath, or hereafter may have, any estate in fee taille, general or special, in any lands or slaves in possession, or in the use or trust of any lands or slaves in possession, or who now is or hereafter may be entitled to any such estate taille in reversion or remainder, after the determination of any estate for life or lives, or of any lesser estate, whether such estate taille hath been or shall be created by deed, will, act of assembly, or by any other ways or means, shall from henceforth, or from the commencement of such estate taille, stand *ipso facto* seized, possessed, or entitled of, in, or to such lands or slaves, or use in lands or slaves, so held or to be held as aforesaid, in possession, reversion, or remainder, in full and absolute fee simple, in like manner as if such deed, will, act of assembly, or other instrument, had conveyed the same to him in fee simple; any words, limitations, or conditions, in the said deed, will, act of assembly, or other instrument, to the contrary notwithstanding.

Saving certain rights.

III. Saving to all and every person and persons, bodies politick and corporate, other than the issue in taille, and those in reversion and remainder, all such

right, title, interest, and estate, claim, and demand, as they, every, or any of them, could or might claim if this act had never been made; and saving also to such issue in talle, and to those in reversion and remainder, any right or title which they may have acquired by their own contract for good and valuable consideration actually and bona fide paid or performed.

CHAP. XXVII.

An act for establishing the places of holding Courts in the counties of Stafford and King George.

FOR fixing the places of holding courts for the counties of Stafford and King George, *Be it enacted, by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same,* That the justices to be named in the commission of the peace for the said counties of Stafford and King George respectively shall meet for the said county of Stafford at the courthouse of the said county, on the second Monday in February next, and for the said county of King George at the courthouse of the said county, on the first Thursday in February next; and having taken the oath required by an ordinance of convention, and administered the oath of office to, and taken bonds, according to law, of the respective sheriffs of each of the said counties, may proceed to fix upon places for holding courts in their respective counties, at, or as near the centre thereof, as the situation and convenience of the respective counties will admit of, and shall thenceforth proceed to erect the necessary publick buildings for such counties at such places respectively, and shall also appoint such places for holding courts, until such buildings shall be completed, as they shall think fit.

Places for holding courts, in Stafford and King George how fixed.

Provided always, That the appointments of the places for holding courts, for either of the counties aforesaid, shall not be made unless a majority of the justices for such counties be present, where such majority shall

have been prevented from attending by bad weather, or accidental rise of water courses; and in all such cases, the appointment aforesaid shall be postponed until the then next court days, and so on from court day to court day until such obstacles shall be removed.

And be it farther enacted, by the authority aforesaid, That the courts of the said counties shall have power to adjourn themselves to such places as they shall appoint; and after the publick buildings aforesaid shall be erected for the said counties, at the places to be appointed as aforesaid, the courts for the said counties shall thenceforth be held at such places.

CHAP. XXVIII.

An act to empower the vestry of the parish of Westover, in the county of Charles City, to sell the lands appropriated to the use of the poor of the said parish.

Vestry of Westover parish, in Charles City authorised to sell their lands; on which poor-house erected.

WHEREAS the vestry of the parish of Westover, in the county of Charles City, did some years ago purchase a tract of land, and cause to be erected thereon proper houses for lodging, maintaining, and employing such poor people as were upon the parish, which, from experience, hath been found burthensome, and not to answer the purposes thereby intended:

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, That the vestry of the said parish of Westover be, and they are hereby empowered to sell and dispose of the said tract of land, with the appurtenances, for the best price that can be had for the same; and that they, or a majority of them, shall convey the said land to the purchaser in fee simple, and apply the money arising from the sale thereof for and towards the supporting the poor of the said parish.

CHAP. XXIX.

An act for altering the place of holding courts in the county of Halifax.

WHEREAS it is represented to this general assembly, that the present situation of the courthouse in the county of Halifax is inconvenient to the inhabitants thereof, and ought to be removed to some other place, as near the centre as may be, and it appearing that there is a convenient situation for such courthouse, with the other necessary buildings, on the land of John Boram, and he is desirous that the said publick buildings should be erected thereon:

Courthouse
&c. of Halifax county
removed

For remedy herein, *Be it enacted by the General Assembly of the commonwealth of Virginia*, That the justices of the said county of Halifax shall provide for building, as soon as may be, a courthouse, prison, pillory, and stocks, at some convenient place on the land of John Boram, lying on the south side of Banister river, in the said county; and that, after such buildings shall be completed, a court for the said county shall be constantly held at such place.

And for the greater conveniency of the inhabitants in repairing to elections, *Be it farther enacted by the authority aforesaid*, That from and after the passing of this act all elections which by law are required to be held at the courthouse, and all courts martial shall be made and held at some convenient place on the lands of the said Boram, until such new courthouse shall be built, in the same manner as such elections and courts martial were by law directed to be made and held heretofore at the courthouse, any law or usage to the contrary notwithstanding.

An act to empower the late Sheriff of Prince George to take the election of Delegates for the said county.

The late sheriff of Prince George authorised to hold an election for delegates, notwithstanding his sheriffalty has expired.

WHEREAS Peter Eppes, gentleman, was, by commission from the late governour, appointed sheriff of the county of Prince George, and having taken the oath directed to be taken by sheriffs by an ordinance of the last convention, hath continued to act in the said office until the twenty fifth day of October last past, when his authority ceased, according to the direction of the said ordinance, but before that time the said sheriff had received a warrant from the speaker of the house of delegates for the election of a delegate to serve for the said county, in the room of Peter Poytlress, esq. who had resigned, and had appointed a day, and summoned the freeholders to make such election, since which it is become necessary to elect another member for the said county, in the room of Richard Bland, esq. deceased, both which elections will be disappointed, as the said sheriff's authority is expired, and another cannot be qualified in time unless a speedy remedy is provided:

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, That the said Peter Eppes, or his deputy, shall and may proceed to take the poll on the day already appointed for the election of one delegate, and to appoint the time for and to proceed to the election of another for the said county, and return the members respectively chosen, in the same manner as he might have done before the expiration of his said office.

CHAP. XXXI.

An act to empower the justices of the county of Norfolk to hold Courts at such place as they shall appoint, and for other purposes therein mentioned

WHEREAS, by the burning of the borough of Norfolk, the courthouse of the county was destroyed, and the place where it stood will be much exposed to the attacks of the enemy in case they should return, which, together with the dispersed state of the inhabitants of the said county, hath prevented the rebuilding the said courthouse, by means whereof the justices of the said county have been hindered from holding courts at the usual place, and only one court hath been held for the said county since the court house was so burnt, and that not at the courthouse, and without a writ of adjournment, whereby doubts have arisen whether the said justices have power to build a temporary courthouse at any other place, and whether the proceedings of the court last held are valid:

Preamble, reciting the burning of Norfolk.

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the justices of the said county, after publick notice given, to meet and agree upon a proper place for erecting a temporary courthouse, and to appoint some person or persons to agree with an undertaker for performance of such work, and the expense thereof shall by the court of the said county be levied and assessed on the inhabitants thereof, in the same manner as other claims against the county are by law directed to be levied and assessed.

Justices of Norfolk authorised to erect a temporary court house.

And be it farther enacted, by the authority aforesaid, That the justices of the said county shall have full power and authority to hold courts at the courthouse so to be erected, and to hear and determine all matters cognizable before them; and until such courthouse can be erected, it shall and may be lawful for the said justices to hold courts for the said county at such convenient place as they shall appoint, and to hear and determine all matters cognizable before them without the formal-

In the mean time may hold courts any where.

ity of a writ of adjournment, and shall have power to adjourn from the place so appointed to the said courthouse, when the same shall be erected, without suing out a writ of adjournment; any law, custom, or usage, to the contrary thereof, in any wise notwithstanding.

Notice of place to be given by sheriff.

And be it further enacted, That the sheriff of the said county shall cause publick notice to be given of the place appointed by the said justices for holding courts, until such courthouse shall be built.

Proceedings of court last held, declared valid.

And be it further enacted, That the proceedings of the court last held for the said county shall be, and they are hereby declared to be as valid, and of as full force, as if the said court had been held at the usual place.

Court to appoint persons to take lists of tithables.

And be it further enacted, by the authority aforesaid, That it shall and may be lawful for the said justices, at the first or second court by them hereafter held, to appoint persons to take the list of tithables in the said county for this present year; and the persons so appointed shall give publick notice of their appointment, and shall attend at the place appointed, and make return of their respective list at the next court to be held for the said county after their appointment.

Lists, how given in.

And be it further enacted, That all masters or mistresses of families, and in case of their non-residence on the plantation, the overseer thereof, shall give in and deliver to the person appointed to take the list of tithables in the precinct where such master, mistress, or overseer, shall reside, a list of the names and number of all the tithable persons belonging to or abiding in his or her family at the time of making out such list, under the like penalties as is by law inflicted on persons failing to give in their list of tithables.

Levies to be laid.

And be it further enacted, That the justices of the said court, and vestries of the parishes in the said county, shall lay their levies for the present year agreeable to the list of tithables so to be taken.

Elections in Norfolk, how to be held.

And whereas, by the destruction of the said borough, and the dispersed state of its inhabitants as aforesaid, it may be inconvenient that elections for the choice of a delegate to represent the same should be made in the said borough, *Be it therefore enacted, by the authority aforesaid,* That for all such future elections it shall and may be lawful for the mayor, or in case of his absence, or refusal to act, the senior alderman for the time being, clerk of the said borough court, or sheriff of the county of Norfolk, as the case may be, and they are

hereby authorised and required, to appoint some convenient time and place for such elections, and shall publish notice thereof, and proceed to the election of such delegate, in the same manner as is by law directed for the election of other delegates, and shall make return under the like regulations and penalties; any law, custom, ordinance, or usage, to the contrary thereof, notwithstanding.

CHAP. XXXII.

An act for establishing several new ferries, and for discontinuing a former ferry. [Chan. Rev. p. 46.]

I. WHEREAS it is represented to this present general assembly, that publick ferries, at the places hereafter mentioned, will be of great advantage to travellers and others:

II. *Be it therefore enacted by the General Assembly of the commonwealth of Virginia,* That publick ferries be constantly kept at the following places, and the rates for passing the same shall be as follows, that is to say: From the land of David Brandon, in the county of Halifax, over Dan river, to the land of John Lawson, on the opposite shore, the price for a man three pence, and for a horse the same; from the land of John Boyd, in the said county of Halifax, over Dan river, to the land of Patrick Boyd, on the opposite shore, the price for a man three pence, and for a horse the same; from the land of Henry Trent, in the county of Amherst, over the Fluvannah river, to the land of Nicholas Davies, on the opposite shore, in the county of Bedford, the price for a man three pence, and for a horse the same; from the point of the fork of the Rivannah and Fluvannah rivers, across the said Fluvannah, to the lands late the property of Philip Mayo, deceased, on the south side thereof, the price for a man three pence, and for a horse the same; from the said point of fork across the said river, to the lands of Samuel Martin,

New ferries established.

Rates for man and horse

on the north side thereof, in the county of Albemarle, the price for a man two pence, and for a horse the same; from the lands of Samuel Martin, across the mouths of the two rivers Fluvannah and Rivannah, to the lands late the property of the said Philip Mayo, on the south side of the said Fluvannah, the price for a man three pence, and for a horse the same; from the lands of William Cannon, across the said Fluvannah river, to the lands of Walter King, the price for a man three pence, and for a horse the same; from the lands of Jacob Bousman, across the Monongehela river, to the town of Pittsburg, the price for a man four pence halfpenny, and for a horse the same; from the publick landing at the town of Port Royal, in the county of Caroline, across Rappahannock river, to the lands of Francis Conway, the price for a man three pence three farthings, and for a horse the same, the keeping of which last mentioned ferry, and emoluments arising therefrom, are hereby given and granted to James Bowie the younger, his heirs or assigns, so long as he or they shall well and faithfully keep the same according to the directions of this act.

Bowie's ferry at Port Royal, free for foot passengers.

III. *Provided always*, That the said James Bowie, his heirs or assigns, shall set over the said ferry all such foot passengers as may incline to cross without demanding or receiving any ferriage for the same.

Rates for carriages, &c.

IV. And for the transportation of wheel carriages, tobacco, cattle, and other beasts, at any of the places aforesaid, the ferry keeper may demand and take the following rates, that is to say: For every coach, chariot, or waggon, and the driver thereof, the same as for six horses; for every cart or four wheeled chaise and the driver thereof, the same as for four horses; for every two wheeled chaise, or chair, the same as for two horses; for every hogshead of tobacco as for one horse; for every head of neat cattle, as for one horse; for every sheep, goat, or lamb, one fifth part of the ferriage for one horse; and for every hog, one fourth part of the ferriage for one horse, according to the prices herein before settled at such ferries respectively, and no more.

Penalty for exceeding legal rates.

V. And if any ferry keeper shall presume to demand or receive, from any person or persons whatsoever, any greater rates than is hereby allowed for the carriage or ferriage of any thing whatsoever, he or they, for every such offence, shall forfeit and pay to the party grieved the ferriages demanded or received, and ten shillings;

to be recovered, with costs, before any justice of the peace of the county where such offence shall be committed.

VI. And where a ferry is by this act appointed on one side of a river, and none on the other side answerable thereto, it shall and may be lawful for the respective county courts to appoint an opposite ferry, and to allow the respective rates herein before directed, and such courts shall and may, and are hereby required to order and direct what boat or boats, and what number of hands, shall be kept at each ferry respectively; and every such ferry keeper shall enter into bond, in the manner directed by an act of assembly intituled "An act for the settlement and regulation of ferries, and for despatch of publick expresses," and shall be liable to the penalties thereby inflicted for any neglect or omission of their duty.

County courts may appoint opposite ferries, &c.

VII. And whereas the publick ferry from the land of William Roberts, across Dan river, to the land of Henry Gaines, hath been found inconvenient: *Be it therefore further enacted, by the authority aforesaid,* That the said ferry shall henceforth be discontinued.

A ferry discontinued.

CHAP. XXXIII.

An act to establish publick storehouses, at the head of Potowmack creek, for the reception of naval stores.

[Chan. Rev. p. 46.]

I. WHEREAS it is found necessary that publick storehouses, for the reception of naval stores, be established at Cave's warehouse, near the head of Potowmack creek, in the county of Stafford, to be under the care and direction of such person as shall be appointed by the commissioners of the navy.

II. *Be it therefore enacted by the General Assembly of the commonwealth of Virginia,* That it shall and may be lawful for any two justices of peace in the county of Stafford, and they are hereby required, to issue their precept to the sheriff of the said county, commanding

Public storehouses established at Cave's warehouse, on Potowmack creek, for reception of naval stores.

him to summon a jury of the neighbourhood, to meet the said justices at the warehouses called Cave's, on such day as shall be appointed for that purpose, which jury, being sworn to do impartial justice on the occasion, shall view and examine one acre of land whereon the warehouses aforesaid stand, and value the same exclusive of the said warehouses. And the said justices shall certify and return the inquisition of the jury to the court of the said county, there to be recorded, and shall give to the proprietor of the land a certificate of the valuation, who shall thereupon receive from the treasurer of this commonwealth the amount thereof, deducting what such proprietor shall formerly have received from the public for the use of the said land for a publick warehouse; and thereafter the said acre of land shall be vested in the governour of this commonwealth and his successours, for the use of the publick. And the commissioners of the navy, may either cause proper houses to be built thereon, at the publick expense, for the reception and safe keeping of the naval stores and materials for ship building, and appoint a proper person to take care of the houses and stores, or may let the said acre of land to any person or persons for the purposes of building and keeping such storehouses thereon, and contract with them for the receipt, safe keeping, and delivery of such stores and materials, as they shall judge most for the publick good; but, in either case, the person contracted with shall not interfere with the publick warehouses already built or to be built on the said acre of land for the reception of tobacco, or hinder the free egress or regress to the same for delivering, inspecting, and carrying away tobacco.

Land vested
in common-
wealth.

CHAP. XXXIV.

An act to empower the Governour, and Council to employ persons for working the Lead Mines to greater advantage.

WHEREAS certain lead mines in the county of Montgomery, formerly Fincastle, belonging to the hon. William Byrd, esq. and the estates of John Robinson and John Chiswell, esquires, have been for some time past worked on the publick account, to great advantage, and it is judged that the said works may be carried on to a still greater extent for the production of lead, so necessary at this time for the continent in general, as well as this country in particular:

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, That it shall and may be lawful for the governour, or in case of his death, sickness, or necessary absence, the person who acts as president of the council, by and with the advice of the council, by hire or purchase, from time to time to engage so many slaves, servants, or others, and employ them at the said mines for making lead for the use of the publick, as they shall judge may be beneficially employed therein, to continue the persons so to be engaged under the present or any other manager, as to them shall seem best, and to draw on the treasurer for all sums of money which may be necessary for the purpose aforesaid, which he is empowered and required to pay out of the publick money in his hands.

And be it farther enacted, That the governour and council shall and may direct the sale of so much of the lead so to be made as can be spared from the necessary purposes of this commonwealth, in the first place to and for the use of the United States, or any sister state; or if they do not want to purchase the same, to any other person or persons willing to purchase, directing regular accounts as well of the disposition of the lead as the disbursements in making the same to be kept, and laid before the general assembly when required.

Provided always, and be it farther enacted, That a reasonable annual rent, to be settled between the governour and council and the proprietors, shall be paid

Preamble,
reciting that
the lead
mines had
been work-
ed by the
public to
great advan-
tage.

Governour
authorised to
extend the
operations.

May dispose
of surplus
lead to U.
States, or
sister states.

Compensa-
tion to pro-
prietors, how
settled.

to them for the use of the said mines; and that if the said proprietors shall incline to work the same themselves, and will engage to deliver, for the use of the publick, one hundred tuns of lead annually, at the price of thirty three pounds six shillings and eight pence per tun, that then, and from thenceforth, the governour and council shall have no power to continue any hands thereon, or intermeddle therewith, so long as the proprietors shall continue to perform such contract.

CHAP. XXXV.

An act to empower the vestries of the parishes of St. James and Amherst to fix the rate of paying the levies thereof in tobacco.

WHEREAS it is represented to this present general assembly, that the vestries of the parish of St. James, in the county of Mecklenburg, and of the parish of Amherst, in the county of Amherst, laid the levy of their respective parishes for the year one thousand seven hundred and seventy five in money, without giving the people the alternative of paying the same in tobacco, according to the directions of an act of assembly intituled 'An act to prevent the exorbitant exactions of the collectors of the county and parish levies:'

Parishes of
St. James &
Amherst, to
fix the rate
at which the
levies may
be paid in
tobacco.

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, That the vestries of the parish of St. James, and of the parish of Amherst, shall, and they are hereby required to meet at some convenient place in their several parishes by the third day of February next, then and there to fix a rate at which the people of the said parishes shall pay their levies in tobacco.

CHAP. XXXVI.

An act to appoint Commissioners to dispose of the lands and slaves formerly purchased pursuant to an act intituled Anact for encouraging the making Wine.

WHEREAS it is represented to this present general assembly, that the land in York county formerly purchased for the use of a Vineyard for manufacturing wine, pursuant to an act of assembly passed in the year one thousand seven hundred and sixty nine, intituled 'An act for encouraging the making wine,' is unfit for that purpose, and that the said land, and the slaves who were likewise purchased pursuant to the said act, and employed thereon under the management of Mr. Andrew Estave, are become useless, and of no advantage to the publick:

Lands and slaves, in York, purchased for making wine under the direction of Andrew Estave, to be sold.

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same, That Nathaniel Burwell, Benjamin Powell, and John Burwell, gentlemen, or any two of them, be, and they are hereby constituted and appointed commissioners to dispose of the said land and slaves on behalf of the publick; and that the said land, with its appurtenances, and the said slaves, with their increase, be, and the same are hereby vested in the said commissioners, in trust: Nevertheless, that the said commissioners, or any two of them, shall, by deeds of bargain and sale, sell and convey the said land, with the appurtenances, and the said slaves, with their increase, for the best price that can be got for the same, to any person or persons who shall be willing to purchase the said land and slaves, to hold to such purchaser or purchasers, his or their heirs or assigns, for ever.

And be it farther enacted, That the money arising by the sales of the said land and slaves shall be by the said commissioners paid into the publick treasury, to be appropriated for and towards the contingent charges of government; and that the said commissioners do render a just and true account of such sales to the next general assembly.

CHAP. XXXVII.

An act for vesting certain lots and streets in the town of Patesfield, in trustees, and for other purposes therein mentioned.

Preamble,
reciting es-
tablishment
of town of
Patesfield, in
Isle of Wight
under the
*Act for Ports
&c.* and its
partial aban-
donment.

WHEREAS, in pursuance of an act passed at a general assembly begun at James City the sixteenth day of April one thousand six hundred and ninety one, intituled 'An act for ports, &c.' the court of the county of Isle of Wight did purchase of Joseph Bridger fifty acres of land at the mouth of Pagan creek, in the said county, and caused the same to be laid out in a town or port, called by the name of Patesfield, which was vested in trustees, and sundry lots in the said town were by the said trustees sold and conveyed to several purchasers; but the said purchasers soon finding that the said town would not answer the purpose for which it was intended, it being a remote part of the county, and very inconvenient for trade, many of them neglected to improve their lots, others who had built on them removed out of the said town, and many of the lots still remain unsold, and the said town, as such, is now entirely useless to the publick or the said county, and the inhabitants of the said county of Isle of Wight have petitioned this general assembly for an act to vest the lots and streets unsold in trustees, to be sold for the benefit of the said county:

Lots unsold
and forfeited
for non-im-
provement
vested in
trustees to
be sold.

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same, That such of the lots and streets in the said town of Patesfield as have not been sold and disposed of by the trustees of the said town, and such others as have become forfeited for want of improvement, be, and the same are hereby vested in Brewer Godwin, Richard Hardy, and Henry Pitt, gentlemen, in fee simple, in trust, to be by them sold, as soon as it may conveniently be done, to the highest bidder, and conveyed to the purchaser or purchasers thereof, their heirs and assigns.

Proceeds to
be paid to
county of
Isle of Wight

And be it farther enacted, by the authority aforesaid, That the said trustees shall, as soon as the said sale shall be completed, return an account thereof, and pay the

money arising therefrom to the court of the county of Isle of Wight, to be by them applied to the use of the county; saving to this state, and to all and every other person and persons, bodies politick and corporate, all such right, title, estate, interest, claim, and demand, as they, or any of them, should or might claim if this act had never been made.

CHAP. XXXVIII.

An act for dividing the county of Pittsylvania into two distinct counties.

WHEREAS it is represented to this present general assembly, by sundry inhabitants of the county of Pittsylvania, that from the great extent of the county, and their remote situation from the courthouse, they are subject to great inconveniences, and they have petitioned this general assembly for a division of the said county: Pittsylvania county divided & Henry formed.

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same, That from and after the last day of December next ensuing the said county of Pittsylvania be divided into two counties, by a line beginning at the mouth of Blackwater, on Staunton river, and running parallel with the line of Halifax county till it strikes the country line, and that all that part of the said county which lies to the westward of the said line shall be one distinct county, and called and known by the name of Henry, and that all the other part thereof which lies to the eastward of the said line shall be one other distinct county, and retain the name of Pittsylvania. Boundaries.

And for the administration of justice in the said county of Henry, *Be it enacted, by the authority aforesaid,* That after the said last day of December a court for the said county of Henry be held by the justices thereof upon the third Monday in every month, in such manner as by the laws of this state is provided, and shall be by their commissions directed. Court days.

Provided always, That nothing herein contained shall be construed to hinder the sheriff or collectors of the said county of Pittsylvania, as the same now stands entire and undivided, from collecting and making distress for any publick dues or officers fees which shall remain unpaid by the inhabitants of Henry county at the time of its taking place, but such sheriff or collector shall have the same power to collect or distrain for the said dues and fees, and shall be answerable for them in the same manner, as if this act had never been made; any law, usage, or custom, to the contrary thereof, in any wise notwithstanding.

And be it farther enacted, by the authority aforesaid, That the court of the said county of Pittsylvania shall have jurisdiction of all actions and suits, both in law and equity, which shall be depending before them at the time the said division shall take place, and shall and may try and determine all such actions and suits, and issue process and award execution against the body or estate of the defendaut or defendants in any such action or suit, in the same manner as if this act had never been made; any law, usage, or custom, to the contrary thereof, notwithstanding.

CHAP. XXXIX.

An act to establish the places of holding courts in the counties of Pittsylvania and Henry.

Courthouses
of Pittsylva-
nia & Henry,
how esta-
blished.

FOR fixing the places of holding courts in the counties of Pittsylvania and Henry, *Be it enacted, by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same,* That the justices to be named in the commission of the peace for the said counties of Pittsylvania and Henry, respectively, shall meet for the said county of Pittsylvania at the house of Richard Farthing, in the said county, on the fourth Thursday in January next, and for the said county of Henry at the house of John Rowlands, on the third Monday in January next, and having ta-

ken the oath required by an ordinance of convention, and administered the oath of office to, and taken bonds according to law of, the respective sheriffs of each of the said courts, may proceed to appoint and qualify a clerk, and to fix upon places for holding courts in their respective counties; at or as near the centre thereof as the situation and convenience of the respective counties will admit of, and shall thenceforth proceed to erect the necessary publick buildings for such counties at such places respectively, and shall also appoint such places for holding courts, until such buildings shall be completed, as they shall think fit.

Provided always, That the appointments of the places for holding courts, and of clerks, for either of the counties aforesaid, shall not be made unless a majority of the justices for such counties be present, where such majority shall have been prevented from attending by bad weather or accidental rise of water courses; and in all such cases the appointment aforesaid shall be postponed until the then next court days, and so on from court day to court day, until such obstacles shall be removed.

And be it farther enacted, by the authority aforesaid, That the courts of the said counties shall have power to adjourn themselves to such places as they shall appoint; and after the publick buildings aforesaid shall be erected for the said counties, at the places to be appointed as aforesaid, the courts for the said counties shall thenceforth be held at such places.

And be it farther enacted, That in all elections to be made for senators to serve in general assembly, the counties of Pittsylvania, Bedford, and Henry, shall be one district.

CHAP. XL.

*An act for altering and establishing
the boundaries of the counties of
Stafford and King George.*

Preamble.

WHEREAS the present situation of the counties of Stafford and King George is found to be very inconvenient to the inhabitants of those counties, in respect to their necessary attendance at their respective county courts and general musters, and they have petitioned that a more convenient boundary may be laid off between them:

Boundaries
of counties
of Stafford &
King George
altered.

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same, That from and after the first day of January next the said counties of Stafford and King George shall be altered and bounded in the following manner, that is to say: Beginning at the mouth of Muddy creek, on the river Rappahanock, and running up the said creek, and the northwest branch thereof, to a small red oak, maple and persimon trees, at or near the head of the said branch, and between the plantations of Thomas and James Jones, thence north seventy one degrees east twenty five poles to a spring, said to be the head spring of Whipsewaughson creek, thence down the said creek to Potowmack creek, thence down Potowmack creek to Potowmack river, and thence down the said river, pursuing the old bounds of Stafford and King George, until it strikes Rappahanock river, thence up the said river to the beginning, and those parts of the said counties of Stafford and King George, shall be the lower county, and known by the name of King George; and for the upper county, beginning at the mouth of Potowmack creek, and running up the river Potowmack, and along the old bounds of Stafford and King George, until it strikes the river Rappahanock, thence down the river Rappahanock to the mouth of Muddy creek, the beginning of the dividing line, thence along the dividing line to the beginning, and those parts of the said counties of Stafford and King George within the said boundaries, to be known by the name of Stafford.

Provided, That nothing herein contained shall be construed to hinder the sheriffs or collectors of the said counties of Stafford and King George, as the same now stand, from collecting and making distress for any publick dues and officers fees which shall remain unpaid by the inhabitants of the said counties of Stafford and King George, at the time the said alteration shall take place, but such sheriffs and collectors shall have the same power to collect and distrain for the said dues and fees, and shall be answerable for them in the same manner, as if this act had never been made; any law, custom, or usage, to the contrary thereof, in any wise notwithstanding.

And be it farther enacted, by the authority aforesaid, That the courts of the said counties of Stafford and King George, respectively, shall have jurisdiction over all actions and suits, both in law and equity, which shall be depending before them at the time the said alteration shall take place, and may try and determine all such actions and suits, and issue process and award execution against the body or estate of the defendant or defendants in any such action or suit, in the same manner as if this act had never been made; any law, custom, or usage, to the contrary thereof, in any wise notwithstanding.

CHAP. XLI.

An act to establish Auditors of publick accounts.

FOR the regular settlement of all publick accounts: Auditors of publick accounts, appointed.
Be it enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same, That three commissioners or auditors, be chosen by joint ballot of both houses of Assembly; and the said commissioners or any two of them, having before the governour taken the oath of fidelity to the commonwealth, and also an oath well and truly to execute the duties of their said office, shall have full

power and authority; and they are hereby required; from time to time, to examine, state, and settle all accounts which shall be presented to them against the publick for services in or supplies to the army or navy, of the militia when drawn into actual service, and all other demands authorised by law, and to administer oaths when necessary for their satisfaction in the course of such examination, all which accounts shall be so stated as distinctly to show the particular nature of the expense, and when examined and passed shall be certified by two of the said commissioners, who shall enter an alphabetical list of all the accounts so examined and passed, containing the date of the certificate, the name of the claimant, and the balance stated to be due, and shall preserve and keep in alphabetical order all vouchers produced to them in support of such accounts, to the end that the same may be occasionally recurred to with more ease and convenience. And the treasurer of this commonwealth is authorised and required to pay all money so certified to be due to any person or persons, keeping regular and distinct accounts thereof, so as to show the amount of each head of expense; and he shall moreover keep such distinct accounts of all salaries and annuities by him paid to the officers of government, and others, pursuant to any law or resolution of the general assembly, to the end that the annual publick expense may be clearly and distinctly viewed.

And be it farther enacted, That the said commissioners, or two of them, shall in like manner examine, state, and settle the accounts rendered by sheriffs and other collectors of the taxes and duties imposed by law, and certify the same to the treasury, to enable him to receive such taxes or duties, of which receipts the treasurer shall also keep distinct accounts, to show the annual produce of each tax or duty. And each of the said commissioners shall be allowed after the rate of two hundred pounds per annum for his services, to be paid in equal quarterly payments during the term of one year, and from thence to the end of the next session of assembly.

And be it farther enacted, That if either of the said commissioners shall die, refuse, or be unable to act, the governour, with the advice of the council, shall appoint another fit and able person in his room, who shall have the same power, and be entitled to the like reward, as

Their powers and duties.

To state and settle accounts against the state, in relation to the army & navy, &c.

Also, accounts with sheriffs.

Their salaries.

Vacancies, now supplied.

if he had been chosen as before directed, until the meeting of the general assembly.

CHAP. XLII.

*An act for establishing a town at the
Warm Springs in the county of
Berkeley.*

WHEREAS it hath been represented to this general assembly, that the laying off fifty acres of land in lots and streets for a town at the Warm Springs, in the county of Berkeley, will be of great utility, by encouraging the purchasers thereof to build convenient houses for accommodating numbers of infirm persons, who frequent those springs yearly, for the recovery of their health: Preamble.

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, That fifty acres of land adjoining the said springs, being part of a larger tract of land, the property of the right honourable Thomas lord Fairfax, or other person or persons holding the same by a grant or conveyance from him, be, and the same is hereby vested in Bryan Fairfax, Thomas Bryan Martin, Warner Washington, the reverend Charles Mym Thruston, Robert Rutherford, Thomas Rutherford, Alexander White, Philip Pendleton, Samuel Washington, William Ellzey, Van Swearingen, Thomas Hite, James Edmundson, and James Nourse, gentlemen, trustees, to be by them, or any seven of them, laid out into lots of one quarter of an acre each, with convenient streets, which shall be, and the same is hereby established a town, by the name of Bath. Town of
Bath, at
Warm
Springs in
Berkeley
county esta-
blished.

And be it further enacted, by the authority aforesaid, That so soon as the said fifty acres of land shall be so laid off into lots and streets, the said trustees, or any seven of them, shall proceed to sell the said lots at publick auction for the best price that can be had, the time and place of which sale shall be previously advertised for three months in the Virginia Gazette, the purchasers to hold the said lots respectively subject to the condi- Lots, how
sold, convey-
ed, and im-
proved.

tion of building on each of the said lots a dwelling-house twelve feet square at least, to be finished fit for habitation within twelve months from the day of sale; and the said trustees, or any seven of them, shall, and they are hereby empowered to convey the said lots to the purchasers thereof in fee simple, subject to the condition aforesaid, and pay the money arising from the sale thereof to the said Thomas lord Fairfax, or the person or persons holding the same under him, his or their executors, administrators, or assigns.

Warm Springs, except one, vested in the trustees.

And be it farther enacted, That all the said Warm Springs, except one large and convenient spring suitable for a bath, shall be, and the same are hereby vested in the said trustees, in trust, to and for the publick use and benefit, and for no other purpose whatsoever.

Rights of proprietors in houses already built, saved.

Provided always, and be it farther enacted, That after the said lots and streets shall be laid out as aforesaid, such and so many of the lots, whereon any house or houses already built by the said Thomas lord Fairfax may happen to be, shall not be sold by the said trustees, but shall be and remain to the said lord Fairfax, or his grantees, his or their heirs or assigns, for ever; and that it shall and may be lawful for all and every person or persons who may have built any houses upon the lands hereby directed to be laid off into a town, within six months after the same shall be so laid off, to remove or otherwise dispose of the said houses to their own use.

Power of trustees, as to bounds, building, &c.

And be it farther enacted, That the said trustees, or the major part of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the lots, and to settle and establish such rules and orders for the regular and orderly building of houses thereon as to them shall seem best and convenient; and that in case of the death, removal out of the country, or other legal disability, of any one or more of the trustees before named, it shall and may be lawful for the surviving or remaining trustees to elect and choose so many other persons in the room of those dead or disabled as shall make up the number fourteen, which trustees so chosen shall, to all intents and purposes, be vested with the same powers and authority as any other in this act particularly nominated and appointed.

Privileges of inhabitants.

And be it farther enacted, by the authority aforesaid, That the purchasers of the lots in the said town, so soon as they shall have built upon and saved the same ac-

ording to the conditions of their respective deeds of conveyance, shall then be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state not incorporated by charter hold and enjoy.

And be it further enacted, That if the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or the major part of them, may thereupon enter into such lot, and may either sell the same again, and apply the money, or appropriate the lot, or part of it, towards accomodating such infirm persons as may resort to the said springs, and should be so poor as to be unable to accommodate themselves, and so in like manner, as often as any forfeiture shall occur, to the end that a fund may be established on the best foundation which such forfeitures will afford, together with any donations which may be made to the said trustees for aiding the same, to extend the benefit of the said waters to such poor infirm persons.

Effect of
failure to
improve lots

And be it farther enacted, by the authority aforesaid, That it shall not be lawful for any person or persons, inhabitants of the said town of Bath, owners of any swine, to suffer the same to go at large in the limits of the said town; and if any swine belonging to any inhabitant of the said town shall be found running or going at large within the said limits, it shall and may be lawful for any person whatever to kill and destroy every such swine so running at large.

Swine not to
run at large

Provided always, That such person shall not convert any such swine to his or her own use, but shall leave the same where it shall be so killed, and give immediate notice to the owner thereof, if known, and if not, then such person shall immediately inform the next justice of the peace thereof, who may order the same to the use of any poor person or persons he shall think fit.

Proviso.

Provided also, That nothing herein contained shall be deemed or taken to hinder any person or persons from driving any swine to or through the said town, or limits thereof, in order to sell the same, or in their removal from one plantation to another.

CHAP. XLIII.

[Chan. Rev. pa. 47] *An act for the inspection of Pork, Beef, Flour, Tar, Pitch, and Turpentine.*

I. WHEREAS the act of assembly made in the year one thousand seven hundred and sixty two, intituled 'An act for the inspection of pork, beef, flour, tar, pitch, and turpentine,' which was amended by five other acts, all which will expire at the end of the present session of assembly:

Inspectors of
pork, beef,
flour, &c.
how ap-
pointed.

II. *Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same, That no pork, beef, or flour, shall be exported out of this commonwealth, or tar, pitch, or turpentine, exposed to sale, or exported, until the same shall be packed or filled in barrels under the regulation herein after expressed. And the justices of every county court within this commonwealth are hereby authorised and required, at their first or second court held after the passing of this act, where application shall be made to them, and in the month of August or September annually, to nominate and appoint in open court one or more (not exceeding six in one county) fit and able person or persons, residing in the same county, to inspect the package and weigh all pork, beef, and flour, and also to inspect the filling of all tar, pitch, and turpentine, packed or filled for sale or exportation in their respective counties; and the said courts may appoint the said person or persons, to be inspectors of pork, beef, flour, tar, pitch, and turpentine, if such person appears to them to be duly qualified, or may appoint several inspectors, as in their discretion shall seem best. And every person so appointed shall, before he enters upon the execution of that office, make oath, before the justices of his county court, carefully to view, inspect, and examine, when required, all pork, beef, flour, tar, pitch, and turpentine, packed or filled for sale or exportation, and to the best of his skill and judgment, not to pass or stamp any barrel of pork or beef, or any flour, tar, pitch, or turpentine, that is not good, clean, sound, merchantable, and of the weight or gauge by this act directed; and faithfully to discharge the duty of his of*

fice, without favour, affection, or partiality; and shall constantly attend, upon notice, at such time and place as the owner of any of the said commodities shall appoint, to inspect the same within his county, but shall not inspect or stamp any tar, pitch, or turpentine, or any pork or beef imported from Carolina, until the same shall be brought to some publick landing, and shall provide a stamp, or stamps, with the first letter of his county, the letter V for Virginia, the first letter of his own christian name, and his whole surname at length, to be stamped on each barrel or cask by him passed, and on every cask or barrel of flour found to be good and merchantable, the quality of the flour, S F for superfine, and F for fine, and on every barrel of pork the letter L for large, or the letter S for small pork, and on the head of every barrel of tar, pitch, or turpentine, shall distinguish whether the same be tar, pitch, or turpentine, for which he may demand and take, for every barrel of pork or beef by him stamped, six pence, for every barrel of tar, pitch, or turpentine, two pence, for every barrel of flour containing two hundred and twenty pounds neat, or less, one penny half-penny, and in proportion for every cask of greater weight, and no more, to be paid down by the owner. And if any officer so appointed and sworn shall neglect his duty, or stamp any of the commodities aforesaid contrary to this act, he shall forfeit and pay twenty shillings for every barrel of pork or beef, ten shillings for every barrel or cask of flour, and five shillings for every barrel of tar, pitch, or turpentine, which shall be found not duly qualified, or of less weight or contents than this act requires, and also five shillings for every neglect of his duty; recoverable by the informer, with costs, before a justice of the peace of the county where such offence shall be committed.

III. *And be it farther enacted,* That from and after the first day of December next all casks containing flour intended for exportation, before the same is removed from the mill where manufactured, shall be branded with the first letter of the owner's christian name, and with his surname at length, or the name of the said mill, which brand or mark so used shall be recorded in the court of the county where such owners reside, and the clerk of the court, for recording the same, shall receive one shilling; and for every cask of flour removed before the same shall be branded, as is

Barrels, how stamped.

Penalty for neglect.

Casks for flour, how branded.

before directed, the owners thereof shall forfeit and pay one shilling.

Flour of what quality and how packed. IV. *And be it farther enacted,* That all wheat flour made for exportation shall be genuine and unmixed with any other grain, and shall be all of the same fineness, and faithfully packed in good casks made of seasoned timber, and when delivered, well and securely nailed or pinned, under the penalty of one shilling for every cask, to be recovered of the miller, or if he be a servant or slave, of the owner who shall neglect or fail so to do, in either of the cases aforesaid.

Tare of casks. V. *And be it farther enacted,* That the owners of mills and bake-houses shall, on every cask containing flour or bread, mark the true tare of such cask, and for every cask false tared the offender shall forfeit and pay five shillings; and if any inspector of flour, or the purchaser of flour or bread, shall suspect any fraud, such inspector or purchasers may, in the presence of the seller, cause any of the said casks to be unpacked, and if any fraud is discovered, the seller, besides the penalty aforesaid, shall be obliged to pay the expense attending the same, but if no fraud appears, then the said expense shall be paid by the purchaser.

Review. Manifests. VI. *And be it farther enacted,* That every owner of a mill or bake-house, or the manager thereof, at the time of the delivery of any flour or bread for exportation, shall make out and deliver therewith a manifest, or invoice, under his hand, of the marks, numbers, and neat weight of every cask, on pain of forfeiting forty shillings for every neglect. And all flour or bread delivered as aforesaid, and put into any cart, wain, waggon, or boat, to be conveyed to the place of exportation, shall be sufficiently covered and secured from the weather; and if any driver of a cart, wain, or waggon, or skipper of a boat or other vessel, carrying flour or bread as aforesaid, shall neglect to provide such covering, he, or in case he shall be a servant or slave, the owner, shall forfeit and pay one shilling for every cask so carried.

Flour in carriage. Search for unlawfully shipped. VII. *And be it farther enacted,* That it shall and may be lawful for any sworn officer to go on board any ships or vessel in the day time, and search for any flour or bread on board intended for exportation without being marked and branded according to the directions of this act; and if any such shall be found, the owner thereof shall forfeit and pay five shillings for every cask, and the master of the said ship or vessel twenty shillings for

every cask; and in case the master of any ship or vessel shall not permit or suffer such search to be made, he shall forfeit and pay ten pounds for every offence. Penalty.

VIII. *And be it farther enacted,* That the weights and measures used at merchant mills shall once in every year be, by some person to be appointed by the court of the county in which such mill is erected, examined, and made agreeable to the standard of the county. Weights & measures, when adjusted.

IX. *And be it farther enacted,* That no owner of a merchant-mill, or any person employed in such mill, shall be appointed an inspector of flour; and if any such person shall take and execute the said office, he shall forfeit and pay fifty pounds. And it shall not be lawful for any inspector of flour to trade or deal therein; and if any such inspector shall presume so to do, he shall forfeit and pay fifty pounds for every offence. Millers not to be inspectors.
And if any person or persons shall alter or counterfeit the brand of any manufacturer or inspector of flour, the offender shall for the first offence forfeit five pounds, for the second offence ten pounds, and for the third offence shall stand in the pillory for such time as the court before whom he is convicted shall direct. Nor deal in flour.
Penalty for altering or counterfeiting brand

X. *And be it farther enacted,* That every barrel of pork or beef packed within this commonwealth for sale or exportation, or imported here, shall contain at least two hundred and twenty pounds neat of good, clean, fat, sound, merchantable meat, well salted between each layer, well pickled, nailed, and pegged, and no more than two heads of pork in one barrel; and no inspector shall pass or stamp any barrel of pork or beef that does not appear to such inspector to be well salted and cured before the same is packed, and after the same has been inspected, weighed, found merchantable, and passed by the inspector or inspectors residing in the county where the same shall be packed or imported, every such barrel shall be by him or them stamped or branded as aforesaid, and certificate thereof given to the owner. Size and quality of barrels of pork and beef.
And every barrel of tar, pitch, and turpentine, shall contain thirty one gallons and an half wine measure at the least, and after the same shall be inspected, gauged, found clean, well and truly made merchantable, and passed by the inspector or inspectors of the county where the same shall be inspected, shall be by him or them stamped or branded, and certificate thereof given to the owners as aforesaid. Of tar, pitch, and turpentine. And that every person making, or caus-

Oath of exporters of flour. ing to be made, wheat flour intended for exportation, shall make oath before a justice of the peace that the flour by him intended to be exported, or sold for exportation, is clean and pure, not mixed with meal of Indian corn, pease, or any other grain or pulse, to the best of his knowledge; which oath every justice of peace is hereby empowered, upon the request of the owner of such flour, to administer, and shall grant a certificate of such oath before him made, and such certificate being produced to the inspector, he shall diligently view and examine the flour therein mentioned, and if by him found, clear pure, unmixed, and merchantable, shall see the same packed in casks or barrels well secured for exportation, and shall stamp or brand the same in the manner herein before directed.

Contents of barrels. XI. *And be it further enacted,* That all pork or beef exposed to sale or barter within this commonwealth in barrels, whether the same be packed here or imported from Carolina, or any other place, shall contain at least two hundred and twenty pounds neat meat, allowing only two and a half per centum for shrinkage or loss of weight; and every barrel of tar, pitch, or turpentine, exposed to sale or barter, whether made here or imported from any other place, shall contain at least thirty one gallons and a half wine measure, and be stamped or branded as this act directs. And if any person shall presume to sell, or expose to sale or barter, any barrel of pork, beef, tar, pitch, or turpentine, of less weight or gauge, he or she shall forfeit and pay to the informer twenty four shillings current money for every such barrel of pork or beef, and five shillings for every such barrel of tar, pitch, or turpentine, sold or exposed to sale or barter within this commonwealth, recoverable, with costs, by the informer, before any justice of the county where such offence shall be committed, although the penalty shall exceed twenty five shillings current money; and every justice of the peace, upon such complaint before him made, and due proof of such offences shall and may, by virtue of this act, give judgment for the whole penalty, and award execution thereupon, any law to the contrary thereof notwithstanding.

Penalties, how recoverable. XII. *Provided nevertheless,* That from such judgment, for more than twenty five shillings current money, the party grieved may appeal to the next court to be held for the county wherein such complaint was made, the appellant entering into bond, with sufficient

Appeal allowed.

security, before the justice by whom the judgment shall be given, that he will prosecute his appeal with effect, and pay the same judgment, and all costs awarded by the court, if the judgment shall be affirmed; and the justice of peace taking such bond shall return the same, together with the whole record of his proceedings in the cause, to the same court to which such appeal shall be, which court shall and may receive, hear, and finally determine the same.

XIII. *And be it further enacted*, That every seller or exporter of beef, pork, flour, tar, pitch, or turpentine, packed or filled in this commonwealth, and stamped or branded, shall make oath, before a justice of peace, at the time of delivery of the goods sold or exported, that the several barrels by him then sold or exported are the same that were inspected and passed, and do contain the full quantity, without embezzlement or alteration to his knowledge; and every person taking a false oath, and being lawfully convicted thereof, shall suffer the pains and penalties inflicted on persons guilty of wilful and corrupt perjury, and moreover shall forfeit and pay the sum of fifty pounds, to be recovered by any person or persons that will sue for the same, to his or their own use. And that every master of a vessel wherein pork, beef, flour, tar, pitch, or turpentine, shall be exported, shall, at the time of entry, make oath that he will not knowingly take, or suffer to be taken, on board his ship or vessel, any pork, beef, tar, pitch, turpentine, or flour, contrary to law, which oath the respective naval officers of this commonwealth are hereby required to administer, and such master shall also produce a certificate from the inspectors of such commodities at the time of clearing out his vessel; and if any naval officer shall clear out any ship or vessel wherein pork, beef, flour, tar, pitch, or turpentine, shall be shipped, without first administering to the master of such ship or vessel the oath required by this act, or without such certificate being produced and lodged in his office, or endorsed, as the case may require, every naval officer so neglecting shall for every neglect forfeit and pay the sum of fifty pounds. And if any pork, beef, tar, pitch, or turpentine, packed or filled in barrels or casks for exportation, are not stamped or branded as aforesaid, or any parcels of pork or beef unpacked, except for necessary provisions only, shall be put on board any ship or vessel to be exported as merchant.

Oath of seller or exporter.

Penalty for false oath.

Oath of master of vessel.

Duty of naval officer.

Shipped unlawfully may be seized.

dise, every such cask, barrel, or parcel, may be seized by any sworn officer, and brought on shore, and the same, or the value thereof, shall be forfeited to the informer, recoverable before a justice of peace, and the officer seizing the same may demand and take the like fees as for serving an execution, to be paid by the party from whom such seizure shall be; and if such officer shall be sued for any thing by him done in pursuance of this act, he may plead the general issue, and give this act in evidence, and upon nonsuit or verdict for the defendant, he shall have double costs; and the master of such ship or vessel shall forfeit and pay twenty shillings for every barrel or cask of pork or beef, and five shillings for every barrel of tar, pitch, or turpentine, so taken on board.

Duty of
coopers. XIV. *And be it farther enacted*, That every cooper, and the master or owner of every servant or slave, who shall set up barrels for pork, beef, tar, pitch, or turpentine, shall make the same in the following manner, to wit: Barrels for pork and beef shall be made with good strong well seasoned white oak timber, clear of sap, and not less than five eighths of an inch thick, tight, and well hooped with twelve hoops at least; and in the barrels for turpentine there shall be no sap pine timber, and they shall be hooped two thirds of their length; every barrel for pork or beef to contain from twenty nine to thirty one gallons each, and every barrel for tar, pitch, or turpentine, thirty one gallons and a half at least, with his name or the name of the master of such servant or slave, at length, stamped or branded upon every barrel, under the penalty of two shillings and sixpence for every barrel set up for sale or exportation, and not so stamped or branded, or of less contents, than aforesaid.

Penalty for
neglect.

Penalties,
how recovered, and
appropriated. XV. *And be it farther enacted*, That the several fines and forfeitures imposed by this act (except such as are otherwise recoverable) shall and may be recovered to the use of the informer, where the same shall not exceed twenty five shillings, before any justice of the peace, and for any sum above twenty five, and not exceeding five pounds, by petition in any county court, and for all sums above five pounds, in any court of record in this commonwealth, by action of debt or information, with costs of suit.

Proviso. XVI. *Provided nevertheless*, That where any officer shall discover flour to have been shipped contrary to

the directions of this act, the penalty in such case inflicted on the offender, if recovered on a suit brought, shall be one moiety to such officer, and the other moiety to the person who will inform or sue for the same.

XVII. *And be it farther enacted,* That all and every other act and acts, clause and clauses, heretofore made for or concerning any matter or thing within the purview or meaning of this act, shall be, and are hereby repealed. Repealing clause.

XVIII. *And be it farther enacted,* That this act shall continue and be in force, from and after the end of the present session of assembly, for and during the term of two years, and from thence to the end of the next session of assembly. Continuance of the act

CHAP. XLIV.

An act for dividing the county of Fincastle into three distinct counties, and the parish of Boletourt into four distinct parishes.

WHEREAS, from the great extent of the county of Fincastle, many inconveniencies attend the more distant inhabitants thereof, on account of their remote situation from the courthouse of the said county, and many of the said inhabitants have petitioned this present general assembly for a division of the same: Fincastle county divided and Kentucky, Washington, and Montgomery formed; and Fincastle become extinct.

Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same, That from and after the last day of December next ensuing the said county of Fincastle shall be divided into three counties, that is to say: All that part thereof which lies to the south and westward of a line beginning on the Ohio, at the mouth of Great Sandy creek, and running up the same and the main or north easterly branch thereof to the Great Laurel Ridge or Cumberland Mountain, thence south westerly along the said mountain to the line of North Carolina, shall be one distinct county, and called and known Boundaries.

by the name of Kentucky; and all that part of the said county of Fincastle included in the lines beginning at the Cumberland Mountain, where the line of Kentucky county intersects the North Carolina line, thence east along the said Carolina line to the top of Iron Mountain thence along the same easterly to the source of the south fork of Holstein river, thence northwardly along the highest part of the high lands, ridges, and mountains, that divide the waters of the Tennessee from those of the Great Kanawah, to the most easterly source of Clinch river, thence westwardly along the top of the mountains that divide the waters of Clinch river from those of the Great Kanawah and Sandy creek to the line of Kentucky county, thence along the same to the beginning, shall be one other distinct county, and called and known by the name of Washington; and all the residue of the said county of Fincastle shall be one other distinct county, and shall be called and known by the name of Montgomery.

Court days.

And for the administration of justice in the said counties of Montgomery, Washington, and Kentucky, after the same shall take place, *Be it farther enacted, by the authority aforesaid,* That after the said last day of December a court for every of the said counties of Montgomery, Washington, and Kentucky, shall be held by the justices thereof respectively, upon the following days in every month, to wit: For the county of Montgomery on the first Tuesday in every month, for the county of Washington on the last Tuesday in every month, and for the county of Kentucky on the first Tuesday in every month, in such manner as is by law provided for other counties, and as shall be by their commissions directed.

Provided always, That nothing herein contained shall be construed to hinder the sheriff of the said county of Fincastle, as the same now stands entire and undivided, from collecting and making distress for any publick dues or officers fees which shall remain unpaid by the inhabitants thereof at the time such division shall take place, but such sheriff shall have the same power to collect and distrain for such dues and fees, and shall be accountable for them in the same manner, as if this act had never been made, any law, usage, or custom, to the contrary thereof, in any wise notwithstanding.

And be it farther enacted, by the authority aforesaid, That the court of the said county of Montgomery shall

have jurisdiction of all actions and suits in law and equity which shall be depending before the court of Fincastle county at the time the said division shall take place, and shall and may try and determine all such actions and suits, and issue process and award execution in any such action or suit; and the justices of the said county of Fincastle who shall reside within the bounds of Montgomery county after the division, and all other officers of the same, shall have power to execute their respective offices, in that part of the said county called Montgomery, in as full and ample a manner as if this act had never been made; and all the militia officers of the said county of Fincastle, who, after the division, shall reside in the said county of Washington, shall have full power to execute their respective offices, within that part of the said county called Washington, until commissions can be issued according to law.

And be it farther enacted, That the justices to be named in the commissions of the peace for the said counties of Montgomery, Washington, and Kentucky, respectively, shall meet for the said county of Kentucky at Harodsburg, in the said county, on the first Tuesday in April next, for the said county of Washington at Black's fort, in the said county, on the last Tuesday in January next, and for the said county of Montgomery at Fort Chiswell, on the first Tuesday in January next; and having taken the oath required by an ordinance of convention, and administered the oath of office to, and taken bonds, according to law, of the respective sheriffs, every of the said courts may proceed to appoint and qualify a clerk, and to fix upon places for holding courts in their respective counties, at, or as near the centres thereof, as the situation and conveniencies of the respective counties will admit of, and shall thenceforth proceed to erect the necessary publick buildings for such counties at such places respectively, and shall also appoint such places for holding courts, until such buildings shall be completed, as they shall think fit.

Provided always, That the appointments of the places for holding courts, and of clerks for the several counties aforesaid, shall not be made unless a majority of the justices for such counties be present, where such majority shall have been prevented from attending by bad weather or accidental rise of water courses, but in all such cases the appointments aforesaid shall be post-

poned until the next court days, and so on from court day to court day until such obstacles shall be removed.

And be it farther enacted, That the courts of the said counties shall have power to adjourn themselves to such places as they shall appoint, and after the publick buildings aforesaid shall be erected for the said counties, at the places to be appointed as aforesaid, the courts for the said counties shall be thenceforth held at such places.

Qualifica-
tions of elec-
tors to the
general as-
sembly.

And be it farther enacted, That every free white man who, at the time of elections of delegates or senators for the said several counties, shall have been for one year preceeding in possession of twenty five acres of land with a house and plantation thereon, or one hundred acres of land without a house and plantation, in any of the said counties, and having right to an estate for life at least in the said land in his own right, or in right of his wife, shall have a vote, or be capable of being chosen a representative in the county where his said land shall lie, although no legal title in the same shall have been conveyed to such possessors; and that in all future elections of senators, the said counties of Montgomery, Washington, and Kentucky, together with the county of Botetourt, shall form and be one district.

And be it farther enacted, That it shall and may be lawful for the governour, or, in his absence, for the president of the council, to appoint a person in every of the said counties of Montgomery, Washington, and Kentucky, to be the first sheriff thereof respectively; which said sheriff, so appointed, shall continue in office during the term, and upon the same conditions, as is by law directed for other sheriffs.

And be it farther enacted. That the field officers and captains of the militia of Washington county be, and they are hereby empowered and required to appoint the captain and the ensign, and the field officers and captains of the county of Montgomery to appoint the first and second lieutenants, of the company of regulars directed to be raised in the county of Fincastle, as the same stood entire and undivided, if the same shall not have been previously appointed by the field officers and captains of the county of Fincastle, agreeable to an act of this present general assembly for raising six additional battalions of infantry on the continental establishment,

And whereas, from the great extent of the parish of Botetourt, the same is become very inconvenient to the inhabitants thereof, *Be it therefore enacted, by the authority aforesaid,* That from and after the last day of December next the said parish shall be divided into four distinct parishes, that is to say: All that part of the said parish which lies in the county of Montgomery shall be one distinct parish, and be called and known by the name of Montgomery, all that other part of the parish which lies in the said county of Washington shall be one other distinct parish, and be called and known by the name of Washington; all that other part of the said parish which lies in the said county of Kentucky shall be one other distinct parish, and be called and known by the name of Kentucky; and all that other part of the said parish which lies in the county of Botetourt shall be one other distinct parish, and shall retain the name of Botetourt parish.

Botetourt
parish dis-
solved, and
Montgomery
Washington
and Kentuc-
ky formed.

Provided always, That nothing herein contained shall be construed to hinder the collector of the said parish of Botetourt, as the same now stands entire and undivided, from collecting and making distress for any dues which shall remain unpaid by the inhabitants of the said parish at the time of the division's taking place, but such collector shall have the same power to collect or distrain for the said dues, and shall be answerable for them in the same manner, as if this act had never been made.

An act for ascertaining the boundary between the county of Augusta, and the district of West Augusta, and for dividing the said district into three distinct counties

Boundary between county of Augusta & district of West Augusta, ascertained.

WHEREAS it is expedient to ascertain the boundary between the county of Augusta and the district of West Augusta, *Be it therefore enacted by the General Assembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the same,* That the boundary between the said district and county shall be as follows, to wit: Beginning on the Allegheny mountain between the heads of Potowmack, Cheat, and Green Brier rivers, thence along the ridge of mountains which divides the waters of Cheat river from those of Green Brier, and that branch of the Monongahela river called Tyger's valley river to the Monongahela river, thence up the said river, and the west fork thereof, to Bingerman's creek, on the north west side of the said west fork, thence up the said creek to the head thereof, thence in a direct course to the head of Middle Island creek, a branch of the Ohio, and thence to the Ohio, including all the waters of the said creek in the aforesaid district of West Augusta, all that territory lying to the northward of the aforesaid boundary, and to the westward of the states of Pennsylvania and Maryland, shall be deemed, and is hereby declared, to be within the district of West Augusta.

Counties of Ohio, Yohogania, and Monongalia, formed out of district of West Augusta.

And to render the benefits of government, and administration of justice, more easy and convenient to the people within the said district: *Be it therefore enacted, by the authority aforesaid,* That from and after the eighth day of November next ensuing all that part of the said district lying within the following lines, to wit: Beginning at the mouth of Cross creek, thence up the same to the head thereof, thence south eastwardly to the nearest part of the ridge which divides the waters of the Ohio from those of Monongahela, thence along the said ridge to the line which divides the county of Augusta from the said district, thence with the said boundary to the Ohio, thence up the same to the beginning, shall be one distinct county, and be called and

known by the name of Ohio county; and all that part Boundaries.
of the said district lying to the northward of the following lines, viz. beginning at the mouth of Cross creek, and running up its several courses to the head thereof, thence south eastwardly to the nearest part of the aforesaid dividing ridge between the waters of the Monongahela and Ohio, thence along the said ridge to the head of Ten Mile creek, thence east to the road leading from Catfish camp to Redstone old fort, thence along the said road to the Monongahela river, thence crossing the river to the said fort, thence along Dunlap's old road to Braddock's road, and with the same to the meridian of the head fountain of Potowmack, shall be one other distinct county, and be called and known by the name of Yohogania* county; and all that part of the said district lying to the northward of the county of Augusta, to the westward of the meridian of the head fountain of Potowmack, to the southward of the county of Yohogania, and to the eastward of the county of Ohio, shall be one other distinct county, and shall be called and known by the name of the county of Monongalia.

And for the administration of justice in the said counties of Ohio, Yohogania, and Monongalia, after the same shall take place: Court days.
Be it farther enacted, by the authority aforesaid, That after the said eighth day of November courts shall be constantly held every month by the justices of the respective counties, upon the days hereafter specified for each county respectively, that is to say: For the county of Ohio, on the first Monday, for the county of Monongalia, on the second Monday, and for the county of Yohogania, on the fourth Monday, in every month, in such manner as by the laws of this commonwealth is provided for other counties, and as shall be by their commission directed.

Provided always, That nothing herein contained shall be construed to hinder the sheriff or collector of the said district of West Augusta, as the same now stands entire and undivided, from collecting and making distress for any publick dues or officers fees which shall remain unpaid by the inhabitants of the said district of West Au-

* By the extension of the western boundary between Pennsylvania and this state, the greater part of the county of Yohogania falling within the limits of Pennsylvania, the residue was, by an act of 1785, added to the county of Ohio, and Yohogania became extinct.

gusta at the time of the aforesaid counties taking place, but such sheriff or collector shall have the same power to collect and distrain for such dues and fees, and shall be answerable for them in the same manner, as if this act had never been made, any law, usage, or custom, to the contrary thereof notwithstanding.

And be it farther enacted, by the authority aforesaid, That the court of the said county of Yohogania shall have jurisdiction of all actions and suits, both in law and equity, which shall be depending before the court of the district of West Augusta at the time the said divisions shall take place, and shall and may try and determine all such actions and suits, and issue process and award execution in any such action or suit, in the same manner as the court of the district of West Augusta might have done if this act had never been made.

Provided nevertheless, That nothing in this act contained shall be construed to vacate the seats of the delegates for the district of West Augusta, but that they ought to retain their seats as delegates for the county henceforth to be called Yohogania.

Qualifica-
tions of elec-
tors to the
general as-
sembly.

And be it farther enacted, That every free white man, who, at the time of elections for delegates or senators in the said counties of Ohio, Yohogania, and Monongalia, shall have been for one year preceding in possession of twenty five acres of land with a house and plantation thereon, or one hundred acres of land without a house or plantation thereon, in the said counties, claiming an estate for life at least in the said land in his own right, or in the right of his wife, shall have a vote, or be capable of being chosen at such elections, and have and enjoy all other privileges of freeholders, agreeable to the laws of this commonwealth, in his respective county, although no legal title to the said land shall have been conveyed to such person; and that, in all future elections of Senators, the said counties of Ohio, Yohogania, and Monongalia, shall form and be one district.

And be it farther enacted, That it shall and may be lawful for the landholders of the said counties respectively, qualified as aforesaid, to vote for representatives in general assembly, and they are hereby required to meet at the times and places hereafter mentioned, that is to say: The landholders of the county of Yohogania to meet at the house of Andrew Heath, on the Monongahela, in the said county, on the eighth day of December next, the landholders of the county of Monon-

galia to meet at the house of Jonathan Coburn, in the said county, on the said eighth day of December next, and the landholders of the county of Ohio to meet at the house of Ezekiel Dewit, in the said county, on the said eighth day of December next, then and there to choose the most convenient place for holding courts for their respective counties in future.

And be it further enacted, That notice of the said time and place of election in each of the aforesaid counties shall be given to the landholders thereof by the sheriff, minister, and readers, in their respective counties, in the same manner, and under the like penalties, as are directed for giving notice of an election of representatives to serve in general assembly; and that the election in each of the aforesaid counties shall be held by the sheriff thereof, in the same manner as such elections for representatives to serve in general assembly, writing down the names of the places voted for, every one in a separate column of his poll, and the names of every landholder voting under the place for which he votes, and the place for which most votes shall be given in each of the aforesaid counties, shall thenceforth be the place of holding courts for such county; and after the elections shall be made in the aforesaid counties, or either of them, the sheriff of each of the said counties shall return the original poll taken by him, as aforesaid, attested by himself, to the clerk's office of his county, by whom the same shall be recorded.

And be it further enacted, That the same rules and proceedings shall be observed in every article relating to the said elections; and all persons failing to do their respective duties shall incur the same penalties, and be subject to the same actions, as are prescribed by law in case of an election of representatives to serve in general assembly.

Provided, That if on the aforesaid day, appointed for holding the said elections, the freeholders of either of the said counties shall be prevented from assembling by rain, snow, or accidental rise of water courses, then it shall and may be lawful for the sheriff, and he is hereby required, to put off the said election to that day week following, and so from week to week so often as the case may happen.

And whereas there are no courts to recommend persons to be sheriffs for the said counties, *Be it further enacted,* That it shall and may be lawful for the gover-

hour, or, in his absence, for the president of the council, to appoint such person in each of the said counties to be the first sheriff thereof as to him shall appear proper; which said sheriff, or sheriffs, so appointed, shall continue in office for and during the time limited by the laws of this commonwealth for other sheriffs within the same.

And whereas, by the usual course of law, sheriffs cannot be qualified for their offices but at the courthouse of their respective counties, so that it is necessary to make provision for the qualification of the sheriffs in this particular instance: *Be it therefore enacted,* That it shall and may be lawful for the governour, or, in his absence, for the president of the council, to issue a *dedimus potestatem*, directed to any person or persons, empowering him or them to administer to the sheriff of each of the aforesaid counties the oath of his office, which shall be sufficient to qualify such sheriff to hold his respective election, and also to hold an election for committee-men in his county.

GENERAL ASSEMBLY,

BEGUN AND HELD

At the Capitol, in the City of Williamsburg, on Monday the fifth day of May, in the year of our Lord one thousand seven hundred and seventy seven, and in the first year of the Commonwealth.

Patrick Henry, esq. Governor.

CHAP. I*.

An act for regulating and disciplining the Militia.

FOR forming the citizens of this commonwealth into a militia, and disciplining the same for defence thereof, *Be it enacted by the General Assembly,* That all free male persons, hired servants, and apprentices, between the ages of sixteen and fifty years (except the governor and members of the council of state, members of the American congress, judges of the superiour courts, speakers of the two houses, treasurer, attorney general, commissioners of the navy, auditors, clerks of the council of state, of the treasury, and of the navy board, all ministers of the gospel licensed to preach according to the rules of their sect, who shall have previously taken before the court of their county an oath of fidelity to the commonwealth, postmasters, keepers of the publick jail and publick hospital, millers, except in the counties of Accomack and Northampton, persons concerned in iron or lead works, or persons solely employed in manufacturing fire arms, and military officers or soldiers, whether of the continent or this commonwealth, all of whom are exempted from the obligations of this act) shall, by the commanding officer of the county in

All free male persons, between 16 & 50 years to be enrolled in the militia.

Except certain exempts

* In the original, all the *chapters* of the acts of this session are numbered, except the first; but none of them are distinguished by *sections*.

Organized into companies and battalions

Free mulattoes how employed.

Officers to companies and battalions. County lieutenant to command the whole.

Oath of officers.

Company musters.

General musters.

How notified.

Officers and privates how armed and accoutred.

which they reside, be enrolled or formed into companies of not less than thirty two, nor more than sixty eight, rank and file, and these companies shall again be formed into battalions of not more than one thousand, nor less than five hundred men, if there be so many in the county. The free mulattoes in the said companies or battalions shall be employed as drummers, fifers, or pioneers. Each company shall be commanded by a captain, two lieutenants, and an ensign; each battalion by a colonel, lieutenant colonel, and major, who shall take precedence and command of each other according to rank and seniority, and the whole by a county lieutenant. These officers shall be resident within their county, and before they enter on the execution of their office shall, in presence of the court of the same county, take the following oath: I do swear, that I will be faithful and true to the commonwealth of Virginia, of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of a in the militia of the county of according to the best of my skill and judgment. So help me God.

There shall be a private muster of every company once in every month, except the months of January and February, at such convenient time and place as the captain, or next commanding officer, shall appoint, and a general muster in each county at a convenient place, near the centre of the county, on some day in the months of April and October, in every year, to be appointed by the county lieutenant, or other commanding officer: For notifying the time and place whereof, the captains, or next commanding officers, shall have power to order so many of their serjeants as they shall think fit to give notice to every person belonging to the company of the time and place of such general or private muster, as the case may be; and if any serjeant, so appointed, shall fail in his duty, he shall forfeit and pay forty shillings for every such failure. Every officer and soldier shall appear at his respective muster-field by eleven o'clock in the forenoon, armed or accoutred as follows: The county lieutenant, colonels, lieutenant colonels, and major, with a sword; every captain and lieutenant with a firelock and bayonet, a cartouch box, a sword, and three charges of powder and ball; every ensign with a sword; every non-commissioned officer and private with a rifle and tomahawk, or good fire-

lock and bayonet, with a pouch and horn, or a cartridge or cartridge box, and with three charges of powder and ball; and, moreover, each of the said officers and soldiers shall constantly keep one pound of powder and four pounds of ball, to be produced whenever called for by his commanding officer. If any soldier be certified to the court martial to be so poor that he cannot purchase such arms, the said court shall cause them to be procured at the expense of the publick, to be reimbursed out of the fines on the delinquents of the county, which arms shall be delivered to such poor person to be used at musters, but shall continue the property of the county; and if any soldier shall sell or conceal such arms, the seller or concealer, and purchaser, shall each of them forfeit the sum of six pounds. And on the death of such poor soldier, or his removal out of the county, such arms shall be delivered to his captain, who shall make report thereof to the next court martial, and deliver the same to such other poor soldier as they shall order.

Arms, for the poor, how provided.

Penalty for selling or concealing arms.

Removing arms out of the county.

How recovered.

Delinquents, how noted.

Time allowed to provide arms.

Arms exempted from executions and distresses, and persons from arrests

And if any poor soldier shall remove out of the county, and carry his arms with him, he shall incur the same penalty as if he had sold such arms; and if any persons concerned in selling or concealing such arms shall be sued for the said penalty, and upon conviction and recovery shall fail to make payment, he shall suffer such corporal punishment as the court before whom the recovery shall be shall think fit, not exceeding thirty nine lashes. And the lieutenant of any county may recover any arms, so sold, concealed, or bought, contrary to this act, by action or petition in detinue or trover, with costs. Each captain shall, at every muster, either by himself or some sworn officer, note down the delinquencies occurring in his company, and make return thereof to the next court martial; but where any person is disabled by sickness from attending, the captain, or commanding officer, being satisfied thereof by testimony on oath, which he is hereby enabled to administer on the spot, shall not note down such non-attendance. Every officer and soldier shall be allowed six months after his appointment or enrollment to provide such arms or accoutrements as he had not at the time. All arms and ammunition of the militia shall be exempted from executions and distresses at all times, and their persons from arrests in civil cases, while going to, continuing at, or returning from, any muster or court mar-

Drummers
and fifers.

Adjutants.

Returns, how
made.

Fines, for va-
rious delin-
quencies.

tial. Each captain shall appoint a drummer and fifer to his company, and also shall provide a drum, fife, and colours for the same, at the publick expense, to be reimbursed out of the fines on the delinquents of his county. One or more adjutants shall be appointed by the court martial of each county to attend musters general and private, and instruct the officers and soldiers in military duty, who shall continue in office till the next court martial, and have an allowance by the said court not exceeding the rate of fifty pounds a year each, to be paid out of the fines; or if they be not sufficient, the deficiency to be supplied by the justices of the same county in their next county levy, on certificate from the court martial of such deficiency. Every captain, or next commanding officer, shall, at every general muster, make up and report to his county lieutenant a state of the company last assigned to him, noting therein such as are dead, removed, or exempted, and adding the names of such persons, not already enrolled, as are within the extent of his company, and ought to be enrolled; and, on failure to make such report, shall forfeit five pounds. For failing to qualify himself to a commission at the first or second court which shall be held, after accepting the same, every officer shall forfeit five pounds. For failing to enrol the militia, or to appoint a general muster, the county lieutenant, or, if he be absent on necessary business, the next commanding officer, shall forfeit one hundred pounds. For not appointing a private muster, the captain, or next commanding officer, shall pay forty shillings. For failing to appear at any general muster properly armed, or at any court martial, every county lieutenant and field officer shall pay ten pounds. For failing to appear at any court martial, every captain shall pay forty shillings. For failing to appear at any general or private muster, properly armed or accoutred, every captain shall forfeit forty shillings, every lieutenant or ensign twenty shillings, every non-commissioned officer or soldier five shillings. For not returning to the next court martial a true list of delinquencies in his company, every captain, or commanding officer for the time, shall forfeit ten pounds. Every officer failing to furnish himself with one pound of powder shall forfeit and pay ten shillings, and the same for failing to furnish himself with four pounds of ball; and every soldier failing therein shall likewise be liable for the same penalties, which

penalties, where incurred by infants, shall be paid by the parent or guardian, and where incurred by servants shall be paid by the master, who, if such delinquency were without his influence or direction, may retain so much out of the hire of such servant, or be compensated by farther service, to be ascertained by the county court. If any officer, when on duty, shall misbehave, he may be put under arrest, for the day, by his commanding officer; and the next court martial, if required, shall inquire into such misbehaviour, and either censure the same, or make report thereof to the governour and council, who, if the cause be sufficient, shall thereupon degrade such officer. If any soldier, at any muster, shall refuse to obey the command of his officer, or shall behave himself refractorily or mutinously, or misbehave himself at a court martial, the commanding officer, or court martial, may, in like manner, put him under arrest for the day, or may cause him to be bound, neck and heels, for any time not exceeding five minutes. If any bystander interrupt, molest, or insult any officer or soldier while on duty, at any general or private muster, or misbehave before any court martial, the commanding officer, or court martial, may put him under arrest for the day. The county lieutenant, field officers, and captains, or the greater part of them (whereof the county lieutenant or a field officer shall be one) shall hold a court martial at the courthouse of their county, or at, or convenient to, the place where the general muster shall be, on the day following their general muster, having first taken the following oath: I do swear, that, as a member of this court martial, I will do equal right and justice to all men, according to law. So help me God. Which oath shall be administered to the presiding officer by the next in command, and then by such presiding officer to the other members. The said court may adjourn from day to day, and shall have power to exempt all persons enrolled whom, from age or inability, they may adjudge incapable of service; and shall also inquire, by testimony, on oath, (which the clerk is hereby enabled to administer) into all delinquencies against this act which shall have happened since the last court martial, and where no reasonable excuse for the same is made appear to them, shall give judgment for the penalties thereto annexed. But if it shall appear to the next court martial that any person fined for such delinquency was unable to attend

Fines incurred by infants and servants how paid.

Misbehaviour in officer.

Disobedience in soldiers.

Bystanders, how punishable.

Courts martial, how constituted.

Oath.

Their powers and duties.

the court, by which he was fined, and had reasonable excuse for the delinquency, such fine shall be remitted.

Clerk.

The said court shall have power to appoint a clerk to enter and preserve their proceedings, to whom the president shall administer an oath, truly and faithfully to execute the duties of his office, and may also appoint a provost martial to attend on the said court for the preservation of order and good behaviour. And all fines shall be collected by the sheriff of the county, who shall have power to levy the same in like manner, and be entitled to the like fee, as in case of execution by *feri facias*; and on failing, without reasonable cause, or refusing to make such collection, shall be held accountable for the same, to be recovered with costs, before any court of record, by action, to be brought, in the name of the members of such court martial, or the survivors of them; and after collecting the same, if he shall refuse to pay them to the order of the said court martial, judgment, on motion, in the court of the said county, shall be given, and execution awarded against him and his securities for the same, with costs, they having ten days previous notice of such motion. And the said court martial shall also appoint some person, not being a member of the said court, to be a bursar, who shall receive from the collector all fines by him collected, and all sums of money recovered from him, and who, before he enters on the execution of his office, shall give bond, with sufficient security, payable to the members of the said court and their successours, for the due payment of all such monies which shall come to his hands. And if any bursar shall fail or delay to account with the said court, or to apply the money in his hands as by them directed, after deducting at the rate of five per centum for his own trouble, on motion made in any court of record, by any person authorised to receive money for him, or by any other by order of the said court martial, judgment shall be given, and execution awarded for the sums so unpaid or unaccounted for, together with the costs of the motion, the defendants having first had ten days notice of such motion.

Provost-martial.

Fines, how collected,

Remedy against sheriff.

Bursar his appointment and duty,

Penalty for misapplication of money.

Fines, how appropriated.

All fines imposed by this act shall be appropriated, in the first place, to the payment of the salaries and allowances to the adjutant, clerk, provost martial, collectors, and bursar, then to reimbursing the publick treasury for any arms purchased for the poor soldiers

of such county, and for drums, fifes, and colours, bought for the several companies; and if any surplus remain, it shall be laid out by the court martial in establishing and furnishing, for the use of their county, a magazine of small arms, field pieces, ammunition, and such other military stores as may be useful in case of invasion or insurrection.

And be it enacted, that it shall and may be lawful for the chief officer of the militia in every county, and he is hereby required, some time before the tenth day of August, yearly, to appoint an officer, and so many men of the militia as to him shall appear to be necessary, not exceeding four, once in every month, or oftener, if thereto required by such chief officer, to patrol and visit all negro quarters, and other places suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons, as aforesaid, unlawfully assembled, or any others strolling about from one plantation to another, without a pass from his or her master, mistress, or owner, and to carry them before the next justice of the peace, who if he shall see cause, is to order every such slave, servant, or stroller, or other disorderly person, as aforesaid, to receive any number of lashes, not exceeding twenty on his or her bare back, well laid on.

Patrollers,
how ap-
pointed.

Their power
and duty.

And in case one company of patrollers shall not be sufficient, to order more companies for the same service; and after every patrol the officer of each party shall return to the captain of the company whereunto he belongs a report in writing, upon oath (which oath such captain is hereby empowered to administer) of the names of those of his party who where upon duty, and of the proceedings in such patrol. And such captain shall, once in every month, deliver such patrol returns to the county lieutenant, or other chief commanding officer in his county, by whom they shall be certified and delivered to the next court martial; and if they shall adjudge the patrollers have performed their duty according to law, the chief officer shall certify the same to the county court, who upon such certificates, are hereby empowered and required to levy fifteen pounds of tobacco, or two shillings and sixpence, for every twelve hours each of them shall so patrol. And every commanding officer of the militia failing to appoint patrollers, according to the directions of this act, shall

Patrol re-
turns.

Compensa-
tion.

Fines for Neg-
lect.

forfeit and pay the sum of fifty pounds; and every person appointed to patrol in pursuance of this act, and failing to do his duty, shall forfeit and pay the sum of twenty shillings for every such failure; which fines shall be laid by the court martial of the county, and shall be collected, accounted for, and appropriated, as is herein before directed for the collecting, levying, accounting for, and appropriating, the several fines and penalties herein before laid.

This act not to disqualify militia officers, heretofore appointed.

All other acts and ordinances, so far as they relate to regulating and disciplining the militia of the several counties, are hereby repealed: *Provided*, nothing in this act shall be construed to alter or change any thing contained in the general constitution or form of government, or to disqualify any militia officers heretofore appointed from acting by virtue of such commissions respectively; and *provided also*, that any court martial, which shall be held by virtue of this act, shall hear and determine any delinquency committed or done before the passing thereof, according to the laws in force at the time of the commission of the offence.

This act shall be read to every company of the militia, by order of the captain, or next commanding officer thereof, at the first muster next succeeding every general muster, on penalty of five pounds for every omission.

CHAP. II.

An act for the more speedily completing the Quota of Troops to be raised in this commonwealth for the continental army, and for other purposes.

WHEREAS it is of the greatest moment to the cause of America that the continental army be speedily completed, *Be it therefore enacted by the General Assembly,* That any two of the militia of any county, city, or borough, who shall, before the first day of October next, procure one able bodied soldier, other than an apprentice or servant, within the time of his conviction or indenture, and those employed in the publick manufactories of fire arms, to serve for the term of three years, or during the present war, in either of the first nine battalions raised within this commonwealth, and shall deliver such recruit to any officer in one of the said battalions, taking his receipt, which such officer is hereby required to grant, and also procuring the certificate of the justice before whom such recruit shall be sworn, shall be exempted from all draughts whatever, and from attending private and general musters in the respective militia to which they belong, which exemption shall continue during the term for which such recruit shall be enlisted; and the recruit so enlisted shall be entitled to, and receive the continental bounty, and other allowances, over and above all private gratuities, provided that the number of soldiers so enlisted shall not exceed the twentieth part of the militia of each county, city, or borough, within this commonwealth.

Any two militia procuring a recruit for three years, or the war, exempted from drafts or muster.

And be it farther enacted, That it shall be lawful for every recruiting officer to enlist all able bodied young men above the age of sixteen years, any apprentice or servant, except hired servants, under written contracts, at any iron works, and those employed in the publick manufactory of fire arms, during the time of such contracts, and also all apprentices at such works, during the time of service, legally due by indenture, without leave, in writing, from the owner, or his manager at said works, first obtained, except likewise every imported servant; and that the persons of all sol

Apprentices and servants may be recruited.

Soldiers, how far free from arrests.

Summary mode of discharge.

Restrictions in issuing writs against soldiers.

diers whatever in the service of the continent, or of this commonwealth, shall be free and exempt from all arrests and restraints whatever, for any debt or demand not exceeding fifty dollars, or the value thereof. And if any soldier shall be arrested or restrained of his liberty, contrary to the directions of this act, it shall be lawful for any justice of the peace upon complaint to him made by warrant, under his hand and seal, to order such soldier to be forthwith discharged from his confinement; and if any civil officer shall keep in confinement, or detain in his custody, any such soldier for the space of two hours after receipt of such warrant, he shall forfeit and pay to such soldier the sum of fifteen pounds, to be by him recovered, with costs, by action of debt or on the case, in any court of record. And to prevent a soldier's being unjustly detained, it shall not be lawful for the clerk of any county, or other inferior court, to issue a writ against any such soldier until the plaintiff hath made oath to the justness of the demand, and that the debt was contracted prior to the enlistment of such soldier, a certificate of which affidavit shall be endorsed on the back of the writ.

And be it further enacted, That all soldiers in the service of this commonwealth, who have, by the terms of their enlistments engaged to serve for one year, and received one part of the bounty money only, shall be retained in the service until the expiration of the time for which they enlisted.

Drafts to complete the additional battalions.

And whereas, by an act of the last assembly, by which six additional battalions were directed to be raised within this commonwealth, towards completing its quota of the continental army, the several proportions of men to be furnished by each county, city, and borough, were fixed as equally as could be, according to the numbers of their respective militias, and many officers have failed to enlist the quota to them respectively allotted, and notwithstanding the various encouragements formerly given, and now offered by this act, it may happen that the deficiencies will not be supplied in time, so that at length it may become necessary, for the defence and security of this and the other states, that a just and equal draught of men should speedily take place:

Mode of drafting.

Be it therefore enacted, That for the more speedy and certain completion of the said six new battalions, every county, city, and borough, except the counties of Kentucky, Ohio, Monongalia, and Yohogania, in case the

officer or officers by them appointed, or to be appointed, have not already, or shall not, on or before the tenth day of August next, enlist the quota of men allotted to such officer or officers, shall make up such deficiency by draughts, to be taken from their respective militias in manner following, that is to say: The county lieutenant, or other commanding officer, so soon as conveniently may be, after the said tenth day of August, shall summon the field officers of their respective militias, and the four first magistrates in the commission of the peace, not being field officers, and, together with the said field officers, or any two of them, and the said magistrates, or any two of them, having first taken an oath, to be administered by any justice of the peace, faithfully and impartially to make the allotments and divisions of the militia as directed by this act, shall first ascertain the aforesaid deficiency in their respective county, city, and borough, and immediately proceed to divide the whole militia of each county, city, and borough, including captains and other inferior officers, into as many lots as there may be men wanting to supply their quota, including the field officers and the four eldest magistrates in the commission of the peace, who shall be considered as one of the divisions, taking care to allot to each division, other than that composed of the field officers and magistrates, as many able bodied men as convenience will admit, having regard to the property of each individual composing such divisions, so as to make the number of able bodied men, and the property in each, as equal as may be; that each of the said other divisions shall be required to furnish one man; and in case any such division refuse, or neglect to do so in fifteen days, that then the field officers and magistrates, as aforesaid, having made themselves acquainted with the situation and circumstances of each division, shall meet at such convenient place as they shall appoint, and having first taken an oath, to be administered by any justice of the peace, to act with impartiality, shall fix upon and draught one man, who, in their opinion, can be best spared, and will be most serviceable, from the division so refusing or neglecting; and the said field officers and magistrates, for their division, shall either procure an able bodied man to enlist, or, in default thereof, shall each of them pay the sum of fifty shillings, as an additional bounty to an able bodied man whom the officer appointed to recruit for the deficiency

in such county may procure to enlist for the said field officers and magistrates; and the person so furnished or draughted shall, to all intents and purposes, be considered as a regular soldier, shall receive the same bounty, and other allowances, over and above all private gratuities, remain in the service three years, if the war should so long continue, and be subject to the same penalties for desertion and other offences as if he had voluntarily enlisted, unless he shall procure an able bodied man to serve in his room.

Fines for neglect.

Provided. That where it may be necessary to make draughts from any county divided this present session of assembly, the field officers and magistrates, as aforesaid, in each county, shall proceed in the manner before directed; but the draughts necessary to make up the deficiency of the county, when entire, shall be proportioned to the number of militia remaining in each distinct county. And every commanding officer failing to summon the field officers and magistrates, as before directed, shall forfeit and pay five hundred pounds; and every field officer and magistrate failing to attend, as before directed, shall for each failure, without a sufficient excuse, forfeit and pay the sum of one hundred pounds, to be recovered, with costs, in the court of the county where such delinquent resides, by action of debt, or information by any person suing for the same, one moiety to be appropriated to the use of the person suing, and the other moiety to the use of this commonwealth, over and above the fines already imposed by the militia and invasion laws.

Battalion of artillery for garrison duty to be raised.

Officers.

And whereas, for the better garrisoning the several fortifications, and for the farther defence of this state, it is expedient and necessary that some other provision should be made: *Be it enacted,* That a battalion of ten companies of artillery, one company of which to be composed of artificers, shall be forthwith raised, each company to consist of one captain, three lieutenants, one serjeant, four bombardiers, eight gunners, and fifty six matrosses, to be commanded by one colonel, one lieutenant colonel, and one major, to be appointed by joint ballot of both houses of assembly and commissioned by the governour; the captains and lieutenants to be appointed by the governour, with the advice of the privy council, and commissioned by the governour; the serjeants, bombardiers, and gunners, by the colonels. To this battalion there shall be al-

lowed a chaplain, surgeon, and one or two surgeon's Staff-mates, as need may require; the chaplain and surgeon to be appointed by the field officers and captains, and the surgeon's mates by the surgeon himself. There shall be allowed as pay, besides customary rations, to a colonel two dollars and an half, to a lieutenant colonel two dollars, to a major one dollar and two thirds, to a captain one dollar and one third, to a lieutenant one dollar, to a serjeant two thirds of a dollar, to a bombardier one half of a dollar, to a gunner one third and one twelfth of a dollar, and to each matross, not being an artificer, one third of a dollar, and if an artificer two thirds of a dollar, to the chaplain a dollar and one third, to the surgeon a dollar and two thirds, and to a surgeon's mate one dollar, per day. Each private shall be entitled to, and receive the same bounty, and other allowances, as the soldiers in the other commonwealth battalions are entitled to. The captains and inferiour officers shall enlist their men in the same proportion, and in case of failure or neglect be subject to removal, at the discretion of the Governour and Council; the companies to be reviewed, their rank established in the same manner, and at the same time, as is directed in the other battalions, and their pay commence from the time of completing their respective proportions; the pay of the colonel, lieutenant colonel, and major, shall commence so soon as they shall be called into service, and receive their respective commissions.

And to defray the expense of recruiting, *Be it enacted*, that every officer shall receive the sum of forty shillings for every recruit he shall enlist. Recruiting expenses.

And be it farther enacted, that the several county courts may, and they are hereby required, to provide, at the publick expense, provisions and all other necessaries for the support and comfortable subsistence of the wives, children, and aged parents, of all poor soldiers who cannot by their own industry support themselves during their absence from home in the publick service, and for paying of the same may draw upon the treasurer for the time being, who is hereby required to pay for the same out of the publick money in his hands. Provision for wives, children & aged parents of poor soldiers while absent.

And be it enacted, that all soldiers who have already enlisted, or shall hereafter enlist, into either of the battalions of this commonwealth, shall, for their farther Soldiers supplied out of public

stores at
prime cost.

encouragement, be supplied out of the publick store with such clothing and other necessaries as it will afford, and their commanding officers may direct, at the prime cost thereof, without any advance whatever.

Warwick &
Elizabeth
City, what
proportion
of men to
raise.

And whereas the county of Warwick was omitted in the allotment of the proportion or quota of men to be furnished by each county towards raising and completing the six last continental battalions, and the county of Elizabeth City was directed to raise an ensign and ten men, which, from the exposed situation of the county last mentioned, is an over proportion: *Be it farther enacted*, that the said county of Warwick shall furnish four men of the quota to be raised by Elizabeth City, in manner as is by this act directed.

State artillery,
when
marched out
what pay en-
titled to.

And be it farther enacted, that when it shall be found necessary to march the battalion of artillery to be raised by virtue of this act to the assistance of any other state, the pay of the officers and soldiers of the said battalion shall be equal to the pay of artillery officers and soldiers in the continental service, so long as they continue in that service.

No negro
to be enlist-
ed, without
a certificate
of freedom.

And whereas several negro slaves have deserted from their masters, and under pretence of being free men have enlisted as soldiers: For prevention whereof, *Be it enacted*, that it shall not be lawful for any recruiting officer within this commonwealth to enlist any negro or mulatto into the service of this or either of the United States, until such negro or mulatto shall produce a certificate from some justice of the peace for the county wherein he resides that he is a free man.

CHAP. III.

An act to oblige the free male inhabitants of this state above a certain age to give assurance of Allegiance to the same, and for other purposes.

WHEREAS allegiance and protection are reciprocal, and those who will not bear the former are not entitled to the benefits of the latter, Therefore *Be it enacted by the General Assembly*, that all free born male inhabitants of this state, above the age of sixteen years, except imported servants during the time of their service, shall, on or before the tenth day of October next, take and subscribe the following oath or affirmation before some one of the justices of the peace of the county, city, or borough, where they shall respectively inhabit; and the said justice shall give a certificate thereof to every such person, and the said oath or affirmation shall be as followeth, viz. ‘I do swear or affirm, that I renounce and refuse all allegiance to George the third, king of Great Britain, his heirs and successours, and that I will be faithful and bear true allegiance to the commonwealth of Virginia, as a free and independent state, and that I will not, at any time, do, or cause to be done, any matter or thing that will be prejudicial or injurious to the freedom and independence thereof, as declared by congress; and also, that I will discover and make known to some one justice of the peace for the said state, all treasons or traiterous conspiracies which I now or hereafter shall know to be formed against this or any of the United States of America.’ And the form of the said certificate shall be as follows, to wit: ‘I do hereby certify, that _____ hath taken and subscribed the oath or affirmation of allegiance and fidelity, as directed by an act of general assembly intituled *An act to oblige the free male inhabitants of this state above a certain age to give assurance of allegiance to the same, and for other purposes.* Witness my hand and seal, this _____ day of _____

All free born males, above 16 years old, to take the oath of allegiance.

Form of the oath.

A. B.’

And be it farther enacted, That the justice of the peace before whom such oath or affirmation shall be subscribed shall keep fair registers of the names of the

Justices to keep registers; and transmit re-

turns to
clerks of
courts,

names of the persons so sworn or affirmed, and the time when; and shall, on or before the first day of January in every year, transmit, in writing, under his hand and seal, to the clerk of the court of the county, city, or borough, a true list of the names of those who, within the same year, have so sworn or affirmed before them respectively.

Persons ap-
pointed to
tender oath.

And be it further enacted, by the authority aforesaid, That within one month after the passing of this act, or at the next succeeding court, the court of every county in this commonwealth shall appoint some of their members to make a tour of the county, and tender the oath or affirmation aforesaid to every free born male person above the age of sixteen years, except as before excepted; and that in the certificate directed to be returned, of those who take the oath or affirmation, shall be mentioned the names of such as refuse. And the justices tendering such oath or affirmation are hereby directed to deliver a list of the names of such recusants to the county lieutenant, or chief commanding officer of the militia, who is hereby authorised and directed forthwith to cause such recusants to be disarmed.

Those refus-
ing to be no-
ted.

Recusants to
be reported
to county
lieutenant,
who is forth-
with to dis-
arm them.

Person dis-
armed com-
pelled to at-
tend musters
but exempt-
ed from fines
for not ap-
pearing
armed.
Incapacities
of those re-
fusing to
take the oath
of allegi-
ance.

Provided, That the person so disarmed shall, nevertheless, be obliged to attend musters, but shall be exempted from the fines imposed for appearing at such musters without arms, accoutrements, and ammunition.

And be it further enacted, That every person above the age before mentioned, except as before excepted, refusing or neglecting to take and subscribe the oath or affirmation aforesaid, shall, during the time of such neglect or refusal, be incapable of holding any office in this state, serving on juries, suing for any debts, electing or being elected, or buying lands, tenements, or hereditaments.

Oath to be
taken by
those com-
ing from any
of the Uni-
ted States.

And be it further enacted, That all persons coming from any of the other United States into this state are hereby required to apply to one of the nearest justices after he enters this state, and take or subscribe an oath or affirmation, renouncing all allegiance to the king of Great Britain, and promising that he will not do any thing prejudicial to the independence of the United States of America, as declared by the general congress; and upon neglecting so to do, he shall be liable to be taken before a justice, who shall tender him the said oath or affirmation, and upon his refusal to take and subscribe the same, the said justice shall, and is here-

Conse-
quence of
neglect.

by required, to commit him to the jail of the county, city, or borough, there to remain without bail or main-prize, until he shall take and subscribe the said oath or affirmation, or give bond and security immediately to depart this commonwealth, which bond shall be payable to the governour, for the time being, for the use of the commonwealth.

Provided nevertheless, That prisoners of war, regular officers and soldiers in the pay of the continent or of this state, merchants and mariners trading in the ports of this state from foreign powers in amity with the United States, and not become resident, are declared not to be within the intent and meaning of this act.

Who not within the meaning of this act.

And be it farther enacted, That this act shall be publickly read by the sheriff of every county in this commonwealth at the door of the courthouse of his county, on some court day, on or before the first day of September next, and also by every minister of the gospel, or reader, immediately after divine service, at every church or meeting-house where they officiate, on some Sunday within the said time. And every sheriff, minister, or reader, failing so to do, shall forfeit and pay the sum of ten pounds, to be recovered, with costs, by the informer, before the court of the county where the offence shall be committed.

How this act to be published.

CHAP. IV.

An act for establishing a Loan office for the purpose of borrowing money for the use of the United States, and appointing a Commissioner for superintending the same.

[Chan. Rev. p. 50.]

I. WHEREAS the general congress, on the third day of October last, did resolve that five millions of continental dollars should be immediately borrowed for the use of the United States of America, for the re-payment of which money lent, at the end of three years, with the interest annually, at the place where the same is

United States, loan office established.

lent, the faith of the United States should be pledged, and that for the convenience of the lenders a loan office should be established in each of the United States, and a commissioner appointed to superintend the same, subject to the regulations therein and herein mentioned.

II. And whereas, on the 14th of January 1777, they did resolve that the farther sum of two millions of dollars should be borrowed on certificates of two hundred dollars each, and that the commissioners of the loan office should be directed to receive the bills of credit heretofore emitted by the states in which they respectively hold their offices for such sums as they shall be ordered by the continental treasurer from time to time, to pay for continental purposes within such states respectively, for which monies, so borrowed upon either of the resolutions aforesaid, the lender is to receive the annual interest of six per centum: For carrying into execution the said resolutions of congress in this commonwealth,

Commissioner of loans appointed.

III. *Be it enacted by the General Assembly, That* William Armistead, gentleman, be, and he is hereby constituted, a commissioner to superintend and manage a loan office to be kept at the city of Williamsburg for the purpose of borrowing; who shall enter into bond, with good security, to be approved by the governour and council, in the sum of fifty thousand dollars, payable to the hon. John Hancock, president of the congress, and his successours, for the faithful discharge of the duties of his office. And the said commissioner is em-

Terms of borrowing.

powered and required to receive from any person whatever sum of specie, continental paper dollars, or bills of credit heretofore emitted by this commonwealth, he or she shall be willing to lend for the use of the United States of America, upon the terms and in the proportions before recited, so as such sum be not less than two hundred dollars lent by any one person, and to give the lender a receipt for the money lent, in the form following, that is to say: "The United States of America acknowledge the receipt of _____ dollars from

Form of certificates.

_____ which they promise to pay to the said _____ or bearer, on the _____ day of _____ with interest, at the rate of six per centum per annum, agreeable to the resolutions of the United States passed the third day of October, 1776, and the fourteenth day of January 1777. Witness the hand of the treasurer, this day of _____ anno dom. 177 _____;" which shall be signed by the continental treasurer, and transmitted to the

commissioner aforesaid in a book containing a counterpart thereof, out of which the said commissioner shall, as often as he receives money lent, cut a certificate indentwise, fill up, countersign, and deliver the same to the lender, keeping the book as a check in his office. The said commissioner shall, moreover, keep regular books, in which due entries shall be made of the sums borrowed, of the time when, and of the names of the persons by whom the said sums of money were lent; shall once a month transmit to the continental treasurer an amount of the cash in his office, and answer all draughts of the said treasurer to the amount of the cash which he at any time shall have in his hands, allowing him to retain one eighth per centum on all monies received into his office in lieu of all claims he may have for transacting the business thereof.

Duty of commissioner.

His compensation.

IV. *Provided always*, That when the said continental treasurer shall order and direct the said commissioner to forbear receiving any more money upon such loan, he shall conform to such directions, and not thereafter receive any money into his office, or issue certificates for the same, as aforesaid, but shall return all certificates remaining in his hands to the continental treasurer.

Commissioner to conform to orders of continental treasurer

V. *And be it farther enacted*, That if any person within this commonwealth shall forge or counterfeit, alter or erase, any certificate of money lent as aforesaid, or transfer any certificate to another, or demand payment at the office of principal or interest thereupon, knowing the same to be forged or counterfeited, altered or erased, every person so offending, and being lawfully convicted, shall suffer death without benefit of clergy.

Forging or counterfeiting certificates, death

[Chan. Rev.
p. 51.]

An act for establishing an office for the purpose of borrowing money for the use of the commonwealth.

State loan of-
fice opened,

Terms of
borrowing.

Form of cer-
tificates.

Duty of trea-
surer.

I. WHEREAS it is expedient that one million of dollars, or the value thereof in other money, should be immediately borrowed, to prevent, as far as may be, the farther emission of large sums of paper money: *Be it therefore enacted by the General Assembly, That* George Webb, esq. or the treasurer for the time being, shall open an office for that purpose in the city of Williamsburg, previous to which, as well for the faithful discharge of the duties thereof as what may be farther required of him by this act, he shall give bond, with good security, in the sum of two hundred thousand pounds, payable to the governour and his successours, for the use of the commonwealth. And the said George Webb, or the treasurer for the time being, is empowered and directed to receive from any person whatever sum of specie, continental paper dollars, or bills of credit issued by authority of this commonwealth, he or she shall be willing to lend, for any term not exceeding three years, so as such sum be not less than three hundred dollars, or the value thereof in other money, lent by any one person, and to give the lender a receipt for the money lent in the form following, that is to say: "The treasurer of the commonwealth of Virginia acknowledged the receipt of dollars from (which he promises to pay to the said or bearer, on the day of with interest, at the rate of six per centum per annum, agreeable to an act passed at a general assembly begun and held at the capitol, in the city of Williamsburg, on Monday the fifth day of May, in the year of our Lord one thousand seven hundred and seventy seven. Witness the hand of the treasurer, this day of ."

Which receipt shall be signed by the treasurer, who shall keep a book containing a counterpart thereof, out of which, so often as he receives money lent, he shall cut a certificate indentwise, fill up and deliver the same to the lender, keeping the book as a check in his office. He shall, moreover, keep regular books, in which due

entries shall be made of the sums borrowed, of the time when, and of the names of the persons by whom, the said sums were lent, for which services he shall be allowed to retain one eighth per centum on all monies received into his office, in lieu of all claims he may have for transacting the business thereof.

II. *Provided always*, That when the said sum of one million of dollars, or the value thereof in other money, is borrowed, the said George Webb, esq; or the treasurer for the time being, shall forbear receiving any more money upon such loans.

What sum to be borrowed.

III. *And be it farther enacted*, That the treasurer shall pay the interest of the money due upon such certificates annually, and take in and discharge the principal thereof at the time or times therein limited for that purpose; or should the lender or bearer of such certificates desire to have the same paid and discharged before the time limited for that purpose, the treasurer is hereby authorised to comply therewith, provided the state of the treasury will admit of the same, without prejudice of the publick.

When principal and interest to be paid.

IV. *And be it farther enacted*, That if any person within this commonwealth shall forge or counterfeit, alter or erase, any certificate of money lent as aforesaid, or transfer any certificate to another, or demand payment at the office of principal or interest thereupon, knowing the same to be forged or counterfeited, altered or erased, every person so offending, and being lawfully convicted, shall forfeit his whole estate, real and personal, receive on his bare back, at the publick whipping post, thirty nine lashes, and shall be obliged to serve on board some armed vessel in the service of this state, without wages, not exceeding seven years.

Forging or counterfeiting certificates, how punishable.

V. *Provided* that the governour and council, for the time being, out of the offender's estate, may make such allowance to his wife and children as to them shall seem just and reasonable.

Wife of offender provided for.

VI. And whereas it is altogether uncertain whether the above mentioned sum of money can be borrowed so soon as the exigencies of government may require: *Be it farther enacted*, That the said George Webb, esq; or the treasurer for the time being, shall be, and he is hereby empowered, to issue treasury notes, in dollars and parts of dollars, for any sum or sums which may be requisite for the purposes of government, and which he may not be able to borrow as aforesaid, so that the

Paper money, or treasury notes may be emitted.

money so emitted, with what is borrowed does not exceed one million of dollars, each dollar to be of the value of a Spanish milled dollar, and the parts of a dollar of the same proportionate value. And the said treasurer for the time being, may, and he is hereby authorised, to appoint proper persons to overlook the press, to number and sign the said notes, and to cause the said notes to be printed and engraved in such manner as he shall judge most likely to secure the same against counterfeits and forgeries.

Notes a lawful tender.

Penalty for refusing them, or depreciating their value.

VII. *And be it farther enacted*, That all such notes to be issued shall be received and pass as a lawful tender in payment of any debt, tax, or duty whatsoever, at the same value of the other notes of credit issued by the authority of this commonwealth. And all and every person or persons who shall demand or ask more in the said notes for any gold or silver coins, or any other species of money whatsoever, than the nominal sum or amount thereof in Spanish milled dollars, or more for any lands, goods, or commodities, than the same could be purchased at from the same person or persons in gold or silver, or any other species of money, and refuse to sell the same for the said notes, or if any person or persons shall refuse to take the same notes in payment of any debt or demand, he, she, or they, so demanding or refusing, shall be subject to and incur the same penalties and forfeitures, to be recovered in the same manner, as are for the like offences inflicted and directed by an act of the present general assembly intituled "An act to support the credit of the money issued by authority of congress and by authority of this commonwealth, and to make the former current within this commonwealth."

Notes, when redeemable.

VIII. *And be it farther enacted*, That all the notes issued in pursuance of this act shall be redeemable on the first day of December, in the year of our Lord one thousand seven hundred and eighty four, shall then be taken in and discharged by the treasurer for the time being, and shall be burnt and destroyed by a committee to be appointed for that purpose by the general assembly. And to enable the said treasurer to pay and discharge the same, together with the interest of all such sums of money as may be borrowed in consequence of this act, a tax or duty shall be paid yearly upon all property, real and personal, within this commonwealth, in such manner, and in such proportions, as the general

assembly shall direct. And the person or persons appointed to overlook the press shall receive for his or their trouble fifteen pounds for every one hundred thousand pounds printed, the numberers each seven shillings and sixpence for every thousand notes by them numbered, and the signers each, for their trouble, ten shillings for every thousand notes by them signed.

IX. *And be it further enacted,* That if any person or persons shall forge or counterfeit, alter or erase, any such treasury note, or tender in payment any such, or demand a redemption thereof, knowing the same to be forged or counterfeited, altered or erased, every person so offending, and being thereof lawfully convicted, shall incur the same forfeitures, and suffer the same punishment, as is herein before directed for the like offence in the case of certificates for money borrowed.

Forging and counterfeiting, &c. how punishable.

CHAP. VI.

An act to discourage Desertion, and to punish persons harbouring or entertaining Deserters.

WHEREAS many soldiers employed in the service of the United States of America, and others in the service of this state, desert their respective duties, to the great prejudice of the service, and ill example of others: For remedy whereof, *Be it enacted by the General Assembly,* That the commanding officer of the militia in every county appoint proper persons in his county to make diligent search after soldiers known or suspected to be deserters, and such having found to apprehend and carry before the nearest justice of the peace, who is hereby empowered and required to examine any soldier so apprehended, and if, upon his own confession, the testimony of lawful witnesses, or other satisfactory proof, he shall appear to be a deserter, to cause him to be safely conveyed and delivered to the commanding officer of the troops at the nearest post or station to the place where he shall be apprehended, in order that he may be dealt with according to the rules of the martial

Preamble.

Deserters, how apprehended and dealt with.

Penalty for
harbouring
deserters.

law. And where there shall be no continental officer or post within fifty miles of the place where such deserter shall be apprehended, in that case the deserter shall be committed to the jail of the county, there to be safely kept until he shall be removed by some officer in the continental army; and the jailer is hereby directed to advertise such deserter four times in the Virginia Gazette, that the person conveying and delivering such deserter, over and above any reward for apprehending him, shall be paid by the treasurer of this commonwealth, on a certificate from the proper officer or jailer, after the rate of one sixth of a dollar per mile, for his trouble and expense. And that if any person shall harbour or entertain, for the space of twenty four hours, any deserter or deserters, knowing or having good reason to suspect him or them to be such, and shall not apprehend him or them, or give notice thereof to the next justice of the peace in the county, or to the person or persons appointed to make search after and apprehend deserters, every person so offending shall for each offence forfeit and pay the sum of five pounds; or if any person shall buy, exchange, detain, or otherwise receive, unless authorised so to do, any arms, clothes, or other furniture, or accoutrements, belonging to the United States of America, or either of them, knowing or having good reason to suspect them to be such, from any soldier, deserter, or other person not authorised to sell and dispose thereof, the person or persons so offending, on being legally convicted thereof, shall for every such offence forfeit and pay the sum of five pounds, over and above the value of the arms, clothes, furniture, or other accoutrements so bought, exchanged, detained, or received; one moiety of the said fines to the poor of the parish where the offence shall be committed, the other to the informer, which penalties may be recovered by petition in any court of record.

Reward for
apprehending
deserters.

And as a farther encouragement to search for deserters, every person not appointed in manner directed by this act, apprehending any deserter, and delivering him to the person or persons appointed in the county for that purpose, shall receive for every such deserter the sum of three pounds; to be paid by the treasurer of this commonwealth, upon the certificate of the justice who shall examine such deserter.

CHAP. VII.

An act for providing against Invasions and Insurrections. [Chan. Rev. pa. 52]

I. FOR making provision against invasions and insurrections, and laying the burthen thereof equally on all: *Be it enacted by the General Assembly,* That the division of the militia of each county into ten parts, directed by an ordinance of general convention, shall be completed and kept up in the following manner: The commanding officer of every county, within one month after every general muster, shall enrol under some captain such persons, not before enrolled, as ought to make a part of the militia, who, together with those before enrolled, and not yet formed into tenths, shall by such captain, at his first muster after receiving the same, be divided into ten equal parts as nearly as may be, each part to be distinguished by fair and equal lot, by numbers from one to ten, and when so distinguished to be added to and make part of the division of the militia of such county already distinguished by the same number. And where any person subject to such allotment shall not attend, or shall refuse to draw for himself, the captain shall cause his lot to be drawn for him by some other, in presence of the company; and as soon as such division shall be made, the captain shall make return thereof to the commanding officer of the county. For failing to make such division, or to return the same, the captain shall forfeit ten pounds, to be assessed by the court martial of his county. When any officer of the militia shall receive notice of any invasion or insurrection within his own county, he shall immediately give intelligence thereof to the commanding officer of the county, and if the urgency of the case requires it, he shall forthwith raise the militia under his special command, and proceed to oppose the enemy or insurgents. The commanding officer of the county, on receiving notice thereof, shall immediately, if the case will admit delay, or the danger be greater than the force of his own militia may be able to encounter, communicate the same to the governour by express, for which purpose he may impress boats, men, and horses, and may also notify it to any militia officer of the adjacent counties, to be by him forwarded to his commanding

Allotment of militia for regular routine of duty.

How made.

Penalty for neglect.

Duty of officers, on invasions or insurrections.

officer; and in the mean time, if it be urgent, shall raise such part of his own militia as the case shall require and admit. The commanding officer of any adjacent county, receiving the notice so forwarded, shall immediately raise such part of his militia as the circumstances of the case may require, and order them to the assistance of such adjacent county; but any officer thinking the case of too small consequence to require these proceedings, may call a council of war, to consist of a majority of his field officers and captains, or of a field officer and of five captains at the least, and take their advice whether any and what force shall be raised or sent, or whether they may await the governour's orders. The governour, on receiving such intelligence, may, with the advice of the council of state, cause to be embodied and marched, to oppose such invasion or insurrection, such numbers of the militia as may be needful, and from such counties as will suit the exigence of the case, and, if the corps consist of three or more battalions, may appoint a general officer or officers, as the case may require, to take command thereof.

Duty of executive.

Militia called out in rotation.

Failing to attend or find a substitute, deemed a deserter.

Volunteers accepted.

If case urgent, nearest militia may be called out, till relieved by those in turn.

Arms, how provided.

Punishment for embezzling.

II. The several divisions of the militia of any county shall be called into duty by regular rotation, from the first to the tenth; and every person failing to attend when called on, or to send an able bodied man in his room, shall, unless there be good excuse, be considered as a deserter, and suffer accordingly. Any able bodied volunteers who will enter into the service shall be accepted instead of so many of the divisions of the militia called for, or of the particular person in whose room they may offer to serve; but if the invasion or insurrection be so near and pressing as not to allow the delay of calling the division or divisions next in turn, the commanding officer may call on such part of the militia as shall be most convenient to continue in duty until such division or divisions can come in to supply their places. The soldiers of such militia, if not well armed and provided with ammunition, shall be furnished with the arms and ammunition of the county, and any deficiency in these may be supplied from the publick magazines, or if the case admit not that delay, by impressing arms and ammunition of private property, which ammunition, so far as not used, and arms, shall be duly returned, as soon as they may be spared. And any person embezzling any such publick or private arms, or not delivering them up when required by his com-

manding officer, shall, on his warrant, be committed to prison without bail or mainprize, there to remain till he deliver or make full satisfaction for the same, unless he be sooner discharged by the court of his county. The commanding officer shall appoint such officers of the militia as he shall think most proper to command the men called out by divisions, in the following proportions: If there be called into duty not more than twenty, nor less than fifteen, he shall appoint one ensign and one serjeant to command them. If not more than thirty, or under twenty men, a lieutenant, an ensign, and two serjeants. If not more than fifty men, a captain, lieutenant, ensign, and three serjeants. If sixty eight men, a captain, two lieutenants, an ensign, and four serjeants. And if not more than one hundred and fifty, nor less than one hundred, a major shall command. If more than one hundred and fifty, and not exceeding two hundred and fifty, a lieutenant colonel shall command, and have under him a major, with the proper number of captains and other officers. A colonel to command any number of men not exceeding five hundred, nor under two hundred and fifty. A county lieutenant to command any number of men above five hundred, and not exceeding a battalion. A distinct list of the names and numbers of officers and soldiers sent on duty, and of all persons impressed, with the time they served, attested, on oath, by the officer commanding such party, shall be certified by the commanding officer of the county to the auditors of publick accounts, to be by them examined and certified to the treasurer, for payment of what may be justly due.

Officers, how detailed.

How officers and soldiers paid.

III. Any officer resigning his commission on being called into duty by the governour, or his commanding officer, shall be sent on the same duty as a private, and shall, moreover, suffer punishment as for disobedience of command.

Resignation when called out, how treated.

IV. The commanding officer of the corps marching to oppose any invasion or insurrection, or any commissioned officer, by warrant under the hand of such commander, may, for the necessary use of such corps, or for the transportation of them across waters, or of their baggage by land or water, impress provisions, vessels with their furniture, hands, waggons, carts, horses, oxen, utensils for intrenching, smiths, wheel-wrights, carpenters, or other artificers, and arms in the case before directed. Such necessaries, or the use of them by the

Impressments allowed.

Appraisements. day, shall be previously appraised by two persons chosen, the one by such officer, and the other by the person interested, or both by the officer, if the person interested shall refuse to name one, or cannot readily be called upon, and duly sworn by the said officer, who is hereby empowered to administer the oath. Such officer shall give a receipt or certificate of every particular impressed, of its appraised value, and of the purpose for which it was impressed. And if any article impressed shall be lost, or receive damage, while in publick service, such loss and damage shall be inquired of, and estimated by two men chosen and sworn in the same manner. The said certificates shall be transmitted to the auditors, to be by them certified and paid in manner herein before directed.

Impressed articles, how certified and paid for.

Privileges of those in service.

V. All persons drawn into actual service, or impressed by virtue of this act, shall be exempted in their persons and property from civil process, and all proceedings against them in civil suits shall be stayed during their continuance in service.

Rank of officers on duty.

VI. When any corps or detachment of militia shall be on duty with any corps or detachment of regulars belonging to the continent or this commonwealth, or both of them, the continental officers shall take command of officers of the commonwealth of the same rank, and these again of militia officers of the same rank, and all militia officers of the same rank shall take command according to seniority, and if their commissions be of equal date, then their rank shall be decided by lot; a county lieutenant, when acting in concert with regulars, taking rank as a colonel. The commanding officer of each of the counties of Elizabeth City, Princess Anne, Norfolk, Northampton, and Accomack, with permission from the governour, may appoint any number of men, not exceeding six, in each of the former counties, and in the two latter not more than ten men, to keep a constant look-out to seaward, by night and by day, who, discovering any vessels appearing to belong to an enemy, or to purpose landing or hostility, shall immediately give notice thereof to some militia officer of the county. And the lieutenant, or next commanding officer, of the several counties on the western frontier, with the like permission, shall be empowered to appoint any number of proper persons, not exceeding ten, in any one county, to act as scouts for discovering the approach of the Indians, or any other enemy

Look-outs, on eastern frontier.

Scouts on western.

on the frontiers, who, on such discovery, shall immediately give notice thereof to some militia officer of the county, whereon such course shall be pursued as is before directed in case of an invasion or insurrection. The pay of all officers and soldiers of the militia, from the time they leave their homes by order of their commanding officer, till they return to them again, and of all look-outs or scouts, shall be the same as shall have been allowed by the last regulations of general assembly to regulars of the same rank or degree. Messengers shall be allowed, by the auditors of publick accounts, according to the nature of their service.

Pay of militia in service same as regulars.

Messengers.

VII. Any militia officer receiving notice of an invasion or insurrection, or of the approach of any vessel with hostile purpose, and not forwarding the same to his commanding officer, shall forfeit, if a field officer, one hundred pounds; if a captain or subaltern, fifty pounds; any commanding officer of a county receiving such notice, and not raising part of his militia, nor taking the advice of his council of war, two hundred pounds. Such forfeitures to be recovered, with costs, by action of debt, in the name of the other members of the said court martial, or the survivors of them, before any court of record, and appropriated to the same uses as the fines imposed by the court martial of his county.

Fines on officers, for neglect in relation to invasions, &c.

VIII. Any officer or soldier guilty of mutiny, desertion, disobedience of command, absence from duty or quarters, neglect of guard, or cowardice, shall be punished at the direction of a court martial, by degrading, cashiering, drumming out of the army, fine not exceeding two months pay, imprisonment not exceeding one month.

Courts martial what punishments they may inflict.

IX. Such court martial, which the commanding officer is hereby empowered to order, shall be constituted of militia officers only, of the rank of captains, or higher, and shall consist of seven members at the least, whereof one shall be a county lieutenant, or field officer. Provided two or more companies, without a field officer, should be called out to duty, the senior officer may appoint a court martial, to consist of one captain, and three or more commissioned officers, whose sentence, not extending to amercement or imprisonment, being confirmed by the commanding officer, not being a member of the court, shall be put in execution, each of whom shall take the following oath: "I do swear, that I will well and truly try, and impartially

How constituted.

Oath of members.

determine, the cause of the prisoner now to be tried, according to the act of assembly for providing against invasions and insurrections. So help me God." Which oath shall be administered to the presiding officer by the next in command, and then by such presiding officer to the other members. The said court shall also appoint a clerk to enter and preserve their proceedings, to whom the president shall administer an oath, truly and faithfully to execute the duties of his office. And such clerk shall be paid such compensation for his services as shall be judged reasonable by the court martial, out of the fines imposed by this act; the fines to be collected by the sheriff, as ordered in the militia law, except such as can be retained out of the pay of the delinquent.

Clerk.

Fines, how collected.

Evidence.

When offender may be tried.

Quartermasters;

Commissaries;

how appointed.

X. All persons called to give evidence shall take the usual oath or evidence, to be administered by the clerk of the court. If in any case the offender be not arrested before the corps of militia on duty be discharged, or cannot be tried for want of members sufficient to make a court, he shall be subject to be tried afterwards by the court martial of his county. The governour, with the advice of the council of state, may, and he is hereby authorised and desired, to appoint one or more fit and able persons to act as quartermasters to the militia drawn into actual service, whose duty it shall be to provide, in due time, all things necessary for their accommodation. And such quartermasters shall have power, and they are hereby strictly enjoined, to inspect and examine all provisions dealt out by any commissary or contractor to such militia, and make report to the governour, from time to time, of the quality thereof. And the said quartermasters shall, for their services, receive such allowance as to the governour and council may appear reasonable. The commanding officer of any detachment of militia drawn out into actual service shall, if necessary, appoint a commissary or contractor to procure provisions for the said detachment. Such commissary, upon complaint to a court martial, to be composed of the officers of the corps, may, by judgment of such court martial, be removed for misconduct. Every commissary or contractor appointed by virtue of this act shall obtain a certificate of his service from the commanding officer of the detachment for which he served, on producing which to the governour and council he shall be entitled to such reward as they think fit.

XI. All other acts and ordinances, so far as they make provision against invasions and insurrections, are hereby repealed. Repealing clause.

XII. *Provided*, That nothing in this act shall be construed to alter or change any thing contained in the general form or constitution of this government.

XIII. This act shall be read to every company of the militia by order of the captain, or next commanding officer, twice in every year, on penalty of five pounds for every omission. This act to be read to militia.

CHAP. VIII.

An act to support the Credit of the money issued by the authority of Congress and by the authority of this Commonwealth, and to make the former current within this commonwealth. [Chan. Rev. p. 54.]

I. WHEREAS the continental money, and the money of this commonwealth ought to be supported at the full value expressed in the respective bills, and the pernicious artifices of the enemies of American liberty, to impair the credit of the said bills, by raising the nominal value of gold and silver, or any other species of money whatsoever, ought to be guarded against and prevented: Preamble.

II. *Be it enacted by the General Assembly*, That all bills of credit emitted by authority of congress shall pass current in all payments, trade, and dealings within this commonwealth, and be deemed equal to the same nominal sum in Spanish milled dollars; and that whosoever shall offer, ask, or receive more in the said bills, or in the bills of credit emitted by authority of this commonwealth, for any gold or silver coins, or any other species of money whatsoever, than the nominal sum or amount thereof in Spanish milled dollars, or more in either of the said kinds of money for any lands, goods, or commodities whatsoever, than the same could Paper money emitted by authority of congress, or of this state, declared equal to Spanish milled dollars.

Penalty for depreciating it.

be purchased at of the same person or persons in gold or silver, or any other species of money whatsoever, or shall offer to sell any goods or commodities for gold or silver coins, or any other species of money whatsoever, and refuse to sell the same for either the said continental bills, or bills of this commonwealth, every such person shall forfeit the value of the money so exchanged, or of the house, land, or commodity, so sold or offered for sale, to be recovered with costs, by action of debt, in any court of record; the one moiety to the use of the person suing for the same, and the other moiety to the use of this commonwealth.

Paper money a lawful tender.

Tender and refusal, an extinguishment of interest.

III. *And be it farther enacted,* That the bills of credit issued by congress shall be a lawful tender in payment of all publick and private debts within this commonwealth, and a tender and refusal thereof, or of the bills of credit issued by authority of this commonwealth, shall operate as an extinguishment of interest from the time of such tender, and that debts payable in sterling shall be discharged with either of the above kinds of money, at the rate of thirty three and one third per centum exchange; and that the continental dollars, and dollars issued by this commonwealth, shall pass in discharge of all debts and contracts at the rate of six shillings currency per dollar.

How tender may be made in certain cases.

IV. And whereas many sums of money are now due and owing upon bills, bonds, and protested bills of exchange, to many persons, who, to avoid the force of a tender, and avail themselves of the interest, do put or place the said specialties into the hands of the persons not authorised to receive the money due thereupon: For remedy whereof, *Be it enacted,* That a tender in any money made current here to any person holding, or being possessed of any bill, bond, or protested bill of exchange, of the principal and all interest due thereon by the person or persons owing the same, shall be a legal tender and upon a refusal shall be an extinguishment of the interest; or where the debtor cannot discover who hath the possession of the specialty, by which he or she stands indebted, a tender of the principal and interest to the factor with whom the debt was contracted shall in like manner avail such debtor, and extinguish the interest.

CHAP. IX.

An act limiting the time for continuing the Delegates to General Congress in office, and making provision for their support, and for other purposes.

BE it enacted by the General Assembly, That no person who shall have served, or shall hereafter serve, as a member of congress for three years successively, including the time he hath heretofore served, shall be capable of serving therein again till he shall have been out of the same one whole year. Time of service of delegates to congress limited.

And be it farther enacted, That no person hereafter chosen a member of the continental congress shall be eligible to either house of general assembly of this commonwealth during his continuance in the said office. Ineligible to the general assembly.

Each member, for every day he shall attend, shall receive eight dollars, and also fifteen pence per mile going, and the same returning, together with his ferriages, in lieu of the allowances heretofore settled by law; to be paid, wherever congress shall be sitting, by the treasurer of this commonwealth, out of any publick monies which shall be in his hands. Their wages.

CHAP. X.

An act to establish a mode for the speedy and summary recovery of such sums of money as are or may become due to the publick, and for enforcing all contracts entered into with government.

[Chan. Rev.
P. 54.]

Preamble.

I. WHEREAS divers persons, receiving money at the treasury of this commonwealth for publick uses, have applied it to different purposes, and when called on refused or neglected to repay the same, for which evil no adequate remedy hath yet been provided:

Public debtors, remedy against by motion.

II. *Be it therefore enacted by the General Assembly,* That every officer, paymaster, commissary, victualler, contractor, agent, or other person, who hath, or hereafter may receive, any sum or sums of money at the treasury of this commonwealth for recruiting or paying the army, building, rigging, or furnishing vessels or ships of war, erecting fortifications, purchasing clothes, provisions, arms, or ammunition, erecting or carrying on the publick manufactories, or for any other publick use, and hath not, or shall not properly apply the same, or repay whatever sum remains unapplied into the publick treasury, that then it shall and may be lawful for the treasurer for the time being, upon a motion to be made in any court of record, to demand judgment, in the name of the governour for the time being, against such person and his securities for whatever sum of money remains in his hands unapplied, with interest and costs; and such court is hereby authorised and required to give judgment accordingly, and to award execution thereupon, provided such person and his securities have ten days previous notice, in writing, of such motion.

Public contractors, summary proceedings against in behalf of commonwealth.

III. And whereas, in the course of the present war, several persons have entered into contracts with government for supplying the army and navy with provisions and other necessaries, and failed or refused to comply therewith, and many others may hereafter occasion the like disappointments, to the great prejudice of the service: For remedy whereof, *Be it farther enacted,* That when any suit shall be brought on behalf of the commonwealth against any person whatsoever for

failure of contract, or breach of covenant, the attorney prosecuting the same shall file the declaration, and assign breaches, where such are necessary, at the time the writ issues, a copy of which shall go out and be served on the defendant or defendants with the same; and when the writ, with a copy of the declaration and breaches, are served ten days before the return day of such writ, the defendant, or defendants shall give special bail, if ruled thereto, and plead to issue immediately, which issue shall be tried by a jury, and judgment given for the debt, or damages and costs, according to the very right of the cause, any error or misprision in the proceedings notwithstanding, and thereupon execution may be awarded. And when the writ, with a copy of the declaration and breaches, shall not be served ten days before the return day of such writ, the defendant or defendants shall plead, and the proceedings shall be the same at the next succeeding court as is herein before directed to be had at the first court, when the service of the writ shall be in time.

IV. *Provided nevertheless,* That in either case the court shall have power to continue the suit over to the succeeding court, for good cause to them shewn.

V. And whereas divers persons have, and hereafter may enter into contracts with the agents or contractors for victualling and clothing the army and navy, and have or may fail or refuse to comply therewith: *Be it farther enacted,* That upon any suit brought by any victualler, agent, or contractor, against any person or persons so failing or refusing, the proceedings therein shall be the same, and the plaintiff shall have the same remedy and redress as is herein before directed in suits which may be brought on behalf of the commonwealth.

Remedy in
behalf of
contractors
against o-
thers.

CHAP. XI.

[Chan. Rev. p. 55] *An act for preventing the forgery of certain warrants and certificates, and other purposes.*

Preamble.

Forging and counterfeiting certain warrants & certificates, how punishable.

I. WHEREAS the crime of forgery, at all times pernicious in its nature, but particularly flagitious as committed in some late instances, hath not a punishment sufficiently exemplary annexed thereto: *Be it therefore enacted by the General Assembly,* That if any person, from and after the twenty ninth day of June, in the year of our Lord one thousand seven hundred and seventy seven, shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any warrant or draught of the governour or chief magistrate, or of the president or other member of the privy council acting as lieutenant governour, or of the navy board, directed to the treasurer for the payment of publick money, or any certificate of the commissioners or auditors of publick accounts directed to the treasurer for payment of publick money, or shall present for payment, at the publick treasury, any false, forged, or counterfeited warrant or draught of the governour or chief magistrate, or of the president or other member of the privy council, acting as lieutenant governour, or of the navy board, or any false, forged, or counterfeited certificate of the commissioners or auditors of publick accounts, as aforesaid, knowing the same to be false, forged, or counterfeited, or shall offer to the commissioners or auditors of accounts, for the purpose of obtaining their certificate directed to the treasurer for the payment of publick money, any false, forged, or counterfeited voucher or exhibit, knowing the same to be false, forged, or counterfeited, or shall forge and pass any such voucher or exhibit, then every such person, being thereof convicted according to the due course of law, shall be deemed and holden guilty of felony, shall forfeit his whole estate, real and personal, shall receive on his bare back, at the publick whipping post, thirty nine lashes, and shall serve on board some armed vessel in the service of this commonwealth, without wages, for a term

not exceeding seven years, provided that the governour and council may make out of the offender's estate such an allowance as they shall think necessary for the maintenance of his wife and children.

Provision for wife and children out of estate of offender.

II. And whereas it hath been doubted whether it is felony to steal continental bills of credit, treasury notes of this commonwealth, or paper money of any of the other United States:

III. *Be it therefore enacted by the authority aforesaid,* That if any person, from and after the said twenty ninth day of June, shall steal, or take by robbery, any continental bill of credit, any treasury note of this commonwealth, or any sum of the paper money of any other of the United States, such offender shall be deemed guilty of felony, and shall be obliged to restore four times the value of the money so stolen, and in default thereof shall be sold as a servant for such a term, not exceeding seven years, as shall raise the same, and shall farther receive such other punishment, not extending to life or member, as the court before whom the offender shall be convicted shall think adequate to his offence.

Stealing or taking by robbery, paper money, felony.

IV. *Provided always, and it is hereby enacted by the authority aforesaid,* That no attainder for any offence hereby made felony shall work any corruption of blood, or disherison of heirs.

Attainder of, no corruption of blood

CHAP. XII.

An act for the encouragement of Iron Works. [Chan. Rev. p. 55.]

I. WHEREAS the discovery and manufacturing of iron ore, requisite for the fabricating the various implements of husbandry, small arms, intrenching tools, anchors, and other things necessary for the army and navy, is at this time essential to the welfare and existence of this state, as the usual supplies of pig and bar iron from foreign states is rendered difficult and uncertain, and James Hunter, near Fredericksburg, hath erected, and is now carrying on, at considerable expense and

Preamble, reciting Hunters extensive works, near Fredericksburg.

labour, many extensive factories, slitting, plating, and wire mills, and is greatly retarded through the want of pig and bar iron; and whereas there is a certain tract of land in the county of Stafford, called or known by the name of Accakeek furnace tract, on which a furnace for the making of pig iron was formerly erected and carried on, which has been since discontinued: Therefore, for encouraging the said James Hunter, and the better to enable him to prosecute his works with efficacy and vigour, *Be it enacted by the General Assembly,* That if the proprietors of the said Accakeek furnace tract, or their agent, after previous notice hereof, do not within one month begin, and within six months erect thereon, a furnace and other necessary works on a scale equal to or larger than the former one, and prosecute the same for making pig iron and other castings, that then it shall and may be lawful to and for the said James Hunter, after the expiration of either of the terms aforesaid, to enter upon and locate two hundred acres of the said tract, including the old furnace seat and dam, within such bounds as shall be laid off by the commissioners herein after appointed; and the said James Hunter shall pay to the proprietors, or their agents, such valuation for the same as may be made by a jury of twelve good and lawful freeholders, upon oath, who shall be summoned by the sheriff of the said county of Stafford for that purpose. And if a sufficient body of iron ore is not discovered on the said two hundred acres of land, the said James Hunter shall and may explore and open any other unimproved lands belonging to the said Accakeek furnace tract, and upon discovering a body of iron ore locate ten acres thereof, including such body of ore (in case the proprietors, or their agents, shall not within three months open the same) paying to the said proprietors or their agents such valuation for the same as may be made by a jury in manner aforesaid; and thereafter the same shall be, and is hereby vested, in the said James Hunter in fee simple.

II. *And be it farther enacted,* That it shall and may be lawful for any person or persons, in company with a justice of the peace of any county, to explore and open, for the purpose of discovering iron or any other sort of ore, any unimproved land within this commonwealth, paying to the proprietors of such lands any and all such damages as are by them sustained thereby, to be award-

His privileges, in obtaining iron ore, from the Accakeek furnace tract.

Iron, or other ore, how explored, and the land opened.

ed by a jury summoned and sworn in the manner aforesaid.

III. *And be it farther enacted*, That half an acre of ground for a landing, situate at some convenient place on Aquia or Potowmack creek, within such bounds as may be allotted by the commissioners as aforesaid, so that it does not deprive any person of houses or other immediate conveniencies, shall be, and the same is hereby assigned to the said James Hunter, who shall pay such valuation for the same as may be made by a jury in manner herein before directed, and thereafter the same shall be vested in the said James Hunter in fee simple, so long as the said James Hunter, his heirs and assigns, shall continue to keep up and carry on his furnace and works aforesaid as herein before directed, otherwise such half acre of land shall revert to the former proprietor from whom the same was taken, his or her heirs, upon repaying to the said Hunter, or his heirs, the valuation made as aforesaid.

Half an acre of land, on Aquia, or Potowmack creek, vested in James Hunter, for a landing.

IV. *And be it farther enacted*, That William Fitzhugh, Thomas Ludwell Lee, Robert Brent, Samuel Selden, and Charles Carter, esquires, or any three of them, be, and they are hereby appointed commissioners for the several purposes herein before recited, who shall make report of their proceedings and discoveries to the next session of assembly.

Commissioners, for the purposes of this act.

V. *And be it farther enacted*, That no recruiting officer, or other person whatever, shall impress or take any horses, waggons, or waggoners, employed at any lead, copper, or iron works.

Exemption from impressments, at lead, copper, or iron works. Proviso.

VI. *Provided always*, That this act shall not be construed so as to exempt any unnecessary number of waggons or horses from being subject to the militia law, or service of the state.

VII. And whereas it is represented that the said James Hunter cannot erect his dam and slitting mill at his aforesaid works without a small quantity of land adjoining thereto, the property of John Richards, gentleman, be set apart for that purpose:

VIII. *Be it therefore enacted*, That the commissioners aforesaid, if he shall refuse to sell the same for a reasonable price, having caused a jury to set a value thereon in manner herein before directed, may and shall assign to the said James Hunter any quantity, not exceeding half an acre, of the land belonging to the said John Richards, in the most convenient part for the pur-

Right of James Hunter to acquire half an acre of John Richards's land.

pose aforesaid, and the same shall be vested in the said James Hunter in fee simple, upon his paying the value thereof to the said John Richards; provided that the said James Hunter, his heirs and assigns, shall within six months afterwards erect and finish a slitting mill at his works aforesaid, and continue to keep the same in good repair, allowing a reasonable time for so doing in case of accident or decay, otherwise the said land shall revert to the said John Richards, or his heirs, he or they re-paying to the said James Hunter, or his heirs, the valuation made as aforesaid.

CHAP. XIII.

An act to appoint Commissioners of Oyer and Terminer for the trial of the criminals now in the public jail, and for other purposes.

Court of
Oyer & Ter-
miner for the
trial of crim-
inals esta-
blished.

FOR establishing a court of Oyer and Terminer for the trial of criminals, and preventing offences against the commonwealth, *Be it enacted by the General Assembly,* That five justices, to be chosen by joint ballot of both houses of assembly, or any three of them, be, and they are hereby empowered and required, to meet at the capitol in the city of Williamsburg, on the first Tuesday in August, and on the first Tuesday in November next, then and there to hold courts of Oyer and Terminer, for the trial of all criminals who shall then be in the publick jail, and to receive such presentments as shall be made for offences against the commonwealth; and the said justices of Oyer and Terminer having taken the following oath, to wit: "I A. B. do solemnly promise and swear, that I will be faithful and true to the commonwealth of Virginia, and that I will well and truly execute the office of a justice of Oyer and Terminer, to which I have been appointed by the general assembly, without favour, affection, or partiality. So help me God." To be administered to the justice first named, and present, by some other justice, and by him

Oath.

to the others, shall then and there proceed to the trial of all the said criminals, in like manner as is directed for courts of Oyer and Terminer, in and by an act intitled "An act directing the method of trial of criminals for capital offences, and for other purposes therein mentioned," and may adjourn from day to day, until all the criminals, who shall, at the time of holding the respective courts, be in the said jail, be tried. And the sheriff of York county for the time being, upon a writ to him directed out of the secretary's office, which writ the clerk of the said office is hereby empowered and required to issue ten days at least before the day of holding every court of Oyer and Terminer, shall summon twenty four good and lawful men, being freeholders within this state, to appear and attend at such court of Oyer and Terminer, and the sheriff is hereby empowered to execute the said writ, as well out of the county of York as within the same, which twenty four freeholders, or fifteen of them at the least, shall be a grand jury, and shall have power to inquire of and present all treasons, felonies, and other offences cognizable by the justices of Oyer and Terminer, which shall have been committed or done within this state; and if any of the freeholders so summoned shall fail to appear and attend the said court, it shall be lawful for the justices thereof to fine every freeholder so failing, not exceeding the sum of five pounds. And the said sheriff of York county shall summon petit juries for such trials, and attend the said justices according to the directions of the said recited act; and against such criminals as shall be found guilty, by verdict of the petit jury, the said justices shall proceed to judgment according to law, and award execution thereupon, saving to the governor his right of granting pardons to all capital offenders, according to the constitution of government. And the clerk of the secretary's office shall immediately issue writs of venire facias to summon a venire from each county from whence criminals are now in the publick jail, who, according to the said recited act, have a right to be tried by a jury of the vicinage, and shall also issue summons for the witnesses against each criminal, and for those he or she may desire to be summoned in his or her behalf, to attend the first court of Oyer and Terminer to be held by virtue of this act. And when any person shall hereafter be committed to the publick jail for treason or felony, for which such person may be

Grand jury.

Petit juries.

Venire facias

tried before the court of Oyer and Terminer, the sheriff or other officer bringing such person to the publick jail shall immediately give notice thereof to the clerk of the secretary's office, who shall thereupon issue a writ of venire facias, in the same manner as is directed by the said recited act.

Wages of
justices of
Oyer & Ter-
miner.

And be it farther enacted, That each of the said justices of Oyer and Terminer shall receive the sum of thrity shillings, for every day he shall attend and sit in the said court, to be paid by the treasurer out of the publick money in his hands; and the said justices shall have power to appoint a clerk and other necessary officers of the said court, and make them, together with the said sheriff of York, such allowances as they may judge adequate to their respective services, which allowances the treasurer for the time being is hereby empowered and required to pay out of the publick money in his hands, upon certificate of a majority of the said justices of Oyer and Terminer.

And be it farther enacted, That the sheriff, clerk, and other officers, who attended two several courts of Oyer and Terminer held in the city of Williamsburg on the sixteenth of January, and on the eighth of April, one thousand seven hundred and seventy seven, be allowed for their past services whatever the commissioners may think adequate thereto, to be paid by the treasurer out of the publick money in his hands, on certificate from the said commissioners.

CHAP. XIV.

An act for farther continuing an act intituled An act for the farther continuance of certain powers given to the governour and council by an ordinance of the last convention, and for other purposes.

WHEREAS the act passed the last session of assembly, intituled "An act for the farther continuance of certain powers given to the governour and council by an ordinance of the last convention," will expire at the end of this present session of assembly, and it is expedient that the said act should be farther continued: *Be it therefore enacted by the General Assembly,* That the said recited act shall continue and be in force until the end of the next session of assembly, and no longer.

And whereas, by an act of the last assembly, intituled "An act for making farther provision for the internal security and defence of this country," three battalions of infantry were directed to be raised, and declared subject to the same laws, articles, and regulations, as are established by the general congress for the government of the continental troops; and whereas, by one article of the continental regulations, it is declared that no sentence of a general court martial shall be put in execution till after a report thereof shall be made to congress, or to the commander in chief of the forces of the United States, and their or his directions signified thereupon, from whence doubts have arisen whether the said battalions are subject to the controul of congress or the commander in chief, and whether the sentence of such courts martial were intended to be subject to their revision: For explaining whereof, *Be it enacted by the authority aforesaid,* That the said battalions, and all other troops raised or to be raised at the particular expense and for the immediate defence of this commonwealth, except when the same are joined with continental troops, and all sentences of death awarded by general courts martial, shall, in every respect, be under the direction and subject to the revision and controul of the governour, with the advice of the privy council, and to no other authority whatever.

Act for further continuance of powers of committee of safety, in governour & council further continued.

State troops, and sentences of death pronounced by general courts martial, except when joined by continental troops, subject to controul of executive of Virginia only.

CHAP. XV.

An act for encouraging the making of Salt.

Managers of salt work, in Elizabeth City, Gloucester, and Accomack, appointed.

WHEREAS from the commodious situations of many parts of our rivers and bays next to the sea coast, and from experiments made in this country, it is judged that large quantities of salt may be made, whereby the inconveniencies from the want of that article would be speedily removed: *Be it therefore enacted by the General Assembly,* That John Cary, gentleman, be, and he is hereby appointed, a manager of the salt works already begun in the county of Elizabeth City, John Hobday, gentleman, manager of that in the county of Gloucester, and Henry Custis and Charles Bagwell, gentlemen, managers of that in the county of Accomack; which said managers shall immediately proceed to complete the same so soon as may be, and shall have power and authority, from time to time, to hire so many hands as he or they shall judge necessary for completing the said works in the most effectual and expeditious manner; also to provide proper pans or boilers, and all other things necessary, and report their proceedings therein to the governour of this commonwealth, together with an account of the expense attending the same, when required. And in case of the death or refusal to act, negligence, or misconduct, of any manager, the governour, with the advice of the council, may appoint another in the room of such person so dying, refusing to act, neglecting, or misbehaving. And the treasurer of this commonwealth shall, and he is hereby required to advance, from time to time, to each of the said managers, by warrant from the governour, the several sums already expended on the works, and all other sums which may be judged necessary for the completion and prosecution of the same.

† Their powers and duties.

Managers in Isle of Wight Nansemond, and Northumberland.

And be it farther enacted, That Henry Pitt and Samuel Hunt, gentlemen, be, and they are hereby appointed, managers of the salt works now complete in the counties of Isle of Wight and Nansemond, and Thomas Edwards, gentleman, manager of that in the county of Northumberland; and the said managers shall have the same power, and be subject to the same rules and regu-

lations, as is herein before prescribed for the managers of the other works not complete.

And whereas it is found, from experience, that the salt works erected in York county will not answer the design intended, by reason of the sandy foundation: *Be it therefore enacted*, That the said works be no farther prosecuted for the purpose of evaporation, but that pans for the boiling of salt at the said works be procured; and that William Hewitt, gentleman, be appointed to superintend the same, who shall have the same power, with respect to hiring of labourers, and procuring other necessaries for this purpose, and be subject to the same rules and regulations, as the other managers.

Manager in York.

And be it farther enacted, That the salt made at the aforesaid works shall by the managers be removed to, and stored in, some place of safety, to be disposed of amongst the inhabitants, or otherwise, as the general assembly, at their next meeting, may direct, at which time the said managers shall make a report of the quantity of salt made at each respective salt work. And each of the managers shall be allowed a clerk, with a salary of thirty pounds a year, and shall receive, as a full compensation for his own personal services, two shillings per bushel for all salt he shall make; and they shall, moreover, each of them, give bond to the governour for the due application of all monies advanced them respectively, and for the performance of the trust reposed in them.

Salt to be removed to place of safety.

Compensation of managers.

And whereas it may contribute greatly towards procuring a speedy supply of so necessary an article to allow a bounty to private adventurers: *Be it farther enacted*, That there shall be allowed, and paid by the treasurer, a bounty upon the several quantities of salt herein after mentioned to each person producing a certificate of his having made the same, within twelve months after the passing of this act (except Mr. James Tait, who hath already received sufficient encouragement) that is to say: For fifty bushels the sum of fifty shillings, for one hundred bushels the sum of seven pounds ten shillings, for two hundred bushels the sum of twenty pounds, and for five hundred bushels the sum of sixty two pounds ten shillings, provided such private adventurer shall be obliged to sell such salt to the governour and council, or, by retail, to the inhabitants of this commonwealth, at the rate of one peck for each member in any family, under the penalty of forfeiting

Premiums, to private adventurers for making salt.

Salt, how distributed and at what price sold.

the value of such salt, and the bounty received, to be recovered in any court of record, by action of debt, or upon the case, by any person who will sue for the same, with costs; the said certificates to be granted by the court of the county wherein such salt shall be made, on proof thereof appearing to them.

And be it farther enacted, That an ordinance intituled "An ordinance for erecting salt works in this colony, and for encouraging the making of salt," shall be, and the same is hereby repealed.

CHAP. XVI.

An act for farther suspending the payment of the salaries heretofore given to the Clergy of the Church of England.

Salaries of ministers of church of England, further suspended.

BE it enacted by the General Assembly, That so much of an act of assembly, made in the year one thousand seven hundred and forty eight, intituled "An act for the support of the clergy, and for the regular collecting and paying the parish levies," or any other act or acts providing salaries for the ministers, and authorising the vestries to levy the same, except in the cases directed by one other act, passed in the year one thousand seven hundred and seventy six, intituled "An act for exempting the different societies of dissenters from contributing to the support and maintenance of the church as by law established, and its ministers, and for other purposes therein mentioned," shall be, and the same is hereby suspended until the end of the next session of assembly.

CHAP. XVII.

An act for regulating and disciplin-
ing the militia of the city of Wil-
liamsburg and borough of Norfolk.

[Chan. Rev
P 56]

I. FOR forming the citizens of Williamsburg, bo-
 rough of Norfolk, and the professors and students of
 William and Mary college, into a militia, and better
 disciplining them: *Be it enacted by the General Assem-*
bly, That all male persons between the ages of sixteen
 and fifty years, within the limits of the said city or bo-
 rough^t except the persons exempted by an act passed
 this present general assembly, intituled “An act for re-
 gulating and disciplining the militia,” and such of the
 professors and students of William and Mary college
 as would otherwise be part of the militia of James City
 county, in which the college is situate, shall, by the
 commanding officers of the said city and borough, be
 enrolled and formed into companies of not less than
 thirty two nor more than sixty eight, rank and file;
 and each company shall be commanded by a captain,
 two lieutenants, and an ensign, and the whole by a co-
 lonel and major, who shall reside within the said city,
 or shall be a freeholder of the said borough, and be-
 fore they enter upon the execution of their office shall
 take the following oath: “I do swear, that
 I will be faithful and true to the commonwealth of Vir-
 ginia, of which I profess myself to be a citizen, and
 that I will faithfully and justly execute the office of
 in the militia of according to
 the best of my skill and judgment. So help me God.”

Militia of
Williams-
burg & Nor-
folk, and
professors &
students of
William and
Mary col-
lege, how
organized.

Officers.

Their oath.

II. And the militia of the said city and borough,
 with the professors and students of the said college,
 shall be mustered, trained, and employed, at the same
 times, and in the same manner, and the officers and
 privates thereof respectively shall be armed with the
 same weapons, and be subject to the same orders, re-
 gulations, and penalties, as the militia of a county, and
 the officers and privates thereof are, and ought to be,
 by the before mentioned act, and by another act also,
 passed this present general assembly, intituled “An
 act for providing against invasions and insurrections.”

Subject to
the general
militia laws.

And all former acts and ordinances relating to the militia of the said city and borough are declared to be repealed.

CHAP. XVIII.

An act for the more regular laying off the borough of Norfolk.

Preamble.

WHEREAS the irregular manner in which the borough of Norfolk was laid off rendered the streets and lots inconvenient, and prejudicial to the health of the inhabitants, and the buildings therein having lately been totally destroyed, it is now practicable to lay out the same in a more regular and commodious manner.

Commissioners for laying off Norfolk, more regularly.

Be it therefore enacted by the General Assembly, That Richard Kello, Edwin Gray, Joseph Prentis, Robert Andrews, and Daniel Fisher, gentlemen, shall be, and they are hereby appointed, commissioners for the more regular laying out the said borough, who shall, before they enter on the execution of their office, take the following oath before the mayor, one of the aldermen of the said borough, or some justice of the peace for the county of Norfolk, that is to say: "I do swear, that I will, to the best of my skill and judgment, well and truly, without favour, affection, or partiality, discharge the duty of a commissioner for laying out the borough of Norfolk agreeable to an act of assembly intituled An act for the more regular laying off the borough of Norfolk. So help me God." And the said commissioners, or any three of them, shall and may proceed, with all convenient speed, to the execution of their said office, and employ a clerk, who shall be sworn by one of the commissioners, well and truly to demean himself as such, without favour, affection, or partiality, and shall be allowed such sum as the commissioners may think adequate to his services. And the said commissioners, together with the surveyors, chain-carriers, and other persons by them employed, shall have full power to enter on any of the lands in the said borough, and cause a survey thereof to be taken, as it is now laid

Their oath.

Their powers.

off, from which they shall form such plan as to them shall appear most proper, distinguishing therein the particular parcels and quantities of land which may be taken from any of the proprietors to enlarge the present, or to make new streets, and also distinguishing the lands which it shall be necessary to take from one proprietor and give to another.

And for ascertaining the value of the lands necessary to be taken for making new streets, and in order that a just assessment may be made, the said commissioners shall issue their order to the sheriff of the county of Norfolk to summon an impartial jury of freeholders of his county, who shall obey the same, and attend at the meeting of the said commissioners on the day in the said order mentioned. And the jury so summoned, being first sworn by any one of the said commissioners, shall value the said lands, publick and private, within the said borough, and after such valuation return the same to the commissioners aforesaid, who shall cause such inquisition and valuation to be entered amongst their proceedings. And for defraying the expenses incurred, the said commissioners are hereby empowered to assess every lot or parcel of land in the said borough in proportion to the value thereof, which assessment shall be paid by the respective proprietors to such person as shall be appointed by the said commissioners to collect the same, who shall give bond and security, payable to the mayor, or his successours, for the use of the said borough, faithfully to perform his duty.

That each commissioner shall be allowed twenty five shillings per day during his attendance, and sixpence per mile in travelling to and from the said borough, besides his ferriages. And the said commissioners shall settle the allowance to be made to the person employed to survey and plan the town, not exceeding twenty five shillings per day, and to the chain carriers not exceeding five shillings per day each. And the said sheriff shall be allowed twenty shillings per day for each day he shall attend; and each juryman shall be paid six shillings per day for his attendance. Which several allowances shall be by the said mayor, or his successour, paid out of the monies so assessed and collected. And the said commissioners shall return an account of their proceedings to the next general assembly, and state therein in what manner compensation ought to be made

Value of lands, taken for streets, how ascertained.

Expenses, reimbursed.

Compensation to commissioners, & others.

Proceedings to be reported to general assembly.

to such persons as may become sufferers by laying out the town in the manner by them proposed.

Assessment
on proprie-
tors, how
collected.

That if any of the said proprietors shall delay or refuse to make payment to such collector of the assessment with which his land shall be made chargeable, after the same shall be demanded, such collector shall cause the same to be levied by distress and sale of the delinquent's effects. And if such collector shall fail or delay to account for and pay to the said mayor, or his successour, within six months after he shall be appointed, all such sums of money as shall be by him received, after deducting at the rate of five per centum, which he shall be allowed for his trouble, on motion made to any court of record by the said mayor or commissioners, such court shall give judgment, and award execution for the same, against such collector and his securities, their executors or administrators; provided such collector, or his securities, their executors or administrators, shall have ten days previous notice of such motion.

Penalty on
failing to ac-
count and
pay.

Vacancies, in
commission-
ers, how sup-
plied.

That in case of the death, or other disability of one or more of the said commissioners, the governour, with the advice of the council, is hereby empowered and desired to nominate and appoint as many commissioners as from time to time shall be under the number of five; which said commissioners, so nominated and appointed, shall be vested with equal powers as those appointed by this act.

CHAP. XIX.

An act to confirm the Kentucky elec- tion.

Election of
delegates, of
Kentucky
county con-
firmed, tho'
irregular.

WHEREAS it appears to this present general assembly, that the commission appointing a sheriff for the county of Kentucky, after the same was taken off the county of Fincastle, did not arrive in time, so as to authorise his holding an election of delegates on the day appointed by law, but that the said sheriff, after the commission did come to hand, appointed and advertised another day for that purpose, on which most of the

landholders in the county attended and voted, and that at the conclusion of the poll, after a fair and open election, a majority of voters were found to be in favour of John Todd and Richard Callaway, esquires, the present sitting members; and it appears that a representation, from their peculiar circumstances, is highly interesting to the inhabitants of the said county of Kentucky, at this critical period, an advantage which, from their remote situation, they cannot enjoy, during this session of assembly, if the said election should be declared void:

For remedy whereof, *Be it enacted*, That the said John Todd and Richard Callaway, esquires, shall be deemed and taken to be the proper and legal representatives of the people of Kentucky, in as full and ample a manner as if the election has been held on the day appointed by law; but let it be understood, that this act shall not be drawn into precedent, except in cases of absolute necessity, and to save the right of representation, where remoteness of situation, and other circumstances, shall be precisely similar to the present case.

This act not to be drawn into precedent.

CHAP. XX.

An act for dissolving the vestries of several parishes.

WHEREAS it hath been represented to this present general assembly, that the vestry of the parish of Newport, in the county of Isle of Wight, were not elected by the freeholders and housekeepers thereof, and that a majority of the vestry of the parish of Christ Church, in the county of Middlesex, have refused to qualify themselves according to law, and that there are such divisions among the vestry of the parish of Stratton Major, in the county of King and Queen, that the affairs of the said parish have been for some time neglected: *Be it therefore enacted by the General Assembly*, That the vestries of the said parishes shall be, and the same are hereby respectively dissolved.

Vestries of parishes of Newport, in Isle of Wight of Christ Church, in Middlesex, and of Stratton Major, in King and Queen dissolved.

And be it farther enacted, That the freeholders and housekeepers of the said parishes respectively shall meet at some convenient time and place, to be appointed and publickly advertised by the sheriffs of the said counties of Isle of Wight, Middlesex, and King and Queen, at least one month before the fifteenth day of July next, and then and there elect twelve of the most able and discreet persons, being freeholders, and resident in their respective parishes, for vestrymen, in every of the said parishes; who, being so elected, and having, in the courts of their said counties respectively, taken and subscribed the oaths required by law, shall, to all intents and purposes, be deemed and taken to be vestries of their respective parishes.

And whereas the levies of the said parish of Stratton Major, for some time last past, have not been laid by the vestry thereof, whereby the creditors of the said parish remain unpaid: *Be it therefore enacted,* That the vestry of the said parish, to be elected by virtue of this act, shall levy and assess upon the tithable persons of the said parish all such sums of money, and quantities of tobacco, as ought to have been levied and assessed by the said vestry.

Provided, That, notwithstanding any thing in this act contained, any suit or suits brought by or against the vestry or churchwardens of either of the said parishes, and now depending, may be prosecuted in the same manner as if this act had never been made.

CHAP. XXI.

An act to empower the vestry of the parish of Botetourt to dispose of their glebe, for dissolving the said vestry, and for other purposes therein mentioned.

Vestry of
Botetourt
parish, in
county of

WHEREAS it hath been represented to this present general assembly, that by the resignation and removal of sundry members of the vestry of Botetourt parish, in

the county of Botetourt, that they have not a sufficient number of members to hold a vestry, by which means the business of the said parish hath been for a considerable time unsettled: *Be it therefore enacted by the General Assembly,* That from and after the passing of this act the vestry of the parish of Botetourt is hereby dissolved; and the sheriff of the county of Botetourt is hereby required to summon the freeholders of the aforesaid parish, and others entitled to vote, to meet at the courthouse of the said county on the twelfth day of August next, then and there to choose twelve of the most able and discreet persons as a vestry for said parish. The vestry so chosen, after taking an oath of fidelity to this commonwealth, shall proceed to regulate and settle the business of said parish, and shall have full power and authority to levy all salaries or arrears of salaries, due to the incumbent of the said parish before the first day of January last; also to assess and levy a sum sufficient to enable them to comply with their parochial engagements before that date, and to demand and recover of any collector, or collectors, all arrears of money or tobacco due to the said parish, and put into their hands to collect; and shall also have full power and authority to levy on, and collect of, the inhabitants of the parishes of Montgomery and Washington, all arrears of salaries, or other parish demands, due from them before the parish of Botetourt was divided. And they are hereby required to liquidate and adjust any demands the parishes of Montgomery and of Washington may have against the said parish of Botetourt for money paid by them towards the purchase of land for a glebe, or building a church in the said parish, before the division took place.

Botetourt,
dissolved, &
a new vestry
to be elect-
ed.

Their pow-
ers.

And whereas it is also represented by the vestry of the said parish, that they formerly purchased a tract of land for the purpose of a glebe, but before they had proceeded to erect the necessary buildings thereon another tract was offered them by Mr. Thomas Madison, much more convenient, and with all improvements necessary, that they therefore agreed to purchase the said land, and had also bargained for the disposal of the first mentioned tract; and whereas the said vestry, not being legally empowered to execute conveyances to the purchaser thereof, have petitioned this present general assembly that an act may pass to enable them to execute their said agreements, and make the proper convey-

Authorised
to sell their
glebe and
purchase
another.

ance: *Be it therefore farther enacted*, That the present members of the vestry of said parish be, and they are hereby empowered to convey the said first mentioned tract of land to the purchaser thereof in fee simple.

And be it farther enacted, by the authority aforesaid, That the money arising by the sale thereof be applied towards paying for the land purchased of Mr. Thomas Madison, which shall be appropriated as a glebe for the use and benefit of the minister of the said parish for the time being, for ever.

CHAP. XXII.

An act for confirming a codicil annexed to the last will and testament of John Barr, deceased, respecting certain slaves.

Emancipation of certain slaves, by a codicil to the will of John Barr, deceased, confirmed.

WHEREAS a certain John Barr, late of Northumberland county, being possessed of a negro woman named Rachel and her child also named Rachel, in his own right, was desirous to manumit them, but the consent of the governour and council could not be procured, as required by the laws then and still in force, occasioned by lord Dunmore (the then governour) withdrawing from his government; and the said Barr, to carry his intention into execution, as far as was then in his power, made his last will and testament in writing, duly published, and in a codicil annexed to, and part of that will, ordered and devised as followeth: "I claim no right, title, or interest, of, in, or to my negro woman Rachel and her child Rachel, and hereby order that the same shall in no wise for ever hereafter be considered as part of my estate; and I do hereby give and bequeath unto my brother Zachariah twenty five acres of my land joining Jameson's, Palmer's, and Hurst's lands, with as much of my estate as will build a house thereon, in trust, to and for the benefit, sole use, and profit, of the said negro woman Rachel and her child Rachael, and their heirs and assigns for ever." And the said John Barr, soon af-

terwards departed this life, and his will, with the codicil aforesaid, was duly proved at Northumberland county court, and disputes have arisen touching the validity of the said will:

For remedy herein, and for securing to the said negro woman and her child their freedom, and the benefit of the said devise, *Be it enacted by the General Assembly*, That the said negro woman Rachel, and her child named Rachel, shall, and are hereby declared to be free, and may enjoy all such rights, privileges, and immunities, as free negroes or mulattoes by the laws of this country do enjoy; and, moreover, shall, and are hereby declared to be capable of taking, holding, and disposing of all such estate as the said John Barr, by the will and codicil aforesaid, hath devised or bequeathed to them, or for their use.

Saving to all and every other person, his or their heirs, executors, and administrators (except the vestrymen or churchwardens of the parish of Wicomico, in the county of Northumberland, and those claiming under the said John Barr) any right, title, or claim, they may have to the said negroes, as if this act had never been made. And it is declared, that this act shall not be drawn into precedent, except in cases where the circumstances may be precisely similar to those of the present case.

This act not to be drawn into precedent.

CHAP. XXIII.

An act to permit the trustees of the academy of Hampden Sidney, in the county of Prince Edward, to raise a sum of money by lottery, for certain purposes.

WHEREAS it is represented to this present general assembly, that from the voluntary contributions of a number of gentlemen, an academy hath been erected in the county of Prince Edward, called and known by the name of Hampden Sidney; that from the prudence,

Trustees of Hampden Sidney academy, authorised to raise a sum of money by lottery.

close attention, and faithful management of the teachers and professors of the said academy, it hath gained great reputation, and promises to be of publick utility but it is found, from experience, that the buildings erected from private donations are insufficient for the reception and entertainment of so great a number of students as are already engaged, and are daily applying to be admitted; and the trustees having made application to this assembly for permission to raise a sum of money by a scheme of lottery, to enable them to erect additional buildings proper for their reception:

Be it therefore enacted, That it shall and may be lawful for the trustees and directors of the said academy to raise by way of lottery, in such manner, and under such regulations, as to them may appear most conducive to that purpose, any sum or sums of money as to them shall appear to be necessary for completing and carrying into execution that laudable and necessary undertaking, any law to the contrary notwithstanding.

CHAP. XXIV.

An act for dividing the county of Cumberland.

Cumberland county divided & Powhatan formed. WHEREAS many inconveniencies attend the inhabitants of the county of Cumberland, by reason of the great extent thereof, and the said inhabitants have petitioned this assembly that the said county may be divided:

Boundaries. *Be it therefore enacted by the General Assembly of the commonwealth of Virginia,* That from and after the first day of July next the said county of Cumberland be divided into two distinct counties, by the line which divides the parishes of Littleton and Southam, and that all that part of the said county which lies in the parish of Littleton shall be one distinct county, and retain the name of Cumberland, and that all the other part thereof which lies below the said line, including the whole

parish of Southam and part of the parish of King William, be called and known by the name of Powhatan.

And be it farther enacted, by the authority aforesaid, Court days. That from and after the said first day of July a court for the said county of Powhatan be constantly held by the justices thereof upon the third Thursday in every month, in such manner as is by law provided, and shall be by their commissions directed.

And be it farther enacted, That the justices to be named in the commission of the peace for the said county of Powhatan shall meet on the third Thursday in July next, at such places as shall be appointed by the person commissioned to be sheriff of the said county, of which notice shall be given by the sheriff to each justice so named; and the said justices, or the major part of them being present, having taken the oath required by law, may administer the oath of office to the sheriff to be appointed for the said county, and take his bond according to law, and may likewise proceed to appoint and qualify a clerk of the county, and to fix on a place for holding courts in the said county, at or as near the centre thereof as convenience will admit, at which place they shall cause a parcel of ground to be laid off for a town, to be called Scottville, thirteen hundred feet in length, and nine hundred in width, in which shall be six squares of land, three hundred feet square, each separated from each other by streets, one hundred feet wide, and all of them surrounded by a street of the same width. That reasonable satisfaction may be paid for each parcel of land, the clerk of the county shall, by order of the said justices, issue a writ directed to the sheriff of the said county, commanding him to summon and empanel twelve able and discreet freeholders, no ways concerned in interest in the said lands, nor any ways related to the owners or proprietors thereof, to meet on the said land on a certain day to be named in the said writ, not under five nor more than ten days from the date thereof, who shall be sworn by the said sheriff, and shall upon their oaths value and appraise the said parcel of land in so many several and distinct parts as shall be owned by several and distinct owners, and according to their respective interests and estates therein, which valuation the said sheriff shall return under the hands and seals of the jurors to the clerk's office of the said county; and the justices, at the laying their first county levy, shall make provision for paying

Town of
Scottville
established
at Powhatan
courthouse.

Lots, how
disposed of.

to the several proprietors the sum at which their respective rights were valued. The property of the said lands shall, on the return of the valuation, become vested in the justices and their successors, one square thereof for the use of publick buildings for the county, and the other squares to be by them sold and conveyed to any persons for the purpose of reimbursing the county the costs of the land, of paying for publick buildings, and of lessening their county levy by the poll; the streets to remain for the common use and wayfare of all passengers; the said justices shall immediately, on the return of the said valuation, proceed to erect a courthouse, prison, pillory, and stocks, on the said square reserved for that purpose, and in the meantime shall hold their sessions at such place as they shall from time to time adjourn to.

Town of Effingham, at
Cumberland
courthouse,
established.

And be it farther enacted, That the justices of the said county of Cumberland shall meet on the fourth Monday in July next, at such place as shall be appointed by the sheriff thereof, of which notice shall be given by the sheriff to each justice; and the court, at their first meeting, may appoint the same, or any other place, for holding courts, and also provide for building a courthouse, prison, pillory, and stocks, on some place at or as near the centre of the said county as convenience will admit, at which place they shall cause a parcel of ground to be laid off for a town, to be called Effingham, in like manner, and of the same dimensions, and to be valued, paid for, disposed of, and appropriated, as by this act is directed for the county of Powhatan; and after the buildings shall be completed, the court shall thenceforth be held at such place.

Provided always, That nothing herein contained shall be construed to hinder the sheriff of the said county of Cumberland, as the same now stands entire and undivided, from collecting and making distress for all publick dues or officers fees which shall remain unpaid by the inhabitants of the county of Powhatan at the time of its taking place; and the said sheriff shall be answerable for them, in like manner, as if this act had never been made.

And be it farther enacted, That the court of the said county of Cumberland shall have jurisdiction of all actions and suits which shall be depending before them at the time the said division shall take place, and may issue process, and award execution therein, in like

manner as if this act had never been made; and in all elections of senators to serve in general assembly, the county of Powhatan shall be of the same district with the county of Cumberland.

And be it farther enacted, That the governour, or in his absence the presiding member of the council, shall have power to appoint a person in the said county of Powhatan to be the first sheriff, who shall continue in office as by law directed for other sheriffs.

CHAP. XXV.

An act for dividing the county of Albemarle and parish of Saint Anne.

FOR dividing the county of Albemarle, *Be it enacted by the General Assembly,* That after the first day of July next the said county of Albemarle shall be two distinct counties, divided by a line beginning at the most western point in the line of Louisa county, and running thence directly to the lower edge of Stott's ferry, on the Fluvanna river, and all that part which lies south eastward of the said line, together with the islands in the Fluvanna river adjacent thereto, shall be called by the name of Fluvanna county, and all the residue of the said county shall retain the name of Albemarle. The said line shall be run by the surveyor of the said county of Albemarle, at the equal expense of the two counties, to be levied by their respective courts. For the administration of justice in Fluvanna county, after the commencement thereof, a court shall be held therein on the first Thursday in every month. The justices to be named in the commission of the peace for the said county of Fluvanna shall meet on the first Thursday in August next, at the house of Thomas Napier, esq. and having themselves taken the oaths required by law to be administered to the presiding justice by any two other members, and then by him to the other justices, may administer the oath of office to the sheriff to be appointed for the said county, and take his bond according to law, and may likewise proceed to

Albemarle county divided, and Fluvanna formed.

Boundaries.

Court days

appoint and qualify a clerk of the peace, and to fix on a place for holding courts in the said county, at or as near the centre thereof as convenience will admit, and shall thenceforth proceed to erect the necessary publick buildings at the said place, and shall also appoint such places as they shall think fit for holding courts in the mean time, until such buildings be completed.

Provided, That the appointment of a clerk of the peace, and of a place for holding courts, shall not be made unless a majority of the justices be present, if such majority shall have been prevented from attending by bad weather, or accidental rise of water courses; but, in such case, the appointments shall be postponed until the next court day, and so from court day to court day, as often as such accidents shall happen. The sheriff or collector of the said county of Albemarle shall nevertheless have power to collect and distrain for any publick dues or fees which shall remain unpaid by the inhabitants of Fluvanna county at the time of its taking place, and shall be answerable for the same in like manner as if the said county of Albemarle had remained entire. The court of the said county of Albemarle shall have jurisdiction of all actions and suits which shall be depending before them at the time the said division shall take place, and may issue process and award execution therein, in like manner as if the said county had remained entire. The governour, or in his absence the presiding member of the council, shall have power to appoint a person in the said county of Fluvanna to be the first sheriff, who shall continue in office as by law directed for other sheriffs. In all elections of senators to serve in general assembly, the said county of Fluvanna shall be of the same district of which the county of Albemarle now is. All that part of the parishes of Saint Anne and Fredericksville, which shall be within the said county of Fluvanna, shall, from the said first day of July, be one distinct parish, to be called by the name of Fluvanna parish; and the freeholders and housekeepers thereof shall meet at some convenient time and place, to be appointed and publickly advertised by the sheriff, so that the said time be before the first day of September next, and then and there elect twelve able and discreet persons, who, on qualifying themselves according to law, shall be a vestry for the said parish. The collectors of the parish of Saint Anne and Fredericksville, respectively, shall have power to

Fluvanna parish formed of those parts of St. Anne & Fredericksville, lying within the county of Fluvanna.

collect and distrain for any dues which shall remain unpaid by the inhabitants of Fluvanna parish at the time of its taking place, and shall be answerable for the same in like manner as if this act had never been made.

CHAP. XXVI.

An act for dividing part of the county of Charlotte, and parish of Cornwall, to the county of Lunenburg, and parish of Cumberland.*

WHEREAS part of the parish of Cornwall, and county of Charlotte, is very inconvenient for the inhabitants thereof, and would be more convenient to the parish of Cumberland and county of Lunenburg:

Be it therefore enacted, That the surveyor of the said county of Lunenburg shall, on or before the first day of October next, run a line, to begin where Mecklenburg and Lunenburg strike Charlotte county line, directly to the place called Wimbush's ordinary; and that all that part of the said parish of Cornwall, and county of Charlotte, which shall lie on the east side of the said line, shall from thenceforth be added to the parish of Cumberland and county of Lunenburg.

Provided always, That nothing herein contained shall be construed to hinder the sheriff or collector of the said parish of Cornwall, and county of Charlotte, from collecting and making distress for any levies which may be due and unpaid by the inhabitants thereof; but such sheriff or collector may collect and distrain for the same, and be answerable for them in like manner, as if this act had never been made.

* So in original; but it should be "adding."

CHAP. XXVII.

An act for appointing commissioners to inquire into and ascertain the losses sustained by the late inhabitants of the borough of Norfolk.

Preamble.

WHEREAS many of the late inhabitants of the borough of Norfolk, who are well affected and friendly to America, have sustained great losses by the destruction of their houses and other property, and it is judged right and just that such of them as suffered for the good of the common cause should receive an adequate satisfaction of the publick:

Commissioners appointed to ascertain the losses, by the burning of Norfolk, in January 1776.

In order, therefore, to administer to them the most speedy and ample justice which the nature of their cases may require, and the circumstances of the country will admit, *Be it enacted by the General Assembly, and it is hereby enacted by the authority of the same, That* Richard Kello, Edwin Gray, Joseph Prentis, Daniel Fisher, Robert Andrews, Carter Braxton, and Cuthbert Bullitt, gentlemen, be, and they are hereby appointed commissioners to inquire into the several claims of the said late inhabitants; and the said commissioners, or any four of them, having first taken an oath before a magistrate well and faithfully to discharge the trust reposed in them by this act, to the best of their judgments, are hereby empowered and required, so soon as they conveniently can, to ascertain the number and estimate the value of the houses and goods which were destroyed in the borough of Norfolk, and its suburbs, in the month of January 1776, distinguishing between such as were destroyed whether by the enemy or others before, and such as were destroyed after the fifteenth of that month, distinguishing also between such proprietors or owners thereof as were friends and such as were enemies to America. And the better to enable them to do this, the said commissioners, or any four of them, are hereby authorised to send for any papers or records, and to summon before them any disinterested witnesses they may think necessary for their information. Every witness so summoned, and attending the said commissioners, shall receive the same allowance for his attendance as is settled by law for a witness at-

To distinguish between property destroyed by the enemy, or others; and between proprietors who were friendly, or enemies to America.

tending a county court; to be paid by the treasurer on a certificate of the commissioners, or any three of them, out of the publick money in his hands. And every witness failing to attend upon such summon shall for such failure be subject to the same penalty as a witness failing to attend a county court is liable to by law, to be recovered in the court of the county where such witness resides on the motion and in the name of the commissioner first named, for the use of this commonwealth; provided, that the witness have ten days previous notice of such motion, and shall not be able to assign a reasonable excuse for such failure, to be judged of by the said court, and shall also be liable to the action of the party at whose instance such witness was summoned. And if any person whatsoever summoned as a witness, upon his or her appearance before the commissioners, shall refuse to give evidence or oath, or, being restrained by religious principles from taking an oath, solemnly to affirm and declare, to the best of his or her knowledge, every person so refusing shall be committed by the said commissioners to the common jail of the county where the commissioners shall be convened, there to remain without bail or mainprize until he or she will give such evidence; and in case any person, upon such examination, shall wilfully give false testimony, or if any person do unlawfully and corruptly procure or suborn any person, having taken an oath before the commissioners, to give false testimony, he and they, for every such offence, shall suffer as in case of wilful and corrupt perjury.

Their powers, in collecting evidence.

And be it farther enacted, That the commissioner first named who may be present shall have power to administer proper oaths to any witness; and the said commissioners, or any four of them, shall take the depositions in writing of all witnesses by them examined, and certify the same, together with all other matters appearing to them material, which may occur in the course of their inquiries, to the next session of the general assembly. And the commissioners are hereby authorised to employ a clerk, who shall be sworn by one of them well and truly to discharge the said office, without favour, affection, or partiality. That each commissioner shall be allowed twenty five shillings per day during his attendance, and six pence per mile in travelling to and from the said borough, besides his ferriages, and

To take depositions, & to report to next assembly.

Their compensation.

the said clerk shall be allowed such sum as the commissioners may think adequate to his services, which said several allowances shall be paid by the treasurer out of the publick money in his hands.

CHAP. XXVIII.

An act for altering the bounds of the counties of Montgomery and Washington.

Boundaries
between
counties of
Montgome-
ry & Wash-
ington alter-
ed.

WHEREAS it is represented to this general assembly, that the dividing line between the counties of Montgomery and Washington is inconvenient to many of the inhabitants, and they have petitioned that a more convenient boundary may be laid off between them, *Be it enacted*, That from and after the first day of September next the dividing lines between the said counties of Montgomery and Washington shall be altered and bounded in the following manner: For the county of Montgomery, the bounds shall be as follows, beginning at a ford on Holstein river, next above captain John Campbell's, at the Royal Oak, and running from thence a due south course to the dividing line between the states of Virginia and North Carolina, and from the ford aforesaid to the westerly end of Morris's Knob, about three miles above the Maiden Spring on Clinch, and from thence by a line to be drawn due north until it shall intersect the waters of the great Sandy river, and from thence down the said Sandy river to the Ohio, thence up the Ohio to the line dividing this from Botetourt county, and thence along the lines of Botetourt, and Henry counties, and the Carolina line, to the beginning. And the lands lying westerly of the county of Montgomery, thus bounded, to the county of Kentucky, shall be the county of Washington.

Provided, That nothing herein contained shall be construed to hinder the sheriffs or collectors of the said counties of Montgomery or Washington, as the same now stand, from collecting or making distress for any publick dues and officers fees which shall remain unpaid

by the inhabitants of the said counties at the time the said alteration shall take place; but such sheriffs and collectors shall have the same power to collect and distrain for the said dues and fees, and shall be answerable for them in the same manner, as if this act had never been made.

And be it farther enacted, That the courts of the said counties of Montgomery and Washington, respectively, shall have jurisdiction over all actions or suits, both in law and equity, which shall be depending before them at the time the said alteration shall take place, and may try and determine all such actions and suits, and issue process and award execution thereupon, in the same manner as if this act had never been made.

CHAP. XXIX.

An act to amend an act intituled An act for reviving several publick warehouses for the reception of tobacco, and other purposes.

WHEREAS an act of general assembly, intituled "An act for reviving several publick warehouses for the reception of tobacco, and other purposes," is found from experience not to answer the end intended thereby: For remedy whereof, *Be it enacted by the General Assembly,* That all inspectors shall, at the court held for their county in the month of September annually, or if there be no court in that month, then at the next court held for their county, lay before the court an account, upon oath, of the transfer receipts by them not taken in and received, and after such account exhibited, and oath made, shall sell the tobacco in such receipts contained, deducting the allowance for shrinkage and waste, at publick auction, at the door of the courthouse, between the hours of twelve and two; and the inspectors shall, from time to time, pay the money arising from such sale, in satisfaction for their receipts, to the proprietors thereof. And all inspectors shall keep a just and true account of the to-

Transfer tobacco, when to be accounted for, and how sold.

Inspectors to account for tobacco saved.

bacco gained or saved upon the allowance made for cask or shrinkage of transfer tobacco, or otherways, and if any tobacco shall be so gained or saved, shall exhibit an account thereof, upon oath, in the same manner as is before directed concerning transfer tobacco not received, and shall also sell the tobacco so gained and saved, in the same manner as is directed for the sale of transfer tobacco, and shall settle the accounts for the money arising by such sale with the court, and pay the amount into the treasury of this commonwealth; and the treasurer for the time being shall account for the same to the general assembly; and no inspector shall convert any tobacco so gained or saved to his own use.

Currency of
certain
notes.

And be it further enacted, That the notes of Fredericksburg and Royston's shall pass in the payment of levies, officers fees, and other tobacco debts, in the county of Culpeper, and the notes of Shockoe's, Byrd's, and Cabin Point, in the county of Dinwiddie.

Landing at
Bray's re-
moved.

And whereas it is represented, that the landing of the warehouses at Bray's, in the town of Leeds, is very inconvenient to the publick, *Be it therefore enacted,* That Thomas Jett, gentleman, proprietor of the said warehouses, shall remove the same to the most convenient place on his lands adjoining to the said town. And that publick warehouses for the receipt and inspection of such tobacco as shall be carried to the same shall be established at the Brick House and Waddy's, in the county of New Kent, and at Bowler's, in the county of Essex, under the same inspection with Piscataway, with an additional salary of five pounds to each of the inspectors; and that the warehouses on Wicomico river, now under one inspection, shall be under two, distinguished by the north and south; and the inspectors at the Brick House shall each receive the salary of thirty pounds, at Waddy's the salary of thirty pounds, at north Wicomico the salary of twenty two pounds, and at south Wicomico the salary of eighteen pounds, to be paid out of the profits arising from their respective warehouses. And there shall be allowed to each of the inspectors at Cedar Point the additional sum of ten pounds per annum but should so much not remain after paying the rents of the warehouses, and other necessary disbursements, then the said inspectors shall receive for their salaries only what shall so remain at their respective inspections.

Other ware-
houses esta-
blished.

And be it farther enacted, That should any tobacco be suffered to remain in any warehouse more than twelve months after the same is inspected, the proprietor of such warehouse shall receive from the exporter of such tobacco an additional rent, at the rate of ten pence per annum for each hogshead, to be paid to the inspectors before such tobacco is delivered.

Additional rent for tobacco remaining over 12 months.

And be it farther enacted, That if any tobacco shall be stolen out of any warehouse without the default of the inspectors, the loss shall be sustained by the owner or owners thereof.

Tobacco stolen without default of inspectors, owners to bear the loss.

And if any tobacco shall be found on board any vessel in bulk or parcels, such tobacco shall not only be forfeited, and may be seized by any person or persons whatsoever, but the master or skipper offending herein shall forfeit and pay five pounds for every hundred weight of such tobacco, and so proportionably for a greater or lesser quantity, to be recovered before two justices of the peace where the penalty shall not exceed five pounds, and where it shall exceed that sum, the same shall be recovered, with costs, by action of debt, in any court of record, by the party searching for and finding such tobacco.

Penalty on masters of vessels, on board of which tobacco is found in parcels.

Provided nevertheless, That no person shall incur the penalty of this act by removing tobacco in bulk or parcels as aforesaid from one plantation to another, or to some publick warehouse for inspection.

Previso.

And be it farther enacted, That the three shillings heretofore payable upon the delivery of each note shall in future be demandable at the time of inspecting and passing the said tobacco, and that so much of the said recited act as is within the purview of this act be and is hereby repealed; and all other parts of the said recited acts, together with this act, shall be and remain in force until the first day of October one thousand seven hundred and seventy eight.

Inspection fee, to be paid at passing tobacco.

CHAP. XXX

[Chan. Rev. p. 57.] *An act to establish several new ferries, and for discontinuing others.*

New ferries established.

I. WHEREAS it is represented to this present general assembly, that publick ferries at the places hereafter mentioned will be of great advantage to travellers, and others: *Be it therefore enacted by the General Assembly,* That publick ferries be constantly kept at the following places, and the rates for passing the same shall be as follows, that is to say: From the land of William Howard, in the county of Amherst, over Rockfish river, at or near the mouth thereof, to the land of the said William Howard on the opposite shore, in the county of Albemarle, the price for a man two pence, and for a horse the same; from the lands of the said William Howard, on each side of Rockfish river, in the said counties of Amherst and Albemarle, across the Fluvanna river, to the lands of Thomas Anderson, in the county of Buckingham, and from the said Anderson's to the said Howard's as aforesaid, the price for a man three pence, and for a horse the same; from the lands of John Dix, in the county of Pittsylvania, across Dan river, to his land on the opposite shore, the price for a man three pence, and for a horse the same; and from the land of George Watkins, in the county of Halifax, on the north side of Banister river, to the land of John Murphy, on the opposite shore, the price for a man two pence, and for a horse the same; and for the transportation of wheel carriages, tobacco, cattle, and other beasts, at any of the places aforesaid, the ferry keeper may demand and take the following rates, that is to say: For every coach, chariot, or waggon, and the driver thereof, the same as for six horses; for every cart or four wheel chaise, and the driver thereof, the same as for four horses; for every two wheel chaise or chair, the same as for two horses; and for every hogshead of tobacco, as for one horse; for every head of neat cattle, as for one horse; for every sheep, goat or lamb, one fifth part of the ferriage for one horse; and for every hog, one fourth part of the ferriage for one horse, according to the prices herein before settled at such ferries respectively, and no more. And if any ferry keeper

Rates.

shall presume to demand or receive, from any person or persons whatsoever, any greater rates than are hereby allowed for the carriage or ferriage of any thing whatsoever, he or they, for every such offence, shall forfeit and pay to the party grieved the ferriages demanded or received, and ten shillings, to be recovered with costs before any justice of the peace, of the county where such offence shall be committed.

Penalty for exceeding legal rates.

II. And whereas the public ferries from the land of Benjamin Howard, across Fluvanna river, to the land of Neil Campbell, in the county of Albemarle, and from the land of John Dix, across Dan river, to the land of Robert Payne, in the county of Pittsylvania, have been found inconvenient: *Be it therefore farther enacted,* That the said ferries shall henceforth be discontinued.

Ferries discontinued.



GENERAL ASSEMBLY.

BEGUN AND HELD

At the Capitol, in the City of Williamsburg, on Monday the twentieth day of October, in the year of our Lord one thousand seven hundred and seventy seven, and in the second year of the Commonwealth.

Patrick Henry, Esq. Governor.

CHAP. I*.

An Act for speedily recruiting the Virginia Regiments on the continental establishment, and for raising additional troops of Volunteers.

WHEREAS it is indispensably necessary that the regiments of infantry raised by the laws of this commonwealth, on continental establishment, be speedily recruited, and such alterations made therein as may assimilate them to the regiments raised by the other United American States for the continental army: *Be it therefore enacted by the General Assembly,* That fourteen of the said regiments be reduced to eight companies each, and be completed by recruits or draughts in manner herein after mentioned; that the officers of the reduced companies be provided for, by appointments, to fill up vacancies in the remaining companies, as they shall happen; and that the battalion on commonwealth establishment, under the command of colonel George Gibson, and now in continental service, be continued in the said service instead of the ninth Virginia regiment, made prisoners by the enemy in the battle of Germantown,

Organization of regiments altered, to assimilate them to continental establishment.

Col. George Gibson's battalion of state troops, continued in continental service, instead of 9th regiment captured at Germantown.

* In the original, none of the acts of this session are numbered by chapters, and only those establishing the High Court of Chancery, and General Court, are distinguished by sections. They are, in this edition, numbered by chapters, as in the Chancellors' Revisal; and such acts as are published in that collection are marked by sections, as in that edition.

until the officers and men of the said regiment shall be exchanged, or the time of service of the men in the said first battalion shall be expired.

Additional
bounty to
men who re-
enlist.

And it is farther enacted, That the officers of the said fourteen regiments, as well as those of the said ninth regiment, if they shall be exchanged, shall use their best endeavours to re-enlist all the men therein whose times of service are near expiring, to serve for three years, or during the present war; and each of the men so re-enlisting, as well as those who have already re-enlisted, shall be entitled to a bounty from this commonwealth of twenty dollars, over and above the continental bounty, and the governour and council are desired to take such measures as to them shall seem best for enabling the officers to pay such additional bounty out of the publick money in the hands of the treasurer of this commonwealth.

State troops
transferred
to continen-
tal establish-
ment.

And as our numbers in continental service, which, according to the proportions heretofore stated by congress, should be eight thousand one hundred and sixty men rank and file, may for some time be deficient: *Be it farther enacted,* That the troops raised for the service of this commonwealth, by an act of assembly passed in the year one thousand seven hundred and seventy six, and intituled "An act for making farther provision for the internal security and defence of this country," shall be forthwith regimented by the governour and council, who, for completing the work as speedily as possible, are hereby authorised to transfer the men enlisted by such officers as procure the smallest proportions of their quotas to such others as come nearest the raising their full quotas; and that a battalion of such troops, to consist of eight companies, if there be sufficient to make such a battalion, and if not, then so many as there are, be marched to join the grand army, there to continue till a sufficient number of recruits may be raised to make good our just proportion, or until the terms of their enlistments shall expire. And the officers and soldiers of the said troops, and the officers and soldiers of the said battalion, under the command of colonel George Gibson, shall be entitled to and receive the same bounty, pay, rations, and clothing, as are allowed to the officers and soldiers in the continental service, so long as they continue therein.

Entitled to
same pay &
emoluments,
as those in
continental
service.

It is farther enacted, That, for securing the completion of the said regiments, a number of men shall be

draughted from the single men of the militia of the several counties, and the city of Williamsburg, whether officers or privates, above eighteen years of age, who have no child, in the following proportions, that is to say: From the county of Accomack forty eight, from the county of Albemarle thirty six, from the county of Amelia forty four, from the county of Augusta ninety seven, from the county of Amherst thirty two, from the county of Bedford fifty four, from the county of Berkeley fifty two, from the county of Botetourt sixty, from the county of Brunswick fifty two, from the county of Buckingham twenty six, from the county of Caroline forty one, from the county of Charles City eleven, from the county of Charlotte twenty eight, from the county of Chesterfield thirty, from the county of Culpeper sixty four, from the county of Cumberland sixteen, from the county of Dinwiddie twenty eight, from the county of Dunmore forty, from the county of Elizabeth City five, from the county of Essex twenty two, from the county of Fairfax thirty three, from the county of Fauquier forty eight, from the county of Fluvanna ten, from the county of Frederick forty, from the county of Gloucester thirty two, from the county of Goochland twenty three, from the county of Halifax thirty nine, from the county of Hampshire thirty three, [from the county of Hanover thirty nine, from the county of Henrico twenty four, from the county of Henry twenty four, from the county of James City eight, from the county of Isle of Wight twenty four, from the county of King and Queen twenty, from the county of King George fourteen, from the county of King William twenty, from the county of Lancaster eleven, from the county of Loudoun sixty eight, from the county of Louisa twenty four, from the county of Lunenburg twenty two, from the county of Middlesex eight, from the county of Mecklenburg thirty four, from the county of Monongalia forty, from the county of Montgomery thirty, from the county of Nansmond twenty five, from the county of New Kent sixteen, from the county of Norfolk thirty five, from the county of Northampton seventeen, from the county of Northumberland twenty nine, from the county of Orange twenty three, from the county of Pittsylvania thirty six, from the county of Powhatan thirteen, from the county of Prince Edward twenty two, from the county of Prince George twenty, from the county of Princess Anne twenty three, from the county

Drafts of single men, to complete the regiments, in what proportions, in the several counties.

of Prince William thirty two, from the county of Richmond twenty two, from the county of Southampton forty, from the county of Spotsylvania eighteen, from the county of Stafford twenty, from the county of Surry fourteen, from the county of Sussex twenty eight, from the county of Warwick four, from the county of Washington thirty three, from the county of Westmoreland twenty six, from the county of Yohogania forty, from the county of York nine, from the city of Williamsburg eight, and from the counties of Kentucky and Ohio such a number as is equal to one twenty fifth part of their militia. And where any county shall have been divided, during this present session of assembly, the number herein before required from the whole, as it stood undivided, shall be furnished by the counties into which it shall have been divided, in proportion to the numbers of their respective militia; and where two or more counties shall have been formed into a greater number, the numbers herein before required from the said counties, as they stood before such alteration, shall be added together, and each of the counties into which they shall have been formed shall furnish a part of the whole number of men, in proportion to the militia it shall contain, for adjusting which proportions the field officers of the said counties so divided or reformed shall meet together, at such time and place as shall be appointed by the commanding officer of the oldest of the said counties respectively, and each man so draughted shall be entitled to a bounty of fifteen dollars, to be paid by this commonwealth, and be compelled to serve one year, or find an able bodied man to serve in his room in one of the said Virginia regiments on continental establishment. And as well such draughts, as those who enlist under this act, shall after such service be exempted from all other draughts for the regular service, for so long a time after their discharge as they shall have actually served.

Bounty to
drafts.

Term of ser-
vice.

Counties and
corporations
to complete
their quotas.

And it is farther enacted, That where any county or corporation shall not, either by enlistment or draught, have raised their quota of men for completing the six additional battalions, according to the directions of the act of the former session of assembly, such county or corporation shall respectively proceed to enlist or draught men for such deficiency, according to the said act, whether such deficiency arose from the number not having been recruited or draughted at first, or from their

having been since discharged as irregularly drawn out, or being unfit for service, at the time of the draught, over and above the number hereby required of such county or corporation.

And to the end that the draughts to be made under this act may be fairly and equally made, *It is farther enacted*, That the county lieutenant or commanding officer of the militia in each county or corporation shall, on or before the second Monday of February next, summon the field officers, captains, and first lieutenants of his militia, to meet at the courthouse, and with them, or such as shall appear, collect from the muster rolls the names of all the officers and men of their militia who have not a wife or child, or who are not exempted by this act, or from militia duty by having a substitute in the army, adding thereto the names of any other such single men as are in the county and not enrolled, and who by the militia law ought to be enrolled, and shall direct all such single men to be summoned to meet at such place and time as the said officers shall appoint, not exceeding ten days thereafter, then and there to determine, by fair and equal lot, which of them shall enter into the service; and at the time and place so appointed, the said field officers and captains, together with two of the four senior magistrates who are not field officers in such county or corporation, having taken an oath to do impartial justice therein, which either of the said justices may administer to the others, shall carefully review the said single men, and examine into their bodily abilities and state of health, and set aside such as shall appear to them to be unfit for service, and shall proceed to draw the lots between the others as followeth, that is to say: They shall cause to be written the word "service" on so many distinct pieces of paper as will amount to the number of men hereby required to be raised in such county or corporation, and shall put the same into a covered hat or vessel; they shall cause also to be written the word "clear" on so many other pieces of paper, of the same form and dimensions, as, with the former, will amount to the number of single men, out of which the draughts are to be made as aforesaid, and put the same into the hat or vessel aforesaid, shaking the same well together, and shall then call the said single men one at a time, as they stand upon the roll, to draw a paper fairly out of the said hat or vessel, the same remaining covered, and being frequently shaken,

Mode of
drafting.

Single men,
only.

Lots distinguished by "service" or "clear."

every of which papers so drawn shall be read aloud, and truly entered on the roll against the name of the person drawing, whether it be "service" or "clear," until the whole papers be drawn out. And if any person liable to the said lot shall fail to appear, or being present shall refuse to draw for himself the said justices, field officers, and captains, shall cause one of the bystanders to draw for the person so failing or refusing, who shall be bound thereby; and the several persons by or for whom a paper with the word "service" shall be so drawn, shall from thenceforth be deemed soldiers, and compelled to serve or find an able-bodied man to serve in his room as aforesaid. And a list of their names shall be by the commanding officer of such militia transmitted to the governour, or to the commanding officer of the continental troops in this commonwealth, without delay, to whose order they shall be delivered by the said commanding officer of the militia at the courthouse of his county. And in order that the said commanding officer of the militia may be enabled to have the men forthcoming when called for, it shall be lawful for him to restrain them by furlough to such limits as he shall think reasonable; and if any of them shall depart from such limits, or shall fail to appear at any rendezvous by him appointed, they shall be deemed deserters, and treated accordingly.

Drafts, how restrained for service.

Volunteers encouraged, in order to avoid draft.

But as an encouragement to persons to enter voluntarily into the said service, and thereby avoid the necessity of making such draughts, as far as may be done, *It is further enacted*, That any justice of peace or magistrate, or a commissioned officer of the militia in any county or corporation, as well as such recruiting officers as may be appointed by the governour or the continental commanding officer in this commonwealth, shall have power to enlist any able-bodied men willing to enter into the service, except apprentices and hired servants under written contracts at any iron works, or persons solely employed in the manufacture of fire arms, not having leave in writing from the owner or manager of such works, except also imported servants, and those who are by law obliged to serve to thirty one years of age, and to offer a bounty of ten dollars each from this commonwealth, over and above the continental bounty; to all such as will engage to serve in the said regiments for three years, or during the present war, and to offer a bounty of twenty dollars in the whole to

such as will engage to serve therein for one year only; and so many men as can be thereby enlisted into the said regiments, before the time of drawing the lots as aforesaid, in any county, or corporation, shall be deducted from the number of men to be draughted in such county or corporation wherein they shall be listed. And if any single man subject to the draught aforesaid shall procure an able-bodied man so to enlist, such single man shall be thereby exempted from the draught.

It is farther enacted, That if any of the men who shall be draughted into the service shall, after joining the army, enlist to serve therein for three years, or during the present war, every person so enlisting shall be entitled to a bounty of ten dollars, over and above the continental bounty of lands and money; and that the several men to be recruited or draughted pursuant to this act shall have the same pay, rations, and clothing, and be subject to the like rules and regulations, with the other soldiers of the Virginia regiments in the continental army, and shall have the option of entering into such of the companies in the said regiments as they shall choose, in which there shall be room for their admission.

Bounty, pay, and emoluments of drafts, who enlist for three years or the war.

In order to supply the officers and soldiers in the said Virginia regiments with the necessaries of life at moderate prices, and prevent the ruinous exactions they have hitherto been subject to, *It is farther enacted,* That it shall and may be lawful for the governour, with the advice of the council, to appoint an agent, or agents, to import or purchase such necessaries upon the best terms for which they can be had, and cause them to be transported to the encampment of the said regiments, there to be retailed to the officers and soldiers at such prices, to be settled by the governour and council, as articles of the same sort and quality are furnished to other continental troops, either by the continent or their respective states. Or the governour, with the advice of the council, may contract with any person or persons for the delivery of any such necessaries at the camp, at a certain price or prices agreed on, as they shall think most beneficial to the said officers and soldiers. And the governour may from time to time draw on the treasurer of this commonwealth for so much money as shall be necessary for the purposes of this act, taking bond and sufficient security from the agents or contractors for the faithful performance of their trust, and for their

Provision for supplying officers and soldiers with necessaries, at moderate prices.

accounting for the money so received, and repaying the same into the treasury, as they shall receive it of the officers and soldiers, by sale of the goods; and the treasurer is hereby required to pay such draughts, out of the publick money in his hands.

Every county entitled to a deduction in the draft, for every deserter, from the continental army, apprehended.

And it is farther enacted, That every county or corporation shall be entitled to a deduction from the number of their draughts of one man for every able-bodied deserter from the continental army, enlisted within this commonwealth, who shall be apprehended by any of the inhabitants of such county or corporation, and who shall have one year at least to serve in the said army at the time of his apprehension; and every single man draughted, or subject to the draught, who shall apprehend such deserter and deliver him to the county lieutenant or commanding officer of the militia of his county or corporation, shall be thereby discharged from service, or exempted from the draught; and where more than one of such single men are engaged in such apprehension, they shall settle the matter between themselves by lot or otherwise, so as to entitle one of them to such discharge or exemption, provided the apprehending a deserter the second time shall not be the cause of another exemption.

So, every single man drafted, to be discharged, on apprehending and delivering a deserter.

To conceal a deserter, subjects offender to his term of service, if capable of military duty; if not, to a pecuniary fine.

And if any person (except in the case of husband and wife, or of a child concealing a parent, or a widow her son) shall wilfully harbour or conceal any deserter from the army of the United States, or any of them, and be thereof convicted, the offender, if a man capable of military duty, shall be obliged to serve in one of the Virginia regiments on continental establishment during such deserter's time of service, and be entitled to the pay, rations, and clothing, and be subject to the same rules and regulations, as the other troops in the said regiments; and if the offender be a woman, or man incapable of military service, he or she shall pay a fine of fifty pounds, to be recovered by action of debt or information in any court of record, with costs, one moiety thereof to the use of this commonwealth, and the other to the informer, or, in default thereof, suffer three months close imprisonment. All deserters heretofore or hereafter enlisted or draughted in this commonwealth, and not otherwise punished by martial law, shall be compelled to serve double the time of their absence from duty.

Provision for widows whose husbands

And it is farther enacted, That the several county courts be empowered and required to make a reasona-

ble provision at the publick expense for the immediate support of the widows within their respective counties whose husbands shall have died or been slain in the service of the commonwealth, or the United States, if such widows shall have received no support from the general assembly, and for payment thereof may draw orders on the treasurer for the time being, distinguishing therein whether the soldier was in the continental or commonwealth service; and the said treasurer is hereby required to pay the same, out of the publick money in his hands.

And be it enacted, That quakers and menonists who shall be so draughted shall be discharged from personal service, and that the field officers and justices who attend the draught shall, and they are hereby empowered, to employ any two or more discreet persons to procure, upon the best terms they can, proper substitutes to serve in their stead, and to adjust and divide the charge thereof among all the members of their respective societies of quakers and menonists in the county, in proportion to the number of tithables in the family of or belonging to each member, and to authorise the sheriff of the county, by warrant under their hands, to levy such charge by distress, in case of any member refusing or neglecting to make payment thereof within ten days after the same shall have been demanded, upon the goods and chattles of the member so refusing or neglecting; and the said commanding officer shall transmit to the governour a list of the names of the substitutes so procured, and a duplicate to the commanding officer of the continental troops in this commonwealth, as aforesaid. Every field officer or magistrate failing to perform any duty herein before imposed on him shall forfeit the sum of one hundred pounds, and every captain or lieutenant for such failure shall forfeit the sum of twenty five pounds, recoverable in any court of record by any person who will sue for the same, as well for himself as for the commonwealth, one moiety thereof to the person so suing, and the other to the commonwealth.

And whereas it is of the greatest importance to the American cause to open the ensuing campaign as early as possible, and to render its operations more decisive and effectual, that the army under the command of his excellency general Washington should be reinforced by

have died or been slain in the service,

Quakers and menonists drafted, exempted from personal service; but substitutes to be provided by equitable assessment in the whole society.

Encouragement to volunteers to join the army under general Washington.

an additional number of troops to be raised for that purpose in this commonwealth: *Be it farther enacted*, That every man who shall voluntarily engage to enter into such service, to continue therein for the space of six months from the time of his arrival at the place appointed for the general rendezvous, unless sooner discharged, shall receive a bounty of ten dollars, to be paid in such manner as the governour, with the advice of the council, may direct, so soon as the company to which he belongs shall be complete; and the several officers and privates shall be entitled to the like pay and rations as are allowed to the continental troops. And that each volunteer so serving shall be exempted from any future draughts for the regular service for the space of six months after his discharge, provided that no apprentices, or hired servants under written contracts at any iron works, not having leave in writing from the owner or manager of such works, nor any imported servants, shall be admitted as volunteers. The volunteers so engaging shall be formed into companies of sixty eight men each rank and file, under the command of a captain, two lieutenants, one ensign, and four serjeants, and allowed a drummer and fifer. Every eight companies shall compose a regiment, under the command of a colonel, lieutenant colonel, and major, and be allowed a chaplain, adjutant, quartermaster, surgeon, two surgeons mates, and a quartermaster serjeant, and the whole shall be under the command of two brigadiers general, if the number of volunteers who may enlist shall make it necessary to appoint them, and shall be subject to the same rules and regulations as are directed for the troops in the continental service. The general and field officers shall be appointed by the governour, by and with the advice of the privy council, and commissioned by the governour, having regard in the appointments of the field officers to the situation of the country, making them as diffusive as may be; the chaplain, adjutant, quartermaster, and surgeon, by the commissioned officers of the regiment; and each surgeon and quartermaster shall choose his own mates and serjeant respectively.

And for the greater expedition in raising and collecting the said volunteers, *It is farther enacted*, That the county lieutenant or commanding officer of the militia in each county or corporation shall immediately appoint a general muster or meeting of the several bat-

Term of service.

Organization.

General, and field officers, and staff how appointed.

Form of enlistment of volunteers.

talions of the militia upon receiving notice of this act, and in the warmest terms represent to them the utility and necessity of strongly reinforcing the continental army, and receive the subscriptions of such as shall be willing to engage in this service in the following terms, to wit: "We do severally enlist to serve in the corps of volunteers now raising to reinforce the continental army, at present under the command of his excellency general Washington, for the time and upon the terms directed by an act of assembly intituled An act for speedily recruiting the Virginia regiments on the continental establishment, and for raising additional troops of volunteers."

Provided, That no person so engaging shall be thereby exempted from the draught to be made for completing the Virginia regiments on continental establishment. And such commanding officer, as well as each other militia officer, or any justice of peace in the county or corporation, shall continue to receive such engagements at any time afterwards, until the volunteers shall march from such county or corporation; and the names of all persons so engaging shall be by the commanding officer of the county collected, and transmitted monthly to the governour. As soon as a sufficient number of men shall be engaged in any county or corporation to make a company, they shall be called together by the commanding officer of such county or corporation, and shall proceed to the choice of their captain, lieutenants, and ensign, by a majority of votes to be taken by ballot; and when a number sufficient to form a company shall not be enlisted in any county or corporation before the last day of March next, or part of a company shall remain after one or more are completed, in either case they shall be united to the parts of companies in some other county, so as to make up complete companies, who shall then proceed to the choice of their officers as aforesaid, observing to choose a commissioned officer from each part of a company, in rank, according to the numbers. The several officers so chosen shall be commissioned by the governour, and rank according to their priority of election; and where any elections shall happen on the same day, the priority of rank shall be settled by a general officer, by fair and equal lot between the officers. The governour, with the advice of the council, is desired and empowered to form the several companies into regiments,

Volunteers not exempted from drafts to complete Virginia regiments, on continental establishment.

Captains, &c. elected by soldiers, but commissioned by governour.

How organized.

and appoint the place or places of general rendezvous, and from time to time, as the regiments are completed, to call into duty the field officers for each regiment, from which time their pay, as well as that of the captains, subalterns, and other officers of each regiment, and the privates, shall respectively commence. The general officers shall be entitled to pay from the times they are respectively called into duty, after a sufficient number of regiments shall have been formed to require their superintendance by the governour and council, who have also power to direct at what time the said regiments, or any of them, shall march to join the continental army.

Baptists, &
Methodists,
priviledged
to serve un-
der officers
of the r own
religion.

And whereas there are within this commonwealth some religious societies, particularly Baptists and Methodists, the members of which may be averse to serving in the same companies or regiments with others, and under officers of different principles, though they would willingly engage in the defence of their country under the command of officers of their own religion: *Be it enacted*, That the governour, with the advice of the privy council, may, and he is hereby empowered, to appoint proper persons of either of the said religious societies to enlist any members of the same who will engage to enter as volunteers in the manner and upon the terms aforesaid, and such volunteers shall be formed into separate companies, and may choose their own captains, lieutenants, and ensigns; and when a sufficient number of companies shall be raised to form a regiment, the governour, with the advice of the privy council, may appoint proper field officers out of their own societies to such regiment or regiments, who shall be allowed a chaplain, adjutant, quartermaster, surgeon, two surgeons mates, and a quartermaster serjeant, to be appointed in the same manner as herein before directed for the other regiments of volunteers, and as well the officers as privates of such regiments shall be entitled to the same bounty, pay, and rations, and subject to the same rules and regulations, with the other volunteers raised for the same service.

Volunteers
not to ex-
ceed ten re-
giments.

Provided always, That the number of volunteers to be raised pursuant to this act, for six months service, shall not in the whole exceed ten regiments. The governour, with the advice of the council, is hereby authorised to use the most expeditious and effectual means for furnishing the said volunteers with proper tents,

arms, and accoutrements, and moreover, to appoint one or more paymasters, commissaries, or contractors, for the more regularly and punctually paying and providing necessaries for the said troops.

CHAP. II.

An act for raising a supply of money [Chan. Rev. p. 58]
for publick exigencies.

I WHEREAS the United American States in general, as well as this commonwealth in particular, in the prosecution of the present just and necessary war for the defence of our lives, liberties, and property, have been compelled to issue bills of credit for large sums of money, the quantity whereof now in circulation, greatly exceeding the medium of commerce, may occasion a depreciation of its value, to the injury of individuals, and great danger of this and the other United States, which nothing will so effectually prevent as reducing the quantity, by establishing ample funds for redeeming proportions of it annually, until the whole shall be thereby called in and sunk. It is also necessary that permanent funds should be established to provide for the repayment of the money borrowed or to be borrowed by the United States, as well as by this commonwealth, for carrying on the war, and the interest growing due upon such loans. For making such provision for the just proportion which this commonwealth ought to bear of sinking the said bills of credit of the United States, and of the money borrowed by them, and the interest thereof, as well as to effect the redemption of its own particular bills of credit, and payment of the money borrowed, and interest, in a mode which it is judged will be least burthensome to the people of any which can be adopted, *Be it enacted by the General Assembly,* That a tax or rate of ten shillings for every hundred pounds value, to be ascertained in manner herein after mentioned, shall be paid for all manors, messuages, lands, and tenements, slaves, mulatto servants to thirty one years of age, horses, mules, and

Preamble.
 Taxes on various articles.

plate, on the first day of August one thousand seven hundred and seventy eight; and the like tax or rate shall be paid on the said first day of August in each of the six next succeeding years, by the owner or proprietor of such estates respectively. That the like rate of ten shillings for every hundred pounds shall be paid for all money exceeding five pounds in the possession of one person, by the possessor thereof, on the said first day of August, in each of the said seven years. That a rate of two shillings for every pound be paid for the amount of the annual interest received upon all debts bearing interest, also for the amount of all annuities, including the quitrents payable to the proprietor of the Northern Neck, except such as have been or shall be settled by the general congress, or the assembly or convention of this commonwealth, as a provision for wounded soldiers or their families, to be paid by the creditor or annuitant respectively on the said first day of August, in each of the said seven years. That a tax or duty of ten shillings a wheel upon all riding carriages, fourpence per head on all neat cattle, and five shillings per poll upon all tithables above the age of twenty one years (except soldiers, sailors, parish poor, and such as receive an annual allowance in consideration of wounds or injuries received in the publick service, except also slaves and mulatto servants to thirty one years of age, who, being property, are rated *ad valorem* as aforesaid) shall be paid by the owner or person enlisting such carriages and tithables respectively, on the said first day of August, in each of the said seven years. That a tax of three pounds for every ordinary license, and twenty shillings for every marriage license, shall be paid down to the clerk of the county or corporation court at the time of granting such license, from the time of passing this act until the first day of December one thousand seven hundred and eighty four. That a tax or rate of ten shillings for every hundred pounds of the amount of all salaries, and of the neat income of all offices of profit (those of the military and sea officers in the service of the United States of America, or either of them, in respect of their employments, only excepted) on the said first day of August one thousand seven hundred and seventy eight, and each of the six next succeeding years. That a tax or duty of ten shillings be paid for every hogshead of tobacco exported out of this commonwealth by land or water, by the exporter

thereof, from the time of passing this act until the said first day of December one thousand seven hundred and eighty four. That a tax or duty of sixpence per gallon be paid for all spirituous liquors hereafter to be distilled in this commonwealth, to be paid by the distiller, or distilled in any other of the United American States and imported into this by land or water, at any time before the said first day of December one thousand seven hundred and eighty four. And that every person who hath not taken the oath or affirmation of allegiance to this state required to be taken by an act of the last session of assembly, and shall not take the same before the first day of May next, and who shall fail to produce to the assessors in his hundred a certificate of his having taken such oath or affirmation, shall pay double of the several rates and taxes aforesaid for such property and tithables hereby subject to taxation as he shall be owner of, or shall be in his family.

Double taxes on those refusing to take the oath of allegiance.

II. *Provided always*, That nothing herein contained shall be construed so as to charge any lands, slaves, stocks, servants, plate, money, debts, or annuities, which shall belong to the United States of America or this commonwealth, or to any county, corporation, parish, town, college, school, or religious society, with any rate or duty hereby imposed, nor to subject to the duty aforesaid any goods, wares, or merchandises, taken from the enemy, brought into this commonwealth, and condemned as lawful prize in the court of admiralty, in the hands of the captors.

Certain property exempted from taxes.

III. And for ascertaining the value of the several articles herein before taxed according to such value, *It is farther enacted*, That the freeholders and housekeepers of each county or corporation within this commonwealth shall meet at the courthouse of their respective county, city, or town, on the second Tuesday in March yearly, during the said term of six years, and they, or such of them as shall appear, shall then and there freely elect three able and discreet men of their county or corporation, being landholders having a right to vote for representatives in general assembly, and having visible property therein to the value of eight hundred pounds each, and who is not a member of any of the publick boards, an officer in the navy or army, naval officer, a manager of any publick works, an owner or manager of iron works or manufactory of fire arms, a master or professor in any college or school, a clergyman, sher-

Commissioners of tax, how appointed.

liff, inspector, or ordinary keeper, to be commissioners of the tax for such county or corporation for the year. The sheriff of the county, and the returning officer of any city or borough, shall cause previous notice of such election to be published in each church and meeting-house in his county or corporation, at least twenty days before each annual election; and such sheriff or returning officer, together with the two senior justices who shall be present at the election shall proceed to take the poll fairly and impartially, and shall be the final judges of the qualifications of the voters who offer to poll, as well as of the circumstances of the persons voted for, and shall have power to set aside such person who may be voted for as in their judgment hath not visible property to the amount of the sum hereby required, and on the close of the poll shall certify the names of the three persons who have the greatest number of votes, and are so qualified, to the court of their county or corporation, there to be recorded, determining the preference by their own votes, where the number of votes for any two or more persons are equal, and the persons so returned shall be the commissioners of the tax for that year. Each commissioner, before he enters upon the execution of the trust, shall take the following oath (or, being a Quaker or Menonist, shall solemnly affirm and declare to the same effect) before some justice of the peace, to wit: "I A. B. do swear, that as a commissioner of the tax for _____ county, I will to the best of my skill and judgment, execute the duties of the said office diligently and faithfully, and do equal right and justice to all men in every case wherein I shall act as a commissioner, according to the act of assembly under which I am appointed, to the best of my knowledge, without prejudice, favour, or partiality. So help me God." And shall thereupon meet from time to time, at such place or places as to them shall seem most convenient, and appoint a clerk, at ten shillings per day, to attend them for entering their proceedings, and shall without delay proceed to lay off the county, city, or borough, into so many districts or hundreds as to them shall seem most convenient for making the assessments, bounding the same by water courses, roads, or other limits of publick notoriety, and having so done, shall choose two discreet men in each hundred to be assessors or appraisers of such estate lying therein as is hereby subjected to taxation, each of whom shall be a

Their oath
and duty.

To appoint
assessors.

landholder having a right to vote for representatives in the general assembly, which choice shall be certified under the hands of the commissioners, and delivered to the person first named in each hundred within twenty days thereafter, together with transcripts of such parts of this act as are necessary for the direction of the assessors, and such instructions as to the form of their proceedings and return as the commissioners may think proper to give them for complying with the true intention of this act; and the commissioners in such appointment shall also limit a time, not less than four weeks, or more than six weeks, for the assessors to perform their duty in, and to make return of their proceedings to the commissioners, and shall cause a description of the several hundreds to be entered on their book, with a list of the names of the persons appointed assessors in each, and a copy of the instructions given them as aforesaid. The several persons so named assessors in each district shall, within five days after receiving notice of their appointment and instructions as aforesaid, go together to one of the said commissioners, or to a justice of the peace, and there take the following oath (or, being a Quaker or Menonist, shall affirm and declare to the same effect) to wit: "I A. B. do swear, that I will well and truly execute the duty of an assessor, and faithfully, justly, and impartially assess the pound rate imposed by the act of assembly for that purpose upon all property within my hundred liable thereto, according to the best of my skill and judgment, and the directions of the said act, and therein will spare none for favour or affection, nor any person aggrieve for hatred, malice, or ill-will. So help me God." A certificate of which oath shall be endorsed on the appointment of each set of assessors, and returned therewith to the commissioners, to be entered on their books. And after being so sworn, the said assessors shall personally apply to every person within their district or hundred and require them respectively to give an account upon oath, which either of the assessors may administer, of all lands, slaves, mulatto servants to thirty one years of age, horses, mules, money, silver plate, and interest received which shall become due after the passing of this act on debts bearing interest, all annuities (except a publick provision for wounded soldiers and their families) all riding carriages, neat cattle, and tithable persons above the age of twenty one years, not being sol-

Oath & duty
of assessors.

Subjects of
taxation.

diers, sailors, or parish poor, or persons receiving allowances for wounds received in the publick service, slaves, or servants to thirty one years of age, of which each such person is the owner, or who belong to or reside in his or her family, or which he or she is in possession of as guardian to any orphan, or as executor or administrator of the estate of any person deceased, and also an account of all spirituous liquors distilled or imported by land or by water by any such person from and after the passing of this act for the first year, and afterwards annually from the time of rendering their last preceding account thereof; and every such person shall farther make oath, that he or she hath not shifted or changed the possession of any of the said taxable articles, or used any fraud, covin, or device, in order to evade the assessment thereof. The assessors shall also require all persons in their hundred having publick salaries to render an account of the amount thereof, and all persons holding offices of profit (except military and sea officers, in respect of their employments) and residing in their hundred, to render an account upon oath, to the best of their knowledge, of the neat annual income of such office, all and every species of which property so given in, or which the assessors shall by any other ways or means discover, they shall cause to be distinctly entered against the name of the owner or person chargeable with the tax thereon, and proceed to value the lands, slaves, horses, mules, and plate, so given in and discovered, as the same would in their judgment sell for in ready money, having regard to the local situation of lands and other circumstances, taking for such value the middle rate between them, in case the two assessors differ in opinion on the value of any article, extending the value against each species of property, and setting down in a distinct column the amount of the pound rate hereby imposed upon the whole of such property belonging to each person, as well as the taxes of another nature imposed hereby upon such person, and giving such person a memorandum in writing of such pound rate, to enable him or her to provide for payment thereof. And where a tract of land belonging to any person residing or having a plantation with slaves thereon shall lie in two or more hundreds, the same shall be valued by the assessors of that hundred wherein the proprietor lives or hath a plantation, and if the owner doth not reside, or there be no plantation thereon, then the lands shall be assessed in

that hundred wherein the greatest quantity thereof shall lie, and in such case the assessors shall enter the county in which the proprietor lives, if they are informed thereof; and when the assessors shall have thus valued all the said taxable property in their hundred, they shall make a fair return of their proceedings to the commissioners, entering the names of the persons assessed in alphabetical order, with the species and value of their property, and the pound rate thereon as aforesaid, and shall therein enter their own names, with each distinct species of taxable property they severally own or possess as aforesaid, and upon such return the commissioners shall examine them severally upon oath, and thereupon extend the value of such property as to the commissioners shall seem just, and the pound rate thereon as aforesaid, and then shall cause all such returns to be entered in their books, to which all persons may have recourse at any seasonable times.

IV. *And it is farther enacted,* That where any person residing within this commonwealth shall receive interest for money from any person residing in any other of the United States, and there shall be a deduction made from the interest due in consequence of a tax imposed in the state where the debtor resides, in such case the creditor, upon producing to the assessors a certificate of such deduction, shall be allowed the amount thereof out of the pound rate hereby imposed on such interest; but no silver plate shall be valued at more than ten shillings per ounce, Troy weight. Which respective rates, or such as shall be hereafter established by the general assembly (as the value of money may rise or fall, or as the necessity of the times require) shall be observed by the several commissioners and assessors as the rule of their conduct in the respective valuations of such property.

Silver plate, restraint in the valuation.

V. And whereas great numbers of people have settled on waste and ungranted lands situate on the Western Waters, to which they have not been able to procure legal titles, and the general convention of Virginia, on the twenty fourth day of June one thousand seven hundred and seventy six, did “resolve, that all “such settlers upon unappropriated lands, to which “there was no prior just claim, should have the preference or preference to a grant of such lands,” and it is just and reasonable that the lands in their possession thus secured to them should contribute by tax to the common charge, and a mode established for fixing

Settlements on the Western Waters, subject to taxation.

Settlement
rights.

the quantity of their claims, where the same hath not been ascertained, by regular survey, *It is therefore farther enacted*, That all persons who, on or before the said twenty fourth day of June one thousand seven hundred and seventy six, had bona fide settled themselves, or at his or her charge had settled others, upon any waste and ungranted lands on the said Western Waters, and had not by regular entry, survey, or contract, ascertained the quantity of their claim, shall be allowed for every family so settled four hundred acres of land, to include such settlement, or such lesser quantity as the person entitled thereto respectively shall, at the time of the first assessment, declare to the assessors he or she desires to hold; and the assessors of the hundred shall proceed to assess the pound rate upon the proprietor for such lands in manner herein before mentioned, entering in their return the name of every such person, and the quantity of land allotted for or chosen by him or her as aforesaid, and the assessment shall continue to be made from year to year, according to the quantity so fixed, during the term of six years, or until regular surveys shall be made, and grants obtained for the same. But where any such settlers shall have ascertained the quantity of their land by regular survey or contract, in such case, upon their producing the same to the assessors, they shall be assessed for such quantity in the same manner as if a patent had been obtained for the same. But nothing in this act shall be construed in any manner to affect or prejudice the prior claim or title of any person whatsoever in or to any such lands, nor to affect any person residing within the territory northward of the latitude of the line usually called Mason and Dixon's line, and in dispute between this commonwealth and that of Pennsylvania, unless the legislature of the said commonwealth of Pennsylvania shall have imposed taxes on their citizens within the said disputed territory, and then only to such amount as shall have been by them imposed on such their citizens.

Land-tax,
proportion-
ed between
landlord and
tenant.

VI. And for settling just proportions of the said land tax between landlords and their tenants, to whom the lands were let for terms yet to come, at a time when the value of money was greater, and the price of lands less than at present, *It is farther enacted*, That all lands under lease for an annual rent, and subject to the tax, shall be valued without regard to such rent; but where

such valuation shall exceed twenty years purchase, computed upon the annual rent, to be ascertained by the assessors, they shall proceed to assess the landlord the said pound rate upon the amount of twenty years purchase of the rent, and shall assess the tenant the pound rate upon the residue of the value of the land, and distinguish such proportions in their returns; and where such rent shall be reserved in tobacco, or other commodity, the assessors shall value the same in money, in order to adjust such proportion between landlords and tenants. Where any tenant at an annual rent shall be willing to pay the pound rate assessed on his landlord for the lands held by such tenant, it shall be lawful for him or her so to do, and the collector's receipt for the same shall entitle him or her to a deduction for the amount thereof out of the rent; and where the landlord shall reside out of this commonwealth, or have no visible estate whereon to levy the pound rate for the value of his land, in such case the said pound rate shall be paid by or levied upon the tenant or tenants on the said land, not exceeding the annual amount of the rents, and allowed to him or them as aforesaid. If any person shall think him or herself aggrieved by the judgment of the assessors of the hundred, he or she may appeal to the commissioners of the tax in the county or corporation, who shall meet annually on the second Tuesday in July, if fair, if not, the next fair day, at their court-house, for hearing such appeals, and may adjourn from day to day, or to any other place, until they shall have determined all appeals made to them, and upon such hearing may either increase or diminish the assessment made on such person or persons, or let the same remain unaltered, as to them shall seem just, and according to the spirit and intention of this act.

If paid wholly by tenant, he may deduct landlords proportion out of the rent.

Appeal from assessors to commissioners.

VII. *It is farther enacted*, That the court of each county shall, at their court to be held in the months of April or May one thousand seven hundred and seventy eight, and in each of the six following years, take bond, with sufficient security, of the sheriff, in the penalty of three thousand pounds, payable to the treasurer of this commonwealth for the time being and his successors, for the use of the commonwealth; with condition for the true and faithful collection and accounting for all the duties and taxes hereby imposed within his county, and paying the money for which he shall be accounta-

Sheriffs to give bond.

ble according to this act. And if any sheriff shall refuse or fail to give such security, the court shall appoint some other person or persons to collect the said taxes, and take the like bond and security of him or them, which bonds shall be recorded in the courts where they shall respectively be taken, and an attested copy thereof transmitted by the clerk, without delay, to the publick treasurer, which shall be admitted as evidence in any suit or proceeding founded thereon.

On failure, courts to appoint collectors.
Copy of bond, evidence.

Lists, in order for collection, when to be delivered by commissioner.

Distress and sale, when and how.

Land tax due by the proprietors residing out of the county.

VIII. *And it is farther enacted,* That the commissioners of the tax in each county or corporation shall, on or before the first day of August annually, deliver to the sheriff of the county, or to the collector or collectors appointed as aforesaid, a full and perfect list, formed from the returns of the several assessors, of all the persons, in alphabetical order, who reside in the county, and are to pay any rate or tax pursuant to this act, with the amount of what each person is to pay, collecting together what the same person shall be assessed in different hundreds, and distinguishing in what hundred the person chargeable resides or hath effects, taking a receipt from the sheriff or collector for the same, and thereupon such sheriff or collector shall proceed to collect and receive the several taxes and rates according to such list, and to levy the same by distress and sale of the slaves, goods, and chattles, of such persons who shall fail to pay what he or she shall be so assessed on or before the first day of September in any year, the sale of which estate shall be made not less than five days after the distress, for ready money, and notice thereof shall be published at the parish church or most convenient meeting-house, and no security shall be taken, or writ of replevin sued out thereupon; but no sheriff or collector shall seize any slave for such taxes where other sufficient distress shall be shewn him, nor make any unreasonable distress, on pain of being liable to the action of the party grieved, wherein the plaintiff shall recover his full costs, although the damages shall be under forty shillings. And where any lands shall be assessed in a county wherein the proprietor doth not reside, nor hath any effects whereon to levy the said pound rate, and the commissioners shall discover in what other county the proprietor lives or hath effects, they shall transmit the assessment to the commissioners of such other county, to be delivered to the

sheriff or collector thereof, and collected, levied, and accounted for, in like manner as the other assessments of such county.

IX. And that lands may not be granted on, or subject to any feudal tenure, and to prevent the danger to a free state from perpetual revenue, *Be it enacted,* That all lands within this commonwealth shall henceforward be exempted and discharged from the payment of all quitrents, except only the lands in that tract of country or territory between Rappahannock and Potowmack rivers, commonly called the Northern Neck; and that the abolition of quitrents may operate to the equal benefit of all the citizens of the commonwealth, the owners of all lands within the said territory, subject to the payment of an annual quitrent of two shillings sterling per hundred acres to the proprietor of the said Northern Neck, shall be allowed the sum of two shillings and six pence current money for every hundred acres, and so in proportion for a greater or lesser quantity, out of the sum which shall be respectively assessed on such lands, so long as their payment of quitrents thereon shall continue, which allowance and discount the commissioners and assessors of the tax are hereby empowered and required to make accordingly, and the commissioners of the tax in each county within the said territory shall make out a list of all such deductions made in their county, and transmit the same to the commissioners of the county of Frederick annually, to be by them delivered to the sheriff of the said county, and such sheriff is hereby required to collect and levy of and upon the proprietor of the said territory for the time being the said pound rate of two shillings for every pound of the amount of the said deductions, and account for and pay the same to the treasurer, in like manner, and subject to the same penalty and proceedings, as is herein before directed for accounting for and paying the other taxes.

Quitrents abolished, except in the Northern Neck.

Deduction allowed in land-tax, to the amount of quit rents payable in Northern Neck.

Such deductions to be certified to sheriff of Frederick & levied on Proprietor.

Arrears of quit rents, how collected from sheriffs, and others.

X. *And be it farther enacted,* That the late auditor, or deputy auditor general in this commonwealth shall, on or before the twentieth day of March next, transmit to the commissioners of each county, not being within the said territory of the Northern Neck, a certificate at what time the last quitrents were accounted for in such county by the sheriff; and the late receiver, or deputy receiver general, shall within the same time transmit to such commissioners a true copy from his book of the

Duty of late auditor and receiver general to furnish lists.

account with each sheriff who hath not fully paid, and a certificate to what time the quitrents have been so fully paid in each county, and upon receiving such accounts and certificates the commissioners in each county shall proceed to call the respective persons who have been sheriffs thereof, within the time the quitrents are unaccounted for, to an account for what they have received thereof in each year, and to move for judgment in the general court or county court against such sheriff, or his deputy or deputies, and his or their securities, or their respective executors or administrators, for the penalty of their respective bonds where they shall fail to account, or for what shall appear due on such account, if they respectively fail to pay the same, and such court shall give judgment accordingly: provided, that ten days previous notice be given of such motion. And having adjusted such accounts with the sheriffs, the commissioners of each county shall make out a list of all arrears of quitrents due from any persons for lands therein to the twenty ninth day of September one thousand seven hundred and seventy four, and deliver the same to the sheriff or collector, to be collected, levied, accounted for, and paid in like manner, and subject to the same penalty and proceedings for neglect, as are provided in the case of the taxes hereby imposed. And the treasurer shall pay to the auditor and receiver general what the auditors of publick accounts shall certify to be a reasonable satisfaction for such copies and certificates.

Lands on Western Waters not subject to payment of arrears of quitrents.

XI. Provided always, That no lands situate on the Western Waters shall be subject to the payment of such arrears. And where any quitrents have been paid for such lands, or for other lands to a later period than the said twenty ninth day of September, the sheriff receiving the same shall refund the amount thereof to the person who paid it, his or her executors or administrators; or where the money shall have been paid to the receiver general or treasurer, the amount thereof shall be repaid by the sheriff or collector of the county where the person entitled thereto resides, and be allowed to such sheriff or collector in his account. The said receiver general shall also render an account upon oath of all money now in his hands received for quitrents, or upon the fund formerly appropriated to defray the contingent charges of government, and pay such balance

Late receiver general to pay over funds in his hands to treasurer.

to the treasurer, for the use of this commonwealth, or be compelled thereto by the general court, upon such proceedings as are herein directed for recovering money from the sheriffs or collectors received for taxes. The said receiver shall also render an account of any arrears which may be due to the said contingent fund, which the treasurer shall proceed to receive or recover as aforesaid. The right honourable Thomas lord Fairfax, or the agent or manager of his office, shall also, on or before the said twentieth day of March next, transmit to the commissioners of each county within the territory of the Northern Neck a rent roll of all the lands paying quitrents to the said proprietor in such county, and receive from the treasurer the sum of twenty shillings for each rent roll; and the respective commissioners shall deliver extracts therefrom to the assessors of the several hundreds, for their direction. Every sheriff or collector of the taxes hereby imposed shall, on or before the first day of November yearly, account with the commissioners of the taxes in his county for all the rates, taxes, and duties, put into his hands to collect for such year; and the commissioners shall adjust the said account, allowing for such only as in their judgment could not have been received by a vigilant and faithful collector, and allowing a commission of three per centum for collecting the residue, striking the balance due from such sheriff or collector, and certifying their having examined and passed the account. They shall also at the foot thereof state an account of what shall be due to themselves, their clerk, and the several assessors in the county, for the year's service, and deduct the same from the balance in the hands of the sheriff or collector, who shall pay the amount of such expenses to the commissioners, for the use of themselves and the others; and the account so settled the commissioners shall deliver to the sheriff or collector, after having entered an exact copy thereof in their book, and they shall immediately transmit a copy from their book to the treasurer, to enable him to call upon the sheriff or collector for the money so stated to be due.

XII. *And it is farther enacted,* That every person who shall carry any tobacco out of this commonwealth by land, shall, before he removes the same from the county where it is made, or from whence it is carried out of this commonwealth, apply to the clerk of the county court, and make oath what number of hogs-

Lord Fairfax
to furnish
commission-
ers with rent
roll.

Sheriffs to
account with
commission-
ers of tax.

Duty on to-
bacco ex-
ported.

heads or casks of tobacco he intends to carry out of the commonwealth, and pay the duty of ten shillings per hogshead or cask for the same, taking a certificate of such oath, with the marks and numbers of such hogsheads or casks; and a receipt for the tax, and of which an entry shall be made by the clerk in his books. The master or mate of every ship or vessel, in which tobacco shall be laded or put on board for exportation, shall, at the time of clearing out his ship or vessel, make a true report upon oath of all the tobacco loaden therein, with the marks and numbers of each hogshead thereof, and by whom shipped, and pay down the duty of ten shillings per hogshead for the same to the naval officer, before he is admitted to a clearance. Every naval officer shall half yearly, on the twenty fifth day of April and twenty fifth day of October, render an account upon oath to the publick treasurer of all duties by him received pursuant to this act in the preceding half year, and pay the money for such duties, deducting five per centum for receiving the same. And the clerk of each county or corporation court shall on the same days, half yearly, render an account upon oath to the said treasurer of all the taxes by him received for marriage and ordinary licenses, and for the duty upon tobacco exported by land in the preceding half year, and pay the money for such taxes, deducting five per centum for receiving the same. And every naval officer, or clerk of a court, failing to render such account, shall forfeit and pay the sum of five hundred pounds for every offence; and any naval officer or clerk having accounted, and failing to pay the money stated to be due within one month, shall be proceeded against by the treasurer for the recovery thereof, in manner herein after directed against sheriffs or collectors making default in payment. And every sheriff, or other county collector, who shall fail to settle his account with the commissioners of the taxes in his county annually, on or before the said first day of November, shall forfeit and pay the sum of one hundred pounds for every neglect; and in such case the treasurer may and shall proceed against such sheriff or collector and his securities, his or their heirs, executors, or administrators, as hereafter mentioned, and obtain judgment for the penalty of the bond and costs, to be discharged, except as to the costs, by the payment of what shall be found due for the taxes in such county, in case the sheriff or collector shall, before the levying

Naval officers, & clerks when to account with treasurer.

Penalty for failing to account.

For accounting, and failing to pay.

When sheriff to account with commissioners of tax.

Penalty for neglect.

of the execution, make up an account of the taxes with the commissioners, and obtain their certificate of the just balance. And if any sheriff or collector of the taxes in any county, having accounted with the commissioners as herein before is directed, shall fail to produce his account so certified to the treasurer of this commonwealth, and pay the balance stated to be due from him on or before the first day of December in any year, the treasurer is hereby empowered and directed, under pain of forfeiting five hundred pounds, to move in the general court, on the tenth day of the next succeeding court, for judgment against such sheriff or collector and his securities, his or their executors or administrators; and the said court, on that day, or so soon afterwards as counsel can be heard, shall proceed to take trial therein by jury, if either party shall desire it without delay, admitting the certificate of the commissioners for proof of the balance found to be due on the account, and such other legal testimony as either party may offer, and to enter judgment for what shall be found due, and costs, and thereon to award execution, upon which the clerk shall endorse that no security of any kind is to be taken, and the officer to whom the same is directed and delivered shall proceed to levy the same by distress and sale of the estate of the defendants, for ready money, taking no security either for replevyng of the estate or having the same forthcoming at the day of sale. If any sheriff, or usual returning officer of a county or corporation, shall fail to give notice of the time appointed for the annual election of the commissioners of the tax, or fail to attend at such election (not being hindered by sickness, in which case the under sheriff of the county, or one of the aldermen of the corporation, shall act in his stead) every person so neglecting or failing shall forfeit five hundred pounds. If any person elected a commissioner shall refuse to serve (not having a sufficient excuse, to be judged of by his county or corporation court) he shall forfeit and pay the sum of one hundred pounds, and in case of such refusal, whether the reasons offered be adjudged a good excuse or not, or if any commissioner who undertakes the trust shall die or be disabled to act within the year, the county or corporation court shall appoint another commissioner in the room of him so refusing, dead, or disabled, to act until the next annual election, and so as often as such vacancy shall happen. And if there be no election made of

For account
ing with
commission-
ers & failing
to pay to
treasurer.

Motion a
gainst, trial,
evidence,
judgment.

Penalty on
sheriff, fail-
ing in his
duty respect-
ing the col-
lection of
commission-
ers; and on
commission-
ers refusing
to serve.

Commission-
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how s appli-
ed.

commissioners for any county or corporation, as herein before directed, in such case the court of such county or corporation shall, at their next court, proceed to the choice of commissioners and if there shall happen, from bad weather or other accident, to be no court held for any county or corporation on the court day next after the said second Tuesday in March in any year, in that case the magistrates of such court shall, under the penalty of fifty pounds on each magistrate failing, meet at their courthouse on the next fair day, and then and there judge of the excuses of commissioners elected, and proceed to election of such as may be necessary, either by their having been none elected, or those elected refusing to act as aforesaid. Each commissioner accepting the trust shall be allowed for each day he shall act therein the sum of ten shillings. If any person appointed an assessor shall refuse to serve (not having a sufficient excuse, to be judged of by the commissioners) he shall forfeit and pay the sum of fifty pounds, and all vacancies occasioned by such refusals, or by the death or inability to act of any assessor, shall be supplied, as often as they happen, by the appointment of the commissioners; and each assessor, for performing his duty, shall be allowed what the commissioners shall judge reasonable, not exceeding ten pounds per annum. If any person shall refuse to give an account upon oath or affirmation, as herein before directed, of all the articles in his or her possession liable to a pound rate or tax by this act, every person so refusing shall forfeit and pay the sum of one hundred pounds; and the assessors shall proceed to inquire by other means into his or her property, and assess the same according to the best information they can procure. If any person shall carry any tobacco out of this commonwealth by land without paying the duty aforesaid, and obtaining such certificate from the clerk of the county court, as is herein before required, every person so offending shall forfeit ten pounds for every hogshead or cask of tobacco so carried out. And every master or mate of a ship or vessel, on board of which any tobacco shall be laden for exportation, failing to make a true report of the marks and numbers of such tobacco to the naval officer at the time of clearance, shall forfeit and pay the sum of ten pounds for every hogshead of tobacco exported in such ship or vessel, and not so reported. And if any naval officer shall clear out any ship or vessel, in which

Penalty on assessor refusing to act and his reward for acting.

Penalties for various offences.

tobacco shall be reported to be laden, without receiving the duty hereby imposed on such tobacco, the naval officer shall be answerable for the duty. All the penalties and forfeitures hereby inflicted shall be recoverable with costs, by action of debt or information, in any court of record, and be appropriated, two thirds to the use of the commonwealth, and paid to the publick treasurer, to assist the purposes of this act, and the other third to the informer, or the whole to the commonwealth, in case a suit for the same shall be first instituted for the commonwealth.

How recovered and appropriated.

XIII. *And it is farther enacted,* That all waste and unappropriated lands within this commonwealth, as soon as the same shall be granted pursuant to an act of the general assembly, shall be subject to assessment of the said pound rate, in like manner as the lands already granted.

Waste lands, when liable to assessment.

XIV. *And it is farther enacted,* That the land and poll tax, and all other taxes and duties imposed by any former act of assembly or ordinance of convention, and which were payable at any time before the first day of January one thousand seven hundred and eighty four, shall cease; and the said acts and ordinances, so far as they relate to the imposition, collection, and payment of the said taxes or duties, are hereby repealed, except so far as may enforce the collectors of any of the said taxes heretofore due to account for and pay the same.

Repeal of former taxes.

XV. *And it is farther enacted,* That the treasurer of this commonwealth for the time being shall apply the money which shall come to his hands by virtue of this act, in the first place for and towards the annual payment of the quota of this commonwealth of the principal and interest of money borrowed on treasury notes issued on account of the United American States, supposed by the general congress to be two hundred and forty thousand pounds, for the present year, deducting thereout what is or shall from time to time become due from them to this commonwealth, and the residue for and towards the payment of the interest due or to become due for money borrowed or to be borrowed for the use of this commonwealth, and of the principal money, when due, for the redemption of the treasury notes issued by order of the convention of this commonwealth, redeemable on the first day of January one thousand seven hundred and eighty four, and by virtue of this act, or any former act of general assembly, redeemable

Appropriation of taxes.

on the first day of December one thousand seven hundred and eight four, and for the annual contingent expenses of this state, and to no other use whatsoever. And the said treasurer shall keep clear and distinct accounts of the said taxes and duties hereby imposed, shewing the neat annual income of each, and lay the same before the general assembly when required; and if there shall be any deficiency in the said taxes and duties to answer the full purposes of this act, the same shall be made good by a farther and adequate tax.

Treasurer to keep distinct accounts of the several taxes, &c.

Empowered to borrow on certain terms.

XVI. And whereas it may be necessary to make some farther provision for answering such demands as may be made on the treasury before the said taxes can be collected, *Be it farther enacted*, That George Webb, esq. or the treasurer for the time being, shall, and he is hereby empowered and directed to receive from any person whatever any sum of specie, continental paper dollars, or bills of credit issued by authority of this commonwealth, he or she shall be willing to lend, for any term not exceeding three years, so as such sum be not less than three hundred dollars, or the value thereof in other money lent by any one person, and doth not exceed in the whole five hundred thousand pounds, and to give the lender a receipt for the money lent in the form prescribed in the act of assembly establishing a loan office for the purpose of borrowing money for the use of the commonwealth; and the said treasurer shall keep accounts of the money so borrowed, and conform to all regulations prescribed by the said act.

Repayment, when.

XVII. *And be it farther enacted*, That the treasurer shall pay the interest of the money due on such certificates annually, and take in discharge the principal thereof at the time or times therein limited for that purpose; or should the lender or bearer of such certificates desire to have the same sooner paid and discharged, the treasurer is hereby authorised to comply therewith, provided the state of the treasury will admit of the same, without prejudice to the publick.

Forging or counterfeiting certificates, how punishable.

XVIII. *And be it farther enacted*, that if any person within this commonwealth shall forge or counterfeit, alter or erase, any certificate of money lent as aforesaid, or transfer any forged or altered certificate to another, or demand payment at the office of principal or interest thereupon, knowing the same to be forged or counterfeited, altered or erased, every person so offending, being lawfully convicted, shall forfeit his whole estate

real and personal; receive on his bare back at the public whipping post thirty nine lashes, and shall be obliged to serve on board some armed vessel in the service of this state, without wages, not exceeding seven years; provided, that the governour and council for the time being, out of the offender's estate, may make such allowance to his wife and children as to them shall seem just and reasonable.

XIX. And whereas it is altogether uncertain whether the above-mentioned sum of money can be borrowed so soon as the exigencies of government may require, *Be farther enacted*, that the said George Webb, Esquire, or the treasurer for the time being, shall be, and he is hereby empowered to issue treasury notes, in dollars or parts of dollars, for any sum or sums which may be requisite for the purposes of government, and which he may not be able to borrow as aforesaid, so that the money so emitted, with what shall be borrowed by virtue of this act, doth not exceed seventeen hundred thousand dollars; each dollar to be of the value of a Spanish milled dollar, and the parts of a dollar of the same proportionate value. And the said treasurer for the time being may, and he is hereby authorised to cause the said notes to be engraved and printed in such manner as he shall judge most likely to secure the same against counterfeits and forgeries, to appoint proper persons to overlook the press, to number and sign the said notes, upon the best terms on which he can procure them.

Treasury notes, or paper money may be emitted.

XX. *And be it farther enacted*, that all such notes so to be issued shall pass as a lawful tender; and any person attempting to depreciate the value of the same, by any such means or device whatsoever, as is described in several acts of assembly, shall incur the same penalties and forfeitures as are thereby imposed, to be recovered as therein directed. The said notes so to be issued shall be redeemable on the first day of December one thousand seven hundred and eighty four.

Time of redemption.

XXI. *And be it farther enacted*, that if any person or persons shall forge or counterfeit, alter or erase, any such treasury note, or tender in payment any such, or demand a redemption thereof, knowing the same to be forged or counterfeited, altered or erased, every person so offending, and being thereof lawfully convicted, shall incur the same forfeitures, and suffer the same

Punishment for counterfeiting.

punishment, as is herein before directed in the case of certificates for money borrowed.

CHAP. III.

An act to open the Courts of Justice, and to revive and amend an act intituled An act for the better regulating and collecting certain officers fees, and other purposes therein mentioned.

Preamble.

Resolutions of convention tending to stop proceedings in courts repealed.

WHEREAS the troubles in which this commonwealth hath been involved, and its distressed circumstances, induced the general convention, by several resolutions, to recommend it to the courts of justice not to proceed to the trial of suits, except in some particular instances therein mentioned, and it is now judged indispensably necessary that all the said courts should be opened, for the general administration of justice: *Be it therefore enacted by the General Assembly,* That all the said resolutions of convention, so far as they tend to stop the proceedings in any court of justice, be, and the same are hereby repealed.

The fee-bill act, (except the 15th section) revived for one year.

And it is further enacted, That an act of general assembly made in the nineteenth year of the reign of king George II. intituled "An act for the better regulating and collecting certain officers fees, and other purposes therein mentioned," which was continued by several subsequent acts, and is since expired, be, and the same is hereby revived (except the fifteenth section thereof) and shall continue in force from and after the end of this present session of assembly for one year, and from thence to the end of the next session of assembly, except that the fees therein given to the secretary shall be payable to the clerks of the general court and high court of chancery respectively performing the service for which such fee is given; and those given to the sheriff attending the general court heretofore, for any

service hereafter to be performed by the serjeant at arms attending on the high court of chancery, shall be allowed to the serjeant at arms.

Provided always, and it is farther enacted, That it shall be lawful for the person or persons chargeable with any of the tobacco fees mentioned in the said act to pay the same in money, at the rate of twelve shillings and sixpence per hundred of the gross tobacco; and the sheriffs or collectors shall receive, levy, and account for the same accordingly.

Tobacco fees, payable in money at 12s. 6d. per hundred.

And it is farther enacted, That the several officers mentioned in the said act shall be entitled to the fees according to the said act, and the subsequent regulations, for any services by them respectively performed since the expiration of the said acts, to be collected, levied, and accounted for in like manner as if the said acts had been in force; and that, conformable thereto, the clerks of the courts where judgments have been entered, during that period, shall tax the costs, if recovered.

Fees for services rendered since the expiration of that act; how paid.

CHAP. IV.

An act for laying a publick levy.

BE it enacted by the General Assembly, That fourteen pounds of tobacco, or money in lieu thereof, at the rate of threepence by the pound, be paid by every tithable within this commonwealth, for the defraying and payment of the publick charge of the country, being the publick levy from the sixth day of February one thousand seven hundred and seventy two to the twentieth day of December one thousand seven hundred and seventy seven, and that it be paid by the collector of the several counties to the several persons and counties respectively to whom it is proportioned by the general assembly. And if it shall happen that there should be more tithables in any county than the present levy is laid on, then such county shall have credit for so much to the use of the county; and if fewer tithable in any county, then such county shall bear the loss.

Public levy, on tithables.

Provided always, That where any allowance is made in the book of proportions to any county, to be paid in the same county, no more per poll shall be collected from the tithables of such county than will discharge the balance after such allowance shall be deducted; and that every county court shall regulate the levy accordingly.

Sheriffs to give bond.

And be it farther enacted, That the sheriff of every county shall, at the court of his county to be held in the months of April or May, give bond and security for the due collection and payment of the publick levy now laid and assessed.

Balances due from certain counties.

And whereas there are several balances due to the publick from the following counties, to wit, from the county of Charles City four hundred and forty nine, from the county of Chesterfield three thousand two hundred and twenty four, from the county of Fluvanna three thousand eight hundred and forty four, from the county of Goochland twenty one thousand seven hundred and seventy seven, from the county of Hanover twenty four thousand four hundred and eighty two, from the county of Kentucky two thousand six hundred and thirty two, from the county of King George five hundred and sixty two, from the county of Louisa six thousand and seventy, from the county of Powhatan twenty five thousand three hundred and fifty, from the county of Prince George ten thousand two hundred and forty two, and from the county of Spotsylvania six hundred and seventy pounds of tobacco, as appears by the book of proportions:

Public tobacco how sold.

Be it farther enacted, That the sheriff of each of the said counties above mentioned shall after giving one month's notice in the Virginia Gazette, sell the respective quantities of tobacco levied in his county as a depositum for the use of the publick, or such part thereof as he shall actually receive in tobacco, to the highest bidder, at the court of his county to be held in the months of August or September next, provided a court be then held, if not, at the next succeeding court, for ready money, and shall transmit the same, together with such other monies as shall be paid him in lieu of tobacco for any part of the said depositum, to the treasurer of this commonwealth, within one month after the same shall have been actually so received by him; and if such sheriff shall neglect to transmit the monies aforesaid, it shall and may be lawful for the general

court, or the court of the county where such sheriff resides, on a motion to them made by the treasurer of this commonwealth for the time being, to give judgment for the same, and thereon to award execution, provided such sheriff and his securities, his or their heirs, executors, or administrators, have ten days previous notice, which monies shall be accounted for by the said treasurer to the general assembly.

CHAP. V.

An act to amend an act intituled an act to regulate the Inoculation of the Smallpox within this colony. [Ohan. Rev. p. 63.]

1. WHEREAS the smallpox, at this time in many parts of the commonwealth, is likely to spread and become general, and it hath been proved, by incontestible experience, that the late discoveries and improvements therein have produced great benefits to mankind, by rendering a distemper which taken in the common way is always dangerous and often fatal comparatively mild and safe by inoculation, and the act for regulating the inoculation of the smallpox having been found in many instances inconvenient and injurious, makes it necessary that the same should be amended: Preamble.

11. *Be it therefore enacted by the General Assembly,* That any person, having first obtained, in writing, to be attested by two witnesses, the consent of a majority of the housekeepers residing within two miles, and not separated by a river, creek or marsh, a quarter of a mile wide, and conforming to the following rules and regulations, may inoculate, or be inoculated for the smallpox, either in his or her own house, or at any other place. No patient in the smallpox shall remove from the house where he or she shall have the distemper, or shall go abroad into the company of any person who hath not before had the smallpox or been inoculated, or go into any publick road where travellers usually Licence to inoculate, how obtained.
Regulations for preventing infection

pass, without retiring out of the same, or giving notice upon the approach of any passenger, until such patient hath recovered from the distemper, and hath been so well cleansed, in his or her person and clothes, as to be perfectly free from infection, under the penalty of forty shillings for every offence, to be recovered, if committed by a married woman, from her husband, if an infant, from the parent or guardian, and if by a servant or slave, from the master or mistress.

Penalty for breach.

Duty of physicians and others to give notice, by advertisement, of small-pox, at place of inoculation.

111. Every physician, doctor, or other person undertaking inoculation at any house, shall cause a written advertisement to be put up at the nearest publick road, or other most notorious adjacent place, giving information that the smallpox is at such house, and shall continue to keep the same set up so long as the distemper or any danger of infection remains there, under the penalty of forty shillings for every day that the same shall be omitted or neglected, to be paid by the physician or doctor if the offence shall be committed when he is present, or by the master, mistress, manager, or principal person of the family respectively, if the offence is committed in the absence of the physician or doctor. Every physician, doctor, or other person, undertaking inoculation at any publick place or hospital for the reception of patients, shall before he discharges the patients, or suffers them to be removed from thence, take due care that their persons and clothes are sufficiently cleansed, and shall give such patients respectively a certificate under his hand that in his opinion they are free from all danger of spreading the infection, under the penalty of three pounds for every offence; and every person wilfully giving a false certificate shall be subject to the penalty of ten pounds.

Penalty for neglect.

Person who has not had the small-pox, intermixing with patients, how dealt with.

IV. If any person who hath not had the smallpox, other than those who have been or intend to be inoculated, shall go into any house where the smallpox then is, or intermix with the patients, and return from thence, any justice of the peace of the county, on due proof thereof, may, by warrant, cause such person to be conveyed to the next hospital where the smallpox is, there to remain until he or she shall have gone through the distemper, or until the physician or manager of the hospital shall certify that in his opinion such person cannot take the same; and if such person shall not be able to pay the necessary expenses, the same shall be paid by the county.

V. Every person wilfully endeavouring to spread or propagate the smallpox without inoculation, or by inoculation, in any other manner than is allowed by this act, or by the said recited act, in special cases, shall be subject to the penalty of five hundred pounds, or suffer six months imprisonment, without bail or mainprise.

Penalty for wilfully spreading the infection

VI. All the penalties inflicted by this act may be recovered with costs, by action of debt or information, in any court of record, where the sum exceeds five pounds, and where it is under, or amounts to that sum only, by petition in the court of the county where the offence shall be committed, and shall be one half to the informer, and the other half to the commonwealth; or the whole to the commonwealth, where prosecution shall be first instituted on the publick behalf alone.

How recoverable, and appropriated.

VII. So much of the act of general assembly intituled an act to regulate the inoculation of the smallpox within this colony, as contains any thing contrary to this act, is hereby repealed.



CHAP. VI.

An act for indemnifying the Governour and Council, and others, for removing and confining Suspected Persons during the late publick danger.

WHEREAS, on the late appearance of a hostile fleet in the bay of Chesapeake, a large body of militia were collected and arrayed, and to prevent the dangerous consequences which might have been produced by a communication of intelligence to the enemy it become necessary for the governour and council, for the publick safety, to remove and restrain, during the imminence of the danger, at a distance from the posts and encampments of the said militia, and from other places near the ports and harbours of this commonwealth, certain persons whose affections to the American cause

Preamble.

Governor & council and others indemnified for removing and confining suspected persons, during the late publick danger.

were suspected, and more especially such as had refused to give assurance of fidelity and allegiance to the commonwealth, according to the act of assembly for that purpose made and provided, and it may happen that some of the said persons so removed and restrained may be disposed to vex with actions at law those who were concerned in advising, issuing, or executing the orders for that purpose:

Be it therefore enacted by the General Assembly, that the governour, members of the council, and all others concerned in advising, issuing, or executing the said orders for the removal or restraint of such persons, stand indemnified and clearly exonerated from all actions, suits, and damages on account thereof; and that if any action or suit should be brought by or on behalf of any person so removed or restrained, for the recovery of damages for such removal or restraint, against any person or persons so indemnified, the defendant or defendants may plead the general issue, and give this act in evidence.

CHAP. VII.

An act for better securing the commonwealth, and for the farther protection and defence thereof.

Preamble.

FOR more effectually securing the commonwealth against the designs and attempts of certain evil-minded persons, now or lately in the counties herein after mentioned, who, lost to all sentiments of virtue, honour, or regard for their country, have been induced to aid the enemy:

Certain commissioners appointed to investigate the rise, progress, & extent of the disaffection near Fort Pitt.

Be it enacted by the General Assembly, That Samuel Washington, Gabriel Jones, and Joseph Reed, esquires, commissioners appointed by the United States of America in congress assembled to repair to Fort Pitt in order to investigate the rise, progress, and extent of the disaffection in that quarter, or such other persons as shall be appointed in their room, and shall undertake to execute the office, be authorised and empowered, and

they are hereby authorised and empowered, at any time within six months after the passing of this act, to apprehend such inhabitants of the counties of Ohio, Monongalia, and Yohogania, as shall appear to the said commissioners to have been concerned in any conspiracy or plot against the said states, or any or either of them, and to deliver the offenders over to the proper civil officer to be prosecuted according to law.

Their powers.

And to provide for the farther protection and defence of the frontiers, *Be it farther enacted*, That the governour, with the advice of the privy council, may order such part of the militia as may be most convenient, and as they shall judge necessary, consistently with the safety of the commonwealth, to act in conjunction with any troops on any expedition which may be undertaken by desire of the United States of America, in congress assembled, against any of our western enemies; and also, that the governour, with advice of the privy council, at any time within nine months after the passing of this act, may empower a number of volunteers, not exceeding six hundred, to march against and attack any of our said enemies, and may appoint the proper officers and give the necessary orders for the expedition.

Governor, &c. authorised to send a force for protection of western frontiers.

CHAP. VIII.

An act for speedily clothing the troops raised by this commonwealth now in continental service.

WHEREAS the probability of a winter campaign hath rendered it indispensably necessary to furnish an immediate supply of clothing for the troops raised in this commonwealth and now in continental service, and the usual methods of supply may prove tedious and inadequate to the present emergency:

Preamble.

For remedy herein, *Be it enacted by the General Assembly*, That the governour, with the advice of the council of state, be, and he is hereby empowered to appoint commissioners, in every part of this common-

Clothing for troops provided by seizure of goods.

wealth where he shall think it proper, who shall, and they, or any two of them, are hereby declared to have power and authority respectively to seize all linens, woollens, trimmings, tanned leather, hats, leather breeches, dressed deerskins, shoes, and stockings, proper for the use of the army, which may be found in the possession of any person or persons whatsoever, who hath purchased the same in any of the United States of America for sale; and if any person who may, on good grounds, be suspected by the said commissioners of having concealed any of the said articles in any storehouse, or other place, shall refuse to permit such commissioners to have free access thereto, the said commissioners are hereby empowered, in company with a justice of the peace, and by his order, to break open any locks or doors to enable them to discover whether any such articles are concealed; and where the said justice and commissioners shall meet with resistance in accomplishing this discovery, the said justice is hereby directed to call upon the sheriff, or any constable, for such aid of the county as shall be sufficient to enforce obedience to this act. The said commissioners shall be, and they are hereby required and empowered to appoint four honest and reputable housekeepers of the neighbourhood (of whom any three may act) who, having first taken an oath, to be administered by any one of the commissioners, faithfully and impartially to perform that service, shall appraise such goods in ready money, at a reasonable price.

Power of commissioners to break locks. &c. The commissioners who shall have performed the service shall give a certificate in writing, after such valuation is made, to the holders of such goods respectively, distinguishing the particular species, quantity, and value thereof, with an order to be drawn on the treasurer of this commonwealth to pay the said appraised value to the holder, or his order, within one month after the date thereof, which orders the treasurer is hereby required and directed to pay. And in all cases where such goods shall be applied to the use of the troops in continental service, the same shall be charged to the account of the United American States. And the commissioners, or any two of them, may employ, or if necessary impress, so many workmen as they shall judge sufficient to make up into wearing apparel such clothing and leather. The wages of any workmen impressed, in case of disagreement between the parties,

Goods, how appraised.

How paid for.

When charged to United States.

How made up into clothing.

Power to impress workmen.

shall be settled in the same manner as the value of the materials seized; and orders for such wages, as well as what shall become due to the persons voluntarily employed, shall be drawn upon the treasurer, paid by him, and charged in manner aforesaid. If any workman impressed shall refuse, or, being a servant, his master shall not permit him to work, the servant or master so offending, upon complaint of the commissioners, or any two of them, may by a justice of the peace, be committed to prison until he shall comply.

The said commissioners shall by some safe conveyance, and in due time, transmit to the treasurer a list of the sums for which they shall have drawn orders, together with the names of the persons in whose favour they were drawn, for his more certain information. Commissioners to transmit accounts to treasurer.

And if any person shall be sued for doing any thing in execution of this act, the defendant may plead the general issue, and give this act in evidence; and if the plaintiff shall be non-suited, or a judgment pass against him upon a verdict or demurrer, the defendant shall recover double costs; and in all such suits the *onus probandi* shall lie upon the plaintiff. Indemnification.

This act shall continue and be in force until the last day of February next.

CHAP. IX.

An act for Sequestering British Property, enabling those indebted to British subjects to pay off such debts, and directing the proceedings in suits where such subjects are parties. [Chan. Rev. p. 64.]

I. WHEREAS divers persons, subjects of Great Britain, had during our connexion with that kingdom, acquired estates, real and personal, within this commonwealth, and had also become entitled to debts to a considerable amount, and some of them had commenced Preamble.

ed suits for the recovery of such debts before the present troubles had interrupted the administration of justice, which suits were at that time depending and undetermined, and such estates being acquired, and debts incurred, under the sanction of the laws and of the connection then subsisting, and it not being known that their sovereign hath as yet set the example of confiscating debts and estates under the like circumstances, the publick faith, and the law and usages of nations, require that they should not be confiscated on our part, but the safety of the United States demands, and the same law and usages of nations will justify, that we should not strengthen the hands of our enemies during the continuance of the present war, by remitting to them the profits or proceeds of such estates, or the interest or principal of such debts:

British property sequestered.

Commissioners of sequestration, for each particular estate, how appointed.

Their powers and duties.

II. *Be it therefore enacted by the General Assembly,* that the lands, slaves, stocks, and implements thereunto belonging, within this commonwealth, together with the crops now on hand, or hereafter to accrue, and all other estate, of whatever nature, not herein otherwise provided for, of the property of any British subject, shall be sequestered into the hands of commissioners to be appointed from time to time by the governour and council for each particular estate, which commissioners shall have power, by suits or actions to be brought in the names of the proprietors, to receive and recover all sums of money hereafter to become due to the said proprietors of such estates, to direct by agents, stewards, or overseers, the management of the said estates to the best advantage, to provide out of the monies so received and recovered, and the crops and profits now on hand, or hereafter accruing, for the maintenance, charges, taxes, and other current expenses of such estates, in the first place, and the residue to carry into the loan office of this commonwealth, and to take out certificates for the same from the said office in the name of the proprietor of such estate, which certificates shall be delivered into the governour and council, before whom also a fair account, on oath, of the receipts and disbursements for the said estate, shall be annually laid, and if wrong, shall be subject at their instance to be revised and adjusted, in the name of the proprietors; and all balances due thereon from the said commissioners to be recovered in a court of justice, according to the ordinary forms of the law; and such balances, so recovered, to

be placed in like manner in the said loan office. And the governour and council shall once in every year lay before the general assembly an account of the said certificates put in their hands, specifying the names of the owners, and shall see to the safe keeping of the same, subject to the future direction of the legislature. And where any such estate is holden in joint tenancy, tenancy in common, or of any other undivided interest with any citizen of this commonwealth, it shall be lawful for such citizen to proceed to obtain partition by such action, suit, or process, to be instituted in the general court or high court of chancery, as is allowed to be had against a citizen in the like case; and service of process in any such suit on the commissioners appointed for such estate, and orders, judgments, and decrees thereon, to be rendered, shall be, to all intents and purposes, as valid and effectual as if the party himself had appeared in defence: Saving nevertheless to such defendant, if the partition be unequal, such redress as shall be hereafter allowed him by the legislature against the party plaintiff, his heirs, executors, or administrators, and against the lands themselves allotted to the plaintiff on such unequal partition, and not sold to any person for valuable consideration actually and *bona fide* paid or agreed to be paid; but all lands so sold after partition shall be absolutely confirmed to the purchaser and all claiming under him, according to the terms of his purchase, in like manner as if the vendor had held an indefeasible estate therein. And the said commissioners shall use their best skill and endeavours to obtain a fair and equal partition for their principal, for which purpose they may employ necessary agents and counsel at his expense; and for this, and all other their trouble and expenses, such allowance shall be made them out of the profits of the estate as to the governour and council shall seem reasonable.

Accounts
laid before
the assembly,

Partition be-
tween Bri-
tish subjects
and citizens,
joint-ten-
ants, &c.
how made.

III. *And be it farther enacted,* That it shall and may be lawful for any citizen of this commonwealth owing money to a subject of Great Britain to pay the same, or any part thereof, from time to time, as he shall think fit, into the said loan office, taking thereout a certificate for the same in the name of the creditor, with an endorsement under the hand of the commissioner of the said office expressing the name of the payer, and shall deliver such certificate to the governour and

British debts,
payable into
loan office.

council, whose receipt shall discharge him from so much of the debt. And the governour and council shall in like manner lay before the general assembly once in every year, an account of these certificates, specifying the names of the persons by and for whom they were paid, and shall see to the safe keeping of the same, subject to the future direction of the legislature.

Provision for
wives, &c.
of British
subjects.

IV. *Provided*, That the governour and council may make such allowance as they shall think reasonable, out of the said profits and interest arising on money so paid into the loan office, to the wives and children residing in this state, of such proprietors or creditors.

Suits by
British sub-
jects sus-
pended.

V. *And be it farther enacted*, That all suits which were depending in any court of law or equity within this commonwealth on the twelfth day of April in the year of our Lord one thousand seven hundred and seventy four, wherein British subjects alone are plaintiffs, and any citizen of this commonwealth is a defendant, shall stand continued (unless abated by the death of either party) in the same state in which they were at that time; and where citizens and British subjects are joint plaintiffs against a citizen, the court may proceed to trial and judgment, but execution as to so much of any debt sued for and recovered in such action, as will accrue to such British subject, shall be suspended till farther direction of the legislature. And in all such suits wherein any citizen of this commonwealth is a plaintiff, and any subject of Great Britain is a defendant, the court may proceed to trial, judgment, and execution, saving to the defendant such benefit of rehearing, or new trial, as shall be hereafter allowed by the legislature.

Proceeding,
where joint
plaintiffs, or
defendants
with a citi-
zen.

CHAP. X.

An act for authorising the seizure of Salt, in the same manner as provisions for the use of the army.

BE it enacted by the General Assembly, That from and after the passing of this act the agents, commissaries, or contractors, acting under appointment of the United States or this commonwealth, shall, and they are hereby authorised and required to seize for the use of the army any salt which they may discover in the possession of any person or persons within this commonwealth imported or purchased for sale, proceeding therein in the same manner as is directed in the case of seizing provisions by an act of assembly passed this session, intituled “An act for enabling the publick contractors to procure stores of provisions necessary for the ensuing campaign, and to prohibit the exportation of beef, pork, and bacon, for a limited time;” save only, that instead of the appraisement by the said act directed the person or persons from whom any salt shall be taken by virtue of this act shall be entitled to five pounds per bushel, together with the charge of carriage from the place of importation, for the same.

Salt may be seized for the use of the army.

This act shall continue and be in force for the space of one month, unless the governour and council shall by proclamation declare that the publick wants are sufficiently provided for, and no longer.

CHAP. XI.

[Chan. Rev. p. 65.] *An act to prevent Forestalling Re-grating, Engrossing, and Publick Vendues.*

Who deem-
ed a fore-
staller.

I. *Be it enacted by the General Assembly, that if any person shall buy, or cause to be bought, any goods, wares, merchandise, or victual, which at the time of purchase shall be under carriage or transportation to any market or fair within this commonwealth to be sold therein, or to any city or town wherein there is no publick market established, or to any port or harbour of this commonwealth for sale, or shall make any bargain, contract, or promise, for the buying or having such goods, or pre-emption thereof, before the same shall be in or at the market, fair, city, town, port, or harbour, ready to be there sold, or shall persuade any person coming to this commonwealth, or any market therein, to forbear bringing any goods, wares, or merchandise thereto, or use any means or device for the enchancing of the price of any such goods in this commonwealth, or any market therein, every such person offending in either of the said particulars is declared a forestaller. But this shall not extend to any person living more than four miles from any town within this commonwealth, and purchasing any victual, goods, or commodities, necessary for the use and consumption of himself and his family, or those in his employ, for one year.*

Who a re-
grater.

II. *If any person shall, by any means, buy, obtain, or get into his possession, in any fair or market, any victual that shall have been brought to the said fair or market to be sold, and shall make sale thereof again in the same place, or in any other place, within four miles thereof, he is declared a regrater.*

Who an en-
grosser.

III. *If any person shall buy within this commonwealth to sell again, in this or any of the United States, any goods, wares, merchandise, or victual, which shall have been imported or brought into this state from any other state or place whatsoever, or any victual, commodities, manufactures, or materials for manufacture, raised or wrought within this state, except such purchase be made from the original importer, owner, maker, or*

manufacturer of such goods, wares, merchandise, victual, commodities, manufactures, or materials for manufacture, respectively every person so offending is declared an engrosser. But this act shall not extend to any person purchasing such articles from one who purchased from the importer and retailing the same more than twenty five miles from any tide water, nor to any agent of this commonwealth or of the United States, or any of them, purchasing necessaries really and *bona fide* for the use of the army or navy, and not dealing in such articles on the account of himself or any other private persons (such agent for the United States, or any of them, producing, whensoever called on, sufficient proof of his acting under authority from the United States, or some one of them) nor to the managers of any iron works purchasing necessaries for the use of those employed about such iron works and selling them to such persons, nor to the purchasers of materials for manufacture which shall be really applied to that use in the family of the purchaser, or some manufactory wherein he is interested, nor to ordinary keepers purchasing victual to be retailed in their ordinaries, or persons keeping private houses for lodging or entertainment who may buy any kind of victual and retail the same in their respective houses after it is prepared and dressed for the table, nor to the owners of any imported goods sold as being damaged for the benefit of the insurers, or condemned in the admiralty and purchased by the said owners.

IV. Every person becoming a forestaller, regrater, or engrosser, as before described, shall, on conviction for the first offence, suffer imprisonment by the space of one month without bail or mainprise, and forfeit the value of the things so by him bought or sold, and for the second offence shall be imprisoned two months without bail or mainprise, and shall forfeit the double value of the things so by him bought or sold, and for any such offence afterwards committed shall stand in the pillory for such time as the court shall direct, not exceeding two hours, shall forfeit treble the value of the things by him bought or sold, and be imprisoned at the discretion of the jury convicting him of the said offence, provided such imprisonment doth not exceed three months.

Forestaller,
&c. how
punishable.

V. No goods, wares, merchandise, victual, commodities, manufactures or materials for manufacture, im-

Public vendues prohibited.

ported into this commonwealth, or raised or manufactured within the same (except slaves, stocks, and household furniture, goods condemned in the admiralty court, or goods which being damaged are by the law and the custom of merchants to be sold for the benefit of insurers, victual, or goods sold on account and for the benefit of the United American States, or some one of them, goods taken in execution or upon attachment, or distrained for rent or publick taxes, or sold by executors or administrators) shall be exposed to sale at publick vendue, under penalty on each person selling or buying at such vendue, for each article so sold, of double the value thereof.

Exceptions.

Penalties
how recovered and
appropriated.

VI. All the penalties hereby inflicted shall be one half to the use of the commonwealth and the other to the informer, and where the sum doth not exceed twenty five shillings, shall be recoverable with costs before any justice of the peace, and where it shall exceed that sum by action of debt or information, in any court of record; and in such action of debt the clerk shall endorse on the writ, that bail is to be required, whereupon the sheriff shall take sufficient bail for the appearance of the defendant, or be answerable himself, as in other like cases, and the court may either rule the defendant to give special bail, or admit an appearance without, as to them shall appear just.

VII. All acts of parliament and of general assembly, relating to any thing within the purview of this act, are hereby repealed.

CHAP. XII.

An act for enabling the publick contractors to procure stores of provisions necessary for the ensuing campaign, and to prohibit the exportation of beef, pork, and bacon, for a limited time.

WHEREAS divers persons, devoting themselves to avarice and extortion, and intending to amass riches out of the ruins of their country, or treacherously to betray it into the hands of its enemies, have industriously bought up, and already got into their possession, so great a proportion of the provisions usually brought to market at this season, that there is little hope of our being able to lay up such stores thereof as will be requisite for the purposes of the ensuing campaign, unless an embargo be laid on the exportation thereof: Preamble.

Be it therefore enacted by the General Assembly, That from and after the passing of this act no pork, beef, or bacon, shall be exported out of this commonwealth by land or by water, by any person whatever, except only such as shall be sent thereout for the support of the continental army, or any troops sent out of this commonwealth, by the agents, contractors, or commissaries, acting under appointment from the United States, or any of them, or to fulfil contracts already made to supply the owners of certain iron works with a quantity of beef or pork in the state of Maryland in exchange for iron, and except also such quantity as may be really necessary for the crew of a vessel going out upon a voyage or cruise, and such as may be purchased by the agents of the United States as sea stores for any vessels in the continental service going from Maryland or North Carolina on a voyage or cruise. Any person so offending herein, by exporting, or endeavouring to export, pork, beef, or bacon, contrary to this act, shall forfeit the provisions so endeavoured to be exported, which may be seized by any naval officer, where the exportation shall be by water, or by order of any justice of peace, where it happens by land, or, happening Embargo, on exportation of pork, beef and bacon.

by water, a naval officer hath not been appointed, or, being appointed, shall not be present at the place where the exportation is intended, and shall also pay the double value thereof, with costs of suit, one moiety to the commonwealth, and the other moiety to him who will sue as well for the commonwealth as for himself, or the whole to the commonwealth, if a prosecution shall be first instituted on the publick behalf alone.

How enforced.

And be it farther enacted, That if any justice of peace, from his own knowledge, or the information of others, shall have cause to suspect that any pork, beef, or bacon, is about to be carried out of this commonwealth contrary to this act, he may issue his warrant for seizing the same; and if the owner shall not give security that he will not carry the same out of the commonwealth, such justice may either retain such provisions for publick use, to be appraised and paid for in manner herein after mentioned, or may cause the same to be sold for the benefit of the owner, and at his or her expense.

Provisions purchased, by any person, more than necessary for the consumption of his family, may be seized, for use of the army.

And that those who have engrossed, or shall engross, the provisions necessary for the army, and refuse to sell the same for that use at moderate prices, may be disappointed in their wicked designs to distress or ruin their country: *Be it farther enacted,* That if any person, who, since the first day of November last, hath purchased, or during the continuance of this act shall purchase, any live stock, or beef, pork, or bacon, more than is sufficient for the consumption of his family, and of those in his employ, shall refuse to sell the same to any agent, commissary, or contractor, acting under appointment of the United States or this commonwealth, for such price as shall be estimated by three freeholders authorised by a justice of the peace by warrant under his hand and seal, and sworn truly and faithfully to ascertain the number and quantity sufficient for the family of the owner and those in his employ, and to appraise the surplus, such agent, commissary, or contractor, by warrant under the hand and seal of a justice of the peace, who is hereby required to issue the same, may, in company with the sheriff or constable, and such assistants as the said justice shall judge necessary, seize such surplus, and for that purpose, in the day time, enter any warehouse or enclosure, paying or tendering to the owner the price so estimated by the appraisers, or in case the seizure be made by an agent,

commissary, or contractor of this commonwealth, drawing orders on the treasurer, payable one month after date, and transmitting copies of such orders to the said treasurer in the meantime.

And that any person against whom an action may be commenced for what he shall lawfully do by virtue and in execution of this act may plead the general issue, and give this act in evidence; and if a verdict be found, or a judgment be given for him, he shall recover double costs.

This act shall continue and be in force until the end of the next session of assembly, unless the governour and council shall by proclamation declare that the publick wants are sufficiently provided for, and no longer.

Indemnification.

CHAP. XIII.

An act for farther suspending the payment of the salaries heretofore given to the Clergy of the Church of England.

WHEREAS by an act of general assembly, passed in the year one thousand seven hundred and seventy six, intituled, "An act for exempting the different societies of dissenters from contributing to the support and maintenance of the church as by law established and its ministers, and for other purposes therein mentioned," reciting, that by the exemptions allowed dissenters it might be too burthensome in some parishes to the members of the established church if they should still be compelled to support the clergy by certain fixed salaries, and that it was judged best that this should be done for the present by voluntary contributions, it was enacted, that so much of an act of the general assembly, made in the twenty second year of the reign of king George the second, intituled "An act for the support of the clergy, and for the regular collecting and paying the parish levies," or any other act as provided

Salaries of ministers of Church of England further suspended.

salaries for the ministers and authorised the vestries to levy the same, except in the cases in the same act of one thousand seven hundred and seventy six, before directed, should be suspended until the end of the then next session of assembly, at which next session of assembly the act so suspended was by another act farther suspended until the end of this present session of assembly, and it is reasonable that the same suspension should be farther continued:

Be it therefore enacted by the General Assembly, That so much of the said act as was so suspended by the above recited act of one thousand seven hundred and seventy six shall be farther suspended until the end of the next session of general assembly.

CHAP. XIV.

An act to amend an act intituled An act limiting the time for continuing the Delegates to General Congress in office and making provision for their support, and for other purposes.

BE it enacted by the General Assembly, That the number of delegates hereafter to be chosen to congress shall be seven, of whom any three, when more than five do not attend, shall be sufficient to represent this commonwealth therein. That no person shall be hereafter eligible to or capable of serving in congress for more than three years, in any term of six years.

Each member for every day he shall attend, shall receive ten dollars, and also one third of a dollar per mile going, and the same returning, together with his ferriages, in lieu of the allowances heretofore settled by law, to be paid, wherever congress shall be sitting, by the treasurer of this commonwealth, out of any publick monies which shall be in his hands.

That so much of an act of assembly, intituled “An act limiting the time for continuing the delegates to general congress in office and making provision for their support, and for other purposes,” as is within the purview of this act, be, and is hereby repealed.

CHAP. XV.

An act for establishing a High Court of Chancery. [Chan. Rev. p. 66.]

I. FOR establishing a court of general jurisdiction in Chancery, *Be it enacted by the General Assembly,* High court of chancery established. that at some certain place* to be appointed by act of general assembly, and at the times herein after directed, shall be held a principal court of judicature for this commonwealth, which shall be called the high court of chancery, and shall consist of three judges, to be chosen from time to time by the joint ballot of both Number of judges. houses of assembly, and commissioned by the governor, to hold their offices so long as they shall respectively demean themselves well therein, any two of whom may hold a court. Every person so commissioned, before he enters upon the duties of his office, shall in open court take and subscribe the oath of fidelity to this commonwealth, and take the following oath of office: “You shall swear, that well and truly you will serve this commonwealth in the office of a judge of the high court of chancery, and that you will do equal Their oath. right to all manner of people, great and small, high and low, rich and poor, according to equity and good conscience, and the laws and usages of Virginia, without respect of persons. You shall not take by yourself, or by any other, any gift, fee, or reward, of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done by virtue of your office, except such fees or salary as shall be by law appointed. You shall not maintain by yourself, or by any other, privily or openly, any plea or quarrel depend-

* *Williamsburg* See post chap. XXVII

ing in the courts of this commonwealth. You shall not delay any person of right for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to law, you shall nothing do for such letter or request, but you shall proceed to do the law, any such letter or request notwithstanding. And finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment do equal and impartial justice, without fraud, favour, affection, or partiality. So help you God."

Penalty for acting without oath.

Jurisdiction.

Terms.

Court always open for certain purposes.

Clerk.

Process, rules for issuing and returning.

II. And if any person shall presume to execute the said office without having taken the said oaths, he shall forfeit and pay the sum of five hundred pounds for his said offence. The said court shall have general jurisdiction over all persons and in all causes in chancery, whether brought before them by original process, appeal from any inferior court, *certiorari*, or other legal means; but no person shall commence an original suit in the said court in any matter of less value than ten pounds, except it be against the justice of any county or other inferior court, or the vestry of any parish, on pain of having the same dismissed with costs. There shall be two sessions of the said court in every year, to wit, one to begin on the fifth day of April, or if that be Sunday, then on the next day; the other on the fifth day of September, or if that be Sunday, then on the next day; to continue each of them eighteen days, Sundays excluded, if they shall so long have business to require their attendance. If not, they may, when the business is dispatched, adjourn to the next court. The said court shall however be considered as always open, so as to grant injunctions, writs of *ne exeat*, or other process heretofore allowed by the laws to be issued in time of vacation by the clerk of the general court in chancery. The said court shall have power from time to time to appoint a clerk,* who shall hold his office during good behaviour, and be entitled to such fees or salary as shall be established by the legislature. All original process to bring any person to answer any bill, petition, or information in the said court, and all subsequent process thereupon, shall be issued and signed by the clerk in the name of the commonwealth, and bear teste by the first judge of the said court, shall be returnable to the first or seven-

* Also a serjeant at arms. See post chap. XXVII.

teenth days of the term, which shall be next after the suing out such process, and may be executed at any time before the return day thereof. And if any process shall be executed so late that the sheriff hath not reasonable time to return the same before the day of appearance, and thereupon any subsequent process shall be awarded, the sheriff shall not execute such subsequent process, but shall return the first process by him executed, on which there shall be the same proceedings as if it had been returned in due time. And all appeals from decrees in chancery, obtained in any inferior court, shall be made to the third day of the next term.

Appeals to

III. In all suits in the said court the following rules and methods shall be observed: The complainant shall file his bill within one kalendar month after the day of appearance, or may be ruled on the requisition of the defendant to file such bill, and if he fails so to do within one kalendar month after such rule, the suit shall be dismissed with costs;

Rules of practice.

IV. And upon the complainant's dismissing his bill, or the defendant's dismissing the same for want of prosecution, the complainant shall pay costs, to be taxed by the clerk of the court, for which costs and attachment, or other process of contempt, may issue, returnable on any return day.

V. The complainant may amend his bill before the defendant or his attorney hath taken out a copy thereof, or in a small matter afterwards, without paying costs; but if he amend in a material point after such copy obtained, he shall pay the defendant all costs occasioned thereby.

VI. If the defendant shall not appear on the day of appearance (which in all cases shall be the second day after the term to which the subpoena is returnable) an attachment shall be awarded and issued against him, returnable to the next term, which being returned executed, if the defendant doth not appear, or being brought into court upon any such process shall obstinately refuse to answer, the complainant's bill shall be taken as confessed, and the matter thereof decreed accordingly.

Appearance day.

VII. The defendant, within three kalendar months after his appearance and bill filed, shall put in his answer to be filed with the clerk in the office, at the expiration of which time, if no answer be filed, the clerk,

upon request, shall issue an attachment, returnable to the next court; and if no answer be filed upon the return of such attachment executed, the complainant's bill shall be taken as confessed, and the matter thereof decreed; and if the attachment be returned not executed, an attachment with proclamations, and such subsequent process of contempt may issue as was heretofore issuable out of the general court sitting in chancery in like cases.

VIII. No process of contempt shall issue unless the subpœna be returned served by a sworn officer, or affidavit be made of the service thereof.

IX. Every defendant may swear to his answer before any judge of this or the general court, or any justice of the peace.

X. When a cross bill shall be exhibited, the defendant or defendants to the first bill shall answer thereto before the defendant or defendants to the cross bill shall be compelled to answer such cross bill.

XI. The complainant shall reply, or file exceptions, within two kalendar months after the answer shall have been put in. If he fails so to do, the defendant may give a rule to reply with the clerk of the court, which being expired, and no replication or exceptions filed, the suit shall be dismissed with costs; but the court may order the same to be retained if they see cause, on payment of costs.

XII. If the complainant's attorney shall except against any answer as insufficient, he may file his exceptions, and give a rule with the clerk to make a better answer within two kalendar months, and if within that time the defendant shall put in a sufficient answer, the same shall be received without costs; but if any defendant insist on the sufficiency of his answer, or neglect or refuse to put in a sufficient answer, or shall put in another insufficient answer, the plaintiff may set down his exceptions to be argued the next term in court, and after the expiration of such rule, or any second insufficient answer put in, but no farther or other answer shall be received but upon payment of costs.

XIII. If upon argument the complainant's exceptions shall be over-ruled, or the defendant's answer adjudged insufficient, the complainant shall pay to the defendant, or the defendant to the complainant, such costs as shall be allowed by the court.

XIV. Upon a second answer adjudged insufficient, costs shall be doubled.

XV. If a defendant shall put in a third insufficient answer, which shall be so adjudged, he or she may be examined upon interrogatories, and committed until he or she shall answer them, and pay costs.

XVI. If the defendant, after process of contempt, put in an insufficient answer, which shall be so adjudged, the complainant may go on with the subsequent process of contempt, as if no answer had been put in.

XVII. Rules to plead, answer, reply, rejoin, or other proceedings not before particularly mentioned, when necessary, shall be given from month to month with the clerk in his office, and shall be entered in a rule book for the information of all parties, attorneys, or solicitors, concerned therein.

XVIII. No defendant shall be admitted to put in a rejoinder unless it be filed on or before the expiration of the rule to rejoin, but the complainant may proceed to set his cause down for hearing.

XIX. After an attachment with proclamation returned, no plea or demurrer shall be received unless by an order of court, upon motion.

XX. If the complainant conceives any plea or demurrer to be nought, either for the matter or manner of it, he may set it down with the clerk to be argued; or if he thinks the plea good, but not true, he may take issue upon it, and proceed to trial by jury, as hath been heretofore used in other causes in chancery where trial hath been by jury; and if thereupon the plea shall be found false, the complainant shall have the same advantages as if it had been so found by verdict at common law,

XXI. If a plea or demurrer be over-ruled, no other plea or demurrer shall be thereafter received, but the defendant shall answer the allegations of the bill.

XXII. If the complainant shall not proceed to reply to, or set for hearing, as before mentioned, any plea or demurrer before the second court after filing the same, the bill may be dismissed of course with costs.

XXIII. Upon a plea or demurrer argued and over-ruled, costs shall be paid as where an answer is judged insufficient, and the defendant shall answer within two kalendar months after; but if adjudged good, the defendant shall have his costs.

XXIV. If any defendant, after a demurrer shall have been over-ruled, shall refuse to answer, the bill shall be taken as confessed, and the matter thereof decreed.

Comm's-
sions, before
answer.

XXV. After any bill filed, and before the defendant hath answered, upon oath made, that any of the complainant's witnesses are aged or infirm, or going out of the country, the clerk may issue a commission for taking the examination of such witnesses *de bene esse*, the party praying such commission giving reasonable notice to the adverse party of the time and place of taking the depositions.

Facts, how
triable.

XXVI. All matters of fact, material to the determination of the cause, which in the course of the proceedings shall be affirmed by the one party and denied by the other, shall be tried by a jury upon evidence given *viva voce* in the said court; and where witnesses are absent through sickness, or other unavoidable cause, upon their depositions taken as the law directs, for which purpose an issue or issues shall be made up by declaration and plea, as hath been heretofore used in chancery, when issues have been specially directed to be made up and tried by jury; for trial of which issues, the sheriff of the county in which the court shall sit shall, every day of its session, summon a sufficient number of jurymen of the bystanders, or others found within half a mile of the courthouse, who shall be qualified as jurors attending the general court, and shall be subject to the same penalties for failing to attend; saving to the defendant the same benefit of evidence, by his own answer, as hath been heretofore allowed in trials before the court of chancery.

Cause set
for hearing.

XXVII. Provided, that where the parties shall waive the trial of any such issue by jury, and submit the whole to the judgment of the court, or shall agree that the depositions of witnesses shall be taken, and the cause tried thereon instead of their being examined *viva voce* in court, such waiver or agreement being signed by the parties or their counsel, the clerk shall issue commissions for the examination of the witnesses, and ten days previous notice of the time and place of executing the same shall be given by the party taking out such commission to the adverse party; and when the depositions shall be taken and returned, if the complainant shall not within one kalendar month thereaf-

ter set down the cause for hearing with the clerk, the defendant may have the same set down as aforesaid.

XXVIII. The court in their sittings may regulate all proceedings in the office, and for good cause shewn may set aside any dismissions, and reinstate the suits on such terms as shall appear equitable.

Proceedings in office controlled by court.

XXIX. For prevention of errors in entering up the decrees and orders of the court, the proceedings of every day shall be drawn up at large by the clerk, and read in open court the next day, except those the last day of each term, which shall be drawn up, read and corrected, the same day, and any necessary corrections made therein, when they shall be signed by the presiding judge of the court, and preserved among the records.

Orders read and signed.

XXX. And for the more entire and better preservation of the records of the court, when any cause shall be finally determined, the clerk shall enter all the pleadings therein, and other matters relating thereto together, in a book to be kept for that purpose, so that an entire and perfect record may be made thereof, and those wherein the title to lands is determined shall be entered in separate books to be kept for that purpose only.

Making up records.

XXXI. The court in their sessions, or any two of the judges in vacation, may grant writs of *certiorari* for removing before them the proceedings in any suit in chancery depending in any county or other inferior court, writs of *ne exeat* to prevent the departure of any defendant out of the country until security be given for performing the decree, and writs of injunction to stay execution of judgments obtained in any of the courts of common law, subject nevertheless to the rules following:

Certiorari, ne exeat, & injunction, how granted

XXXII. No writ of *certiorari* shall be granted to remove any suit unless the matter in dispute be of value sufficient to entitle the high court of chancery to original jurisdiction therein, nor unless ten days notice of the motion be given in writing to the adverse party, nor in vacation but upon such petition and affidavit as are by law directed for writs of *certiorari* to be granted by the general court; and, in all cases, bond and security shall be given for performing the decree of the said high court of chancery, before the issuing of the *certiorari*.

Rules as to certiorari.

XXXIII. Writs of *ne exeat* shall not be granted but upon a bill filed and affidavits made to the truth of its

Ne exeat, upon what granted.

allegations, which being produced to the court in term time, or to two judges in vacation, they may grant or refuse such writ as to them shall seem just, and if granted, they shall direct to be endorsed thereon in what penalty bond and security shall be required of the defendant.

How discharged.

XXXIV. If the defendant shall by answer satisfy the court that there is no reason for his restraint, or give sufficient security to perform the decree, the writ may be discharged.

Rules, in granting injunctions.

XXXV. No injunction shall be granted to stay proceedings in any suit at law unless the matter in dispute be of value sufficient to admit of original jurisdiction in the said high court of chancery, nor unless the court in term time, or two judges thereof in vacation, shall be satisfied of the plaintiff's equity, either by affidavit, certified at the foot of the bill, that the allegations thereof are true, or by other means, and shall order the same, in which case the complainant shall enter into bond with sufficient security, to be approved of by the said court or judges, for paying all money and tobacco, and costs due, or to become due, to the plaintiff in the action at law, and also all such costs as shall be awarded against him or her in case the injunction shall be dissolved.

Suits in old general court transferred to this.

XXXVI. The said high court of chancery shall take cognizance of and hear and determine all suits in chancery which were depending in the general court at its last adjournment, or have been commenced therein since such adjournment, in the same manner as if the said suits had been originally instituted, or appeals entered to the said high court of chancery. If any suit shall be depending, or hereafter commenced, against any defendant or defendants who are out of this country, and others within the same, having in their hands effects of, or otherwise indebted to, such absent defendant or defendants, and the appearances of such absentees be not entered, and security given to the satisfaction of the court for performing the decrees, upon affidavit that such defendant or defendants are out of the country, or that upon inquiry at his, her, or their usual places of abode, he, she, or they, could not be found, so as to be served with process, in all such cases the said high court of chancery may make any order, and require surety if it shall appear necessary, to restrain the defendants in this country from paying

Foreign attachments

conveying away or secreting the debts by them owing to, or the effects in their hands of such absent defendant or defendants, and for that purpose may order such debts to be paid and effects delivered to the said plaintiff or plaintiffs, upon their giving sufficient security for the return thereof to such persons, and in such manner as the court shall direct.

XXXVII. The court shall also appoint some day in the succeeding term for the absent defendant or defendants to enter his or their appearance to the suit and give security for performing the decree, a copy of which order shall be forthwith published in the Virginia Gazette, and continued for two months successively, and shall also be published on some Sunday immediately after divine service in such parish church or churches as the court shall direct, and another copy shall be posted at the front door of the said court. If such absent defendant or defendants shall not appear and give such security within the time limited, or such farther time as the court may allow them for good cause shewn, the court may proceed to take such proof as the complainant shall offer; and if they shall thereupon be satisfied of the justice of the demand, they may order the bill to be taken as confessed, and make such order and decree therein as shall appear just, and may enforce due performance and execution thereof by such ways and means as hath heretofore been used for enforcing other decrees, requiring the plaintiff or plaintiffs to give security as the court shall approve for abiding such future order as may be made for restoring the estate or effects to the absent defendant or defendants, upon his or their appearance and answering the bill; and if the plaintiff or plaintiffs shall refuse to give or not be able to procure such security, the effects shall remain, under the direction of the court, in the hands of a receiver, or otherwise for so long time, and shall then be finally disposed of in such manner, as to the court shall seem just.

Foreign attachments continued.

XXXVIII. If any defendant or defendants shall be in custody upon any process of contempt, and be brought into court by virtue of a writ of *habeas corpus* or other process, and shall refuse or neglect to enter his or her appearance according to the rules of the court, or appoint an attorney of the court to do the same for him, the court in such case may direct an attorney to enter an appearance for the defendant or defendants,

Proceedings against defendant in custody.

and thereupon such proceedings may be had as if he or they had actually entered an appearance; but if such defendant or defendants shall be in custody at the time a decree shall be made upon refusal or neglect to enter an appearance or to appoint an attorney as aforesaid, or shall be forthcoming so as to be served with a copy of the decree, then such defendant or defendants shall be served with such copy before any process shall be taken out to compel the performance thereof, and if such defendant or defendants shall die in custody before such service, then his heir, if any real estate be sequestered or affected by such decree, or if only personal estate, his executor or administrator shall be served with a copy in a reasonable time after such death shall be known to the plaintiff, and who is such heir, executor, or administrator.

Opening decrees for absentees.

XXXIX. If any person or persons, who shall be out of the commonwealth at the time any decree is pronounced as aforesaid, shall within seven years from the passing such decree return and appear openly, or, in case of his or her death, if his or her heir, executor, or administrator, shall within the said seven years be and appear openly within this commonwealth, the plaintiff or plaintiffs, their executors or administrators, shall serve such person or persons so returning or appearing with a copy of the decree within a reasonable time after such return or appearance shall be known to the plaintiff or plaintiffs, and thereupon such defendants or their representatives may within twelve months after such service, or those defendants not served with a copy, or their representatives, may within seven years after the decree pronounced, appear in court and petition to have the cause re-heard, and upon their paying down or giving security for payment of such costs as the court shall think reasonable they shall be admitted to answer the bill, and issue may be joined and witnesses on both sides examined, and such other proceedings, decree, and execution had, as if there had been no former decree in the cause; but if the several defendants or, their representatives, upon whom the decree shall be so served, shall not within twelve months after such service, and the other defendants, or their representatives, upon whom no such service is made, shall not within seven years from the time of the decree pronounced, appear and petition to have the cause re-heard as aforesaid, and pay, or secure to be paid, such costs as

the court may think reasonable, all and every decree to be made in pursuance of this act, against any defendant or defendants so failing, shall stand absolutely confirmed against him, her, or them, his, her, or their heirs, executors, or administrators, and all persons claiming under him, her, or them, by virtue of any act or conveyance done or made subsequent to the commencement of the suit, and at the end of such term the court may make such farther order for quieting the plaintiff or plaintiffs in any such suits, in their possession of and title to the estate and effects so sequestered or made liable, as to them shall seem reasonable.

And it is farther enacted, That each of the said judges shall receive an annual salary of five hundred pounds, to be paid by the treasurer out of any publick money in his hands; and that instead of the tax formerly imposed upon chancery process issued from the general court, which shall henceforth cease, a tax or duty of five shillings shall be paid for every original subpoena writ of *certiorari*, *ne exeat*, or injunction sued out of the said high court of chancery, by the party suing out the same, before the writ shall be issued to the clerk of the said court, and by him accounted for upon oath and paid to the treasurer of this commonwealth half yearly, in the months of March and September, or on his neglect may be recovered by the said treasurer, upon a motion in the general court, and ten days previous notice of such motion; provided, that no more than one tax shall be paid for process in any suit.

Salary of
judges.

Tax on pro-
cess.

CHAP. XVI.

*An act for establishing a warehouse
for the reception of tobacco at South
Quay in Nansemond county and
Hobb's Hole in Essex county.*

Warehouses
at South
Quay and
Hobb's Hole
established.

WHEREAS in the late revision of the tobacco law the inspection of tobacco formerly established at Sleepy Hole and Wilkinson's, in the county of Nansemond, and Hobb's Hole, in the county of Essex, were discontinued, and it is now expedient, and will be very advantageous to the publick, that the inspections should be revived in the said counties:

Be it therefore enacted by the General Assembly, That for the receipt and inspection of tobacco a warehouse be established at South Quay, in the said county of Nansemond, on the land of Benjamin Baker, and at Hobb's Hole, in the county of Essex, which inspection shall be subject to the same limitation, regulation, and restriction, and entitled to the same privileges, as other warehouses established by a late act of assembly, intituled "An act for reviving several publick warehouses for the reception of tobacco, and other purposes;" and each of the inspectors attending the warehouses at Hobb's Hole shall receive a salary of thirty pounds, and the inspectors at South Quay twenty five pounds.

CHAP. XVII.

An act for establishing a General Court. [Chan. Rev. p. 77.]

I. For establishing a court of common law of general jurisdiction, for the more easy and speedy administration of justice in this commonwealth, and for regulating the proceedings therein.

II. *Be it enacted,* That at some certain place* to be appointed by act of general assembly, and at the times herein after directed, there shall be held one principal court of judicature for this commonwealth, which shall be styled the general court of Virginia, and shall consist of five judges, to be chosen by joint ballot of both houses of the general assembly, and commissioned by the governour for the time being, to hold their offices so long as they shall respectively demean themselves well therein, any three of them to be a court; and the said judges shall have precedence in court as they may stand in nomination on the ballot, and the person first named shall be called chief justice of such court. Every person so commissioned, before he enters upon the duties of his office, shall in open court take and subscribe the oath of fidelity to the commonwealth, and take the following oath of office, to wit: "You shall swear, that well and truly you will serve this commonwealth in the office of a judge of the general court, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to law, without respect of persons. You shall not take by yourself, or by any other, privily or openly, any gift, fee, or reward, of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done by virtue of your office, except such fees or salary as shall be by law appointed. You shall not maintain by yourself, or any other, privily or openly, any plea or quarrel depending in the courts of this commonwealth. You shall not deny or delay any person of common right for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary

General court established.

Number of judges.

Chief justice.

Oath of judges.

* *Williamsburg.* See post chap. XXVII.

to the law, you shall nothing do for such letter or request, but you shall proceed to do the law, any such letter or request notwithstanding. And finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial justice, without fraud, favour, affection, or partiality. So help you God." Which oath shall be administered by the governour, or other presiding chief magistrate, in presence of the council of state; and if any person shall presume to sit in court, or execute the said office without having taken the said oaths, he shall for such offence forfeit the sum of five hundred pounds. The jurisdiction of the said court shall be general over all persons, and in all causes, matters, or things at common law, whether brought before them by original process, by appeal from any inferior court, *habeas corpus*, *certiorari*, writ of error, *supersedeas*, *mandamus*, or by any other legal ways or means.

Penalty for acting without oath.

Jurisdiction.

Jurisdiction limited.

III. *Provided always*, That no person shall sue out original process for the trial of any matter or thing in the general court of less value than ten pounds, or two thousand pounds of tobacco, except it be against the justices of a county, or other inferior court, or the vestry of a parish, on penalty of being nonsuited, and having his suit dismissed with costs.

Suits transferred from old general court.

IV. The said court shall take cognizance of, and hear and determine, all actions and suits at common law, whether real, personal, or mixed, petitions for lapsed lands, and all appeals at common law which were depending in the general court at its last adjournment, or which have been since commenced therein, in the same manner as if the said suits had been originally instituted, or appeals entered in the said court.

Terms.

V. There shall be two sessions of the said court in every year, to wit, one to begin on the first day of March, if not Sunday, and then on the Monday thereafter, and the other to begin on the tenth day of October, if not Sunday, and then on the Monday following, to continue each of them twenty four natural days, Sundays exclusive, unless the business depending before them shall be finished in less time, in which case the judges may adjourn to the next succeeding court; and if it should so happen that a sufficient number of judges should not attend on the day appointed, any one

of the said judges may adjourn the court from day to day for six days successively, and if a sufficient number should not be able to attend at the end of such adjournment, all suits depending in such court shall stand continued over to the next succeeding court.

VI. The said court shall have power from time to time to appoint a clerk, one or more assistant clerks, a crier and tipstaff, who shall hold their offices respectively during good behaviour, and be entitled to such fees or salaries as shall be established by law; and the sheriff, or so many of the under sheriffs as shall be thought necessary, of the county where such court may be held, shall attend the said court during their sessions.

VII. All original process to bring any person or persons to answer in any action or suit, information, bill, or plaint, in the said court, and all subsequent process thereon, all attachments, or other writs of what nature soever, awarded by the said court, shall be issued and signed by the clerk of the said court in the name of the commonwealth, shall bear teste by the chief justice of the court, and be returnable on the respective days of the next succeeding court, as followeth, that is to say: All process for the commonwealth on criminal prosecutions to the sixth day, all appeals, writs of error, *supersedeas*, *certiorari*, *mandamus*, prohibition, and all other writs and process, except *subpœnas* for witnesses, to the eighth or twenty third day of the said court; and all such process may be executed at any time before the return day, except in such cases wherein it is otherwise directed by law.

VIII. And if any writ or process shall be executed so late that the Sheriff or other officer hath not reasonable time to return the same before the day of appearance thereto, and an *alias pluries*, attachment or other process, be awarded thereupon, the sheriff shall not execute such subsequent process, but shall return the first process by him executed, on which there shall be the same proceedings as if it had been returned in due time.

IX. In all actions or suits which may be commenced against the governour of this commonwealth, any member of the privy council, or the sheriff of any county during his continuance in office, instead of the ordinary process, a summons shall issue to the sheriff, or other proper officer, reciting the cause of action,

Adjournment.

Clerk, crier & upstaff.

Sheriff to attend.

Process how issued, tested, executed, & returned.

Process against governour, council, & sheriff.

and summoning such defendant to appear and answer the same on the proper return day in the next general court; and if such defendant, being summoned, or a copy left at his house ten days before the return day, shall not appear to answer the same, an attachment shall be awarded against his estate, and thereafter the proceedings in the suit shall be in like manner as is directed in case of an attachment awarded upon the sheriff's returning *non est inventus* on ordinary process.

Action endorsed on writ.

X. In all actions to recover the penalty for breach of any penal law, not particularly directing special bail to be given, in actions of slander, trespass, assault and battery, actions on the case for trover or other wrongs, and all other personal actions, except such as shall be herein after particularly mentioned, the plaintiff or his attorney, shall, on pain of having his suit dismissed with costs, endorse on the original writ or subsequent process the true species of action, that the sheriff to whom the same is directed may be thereby informed whether bail is to be demanded on the execution thereof; and in the cases before mentioned, the sheriff may take the engagement of an attorney practising in the general court, endorsed upon the writ, that he will appear for the defendant or defendants, and such appearance shall be entered with the clerk in the office on the second day after the end of the court to which such process is returnable which is hereby declared to be the appearance day in all process returnable to any day of the court next preceding.

Appearance day.

Attorney engaging and failing to appear.

XI. And every attorney failing to enter an appearance according to such engagement shall forfeit to the plaintiff fifty shillings, for which judgment shall be immediately entered, and execution may issue thereupon.

When judge may direct bail.

XII. *Provided always*, that any judge of the said court, in actions of trespass, assault and battery trover and conversion, and in actions on the case, whereupon proper affidavit or affirmation, as the case may be, it shall appear to him proper that the defendant or defendants should give appearance bail, may, and he is hereby authorised to direct such bail to be taken, by endorsement on the original writ or subsequent process; and every sheriff shall govern himself accordingly.

In what actions bail required.

XIII. In all actions of debt founded on any writing obligatory, bill, or note in writing for the payment of money or tobacco, all actions of covenant or detinue,

in which cases the true species of action shall be endorsed on the writ as before directed, appearance bail is to be required, the sheriff shall return on the writ the name of the bail by him taken, and a copy of the bail bond to the clerk's office before the day of appearance; and if the defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery as the defendant might or would be subject to if he had appeared and given special bail.

Bail may defend.

XIV. And if the sheriff shall not return bail, and a copy of the bail bond, or the bail returned, shall be judged insufficient by the court, and the defendant shall fail to appear or give special bail, if ruled thereto, in such case the sheriff may have the like liberty of defence, and shall be subject to the same recovery, as is provided in the case of appearance bail. And if the sheriff depart this life before judgment be confirmed against him, in such case the judgment may be confirmed against his executors or administrators; or if there shall not be a certificate of probat or administration granted, then it may be confirmed against his estate, and a writ of *fiern facias* may in either case be issued, but the plaintiff shall object to the sufficiency of the bail during the sitting of the court to which the writ is returnable, or in the office at the first or second rule day after that court, and at no time thereafter.

Remedy against sheriff, as to bail.

Bail, when excepted to.

XV. And all questions concerning the sufficiency of bail, so objected to in the office, shall be determined by the court on the eighth day of the succeeding court; and in all causes where the bail shall be adjudged insufficient, and judgment entered against the sheriff, he shall have the same remedy against the estate of the bail as against the estate of the defendant.

Questions as to sufficiency, when determined.

Sheriff's remedy.

XVI. Also, that every judgment entered in the office against a defendant or bail, or against a defendant and sheriff, shall be set aside if the defendant, upon the eighth day of the succeeding court, shall be allowed to appear without bail, put in good bail, being ruled so to do, or surrender himself in custody, and shall plead to issue immediately, on which eighth day the court shall also regulate all other proceedings in the office during the preceding vacation, and rectify any mistakes or errors which may have happened therein.

Office judgments, when set aside.

Rules in office, controuled by court.

Remedy of
bail and
sheriff a-
gainst de-
fendant.

XVII. In every case where judgment shall be confirmed against any defendant or defendants and his bail, or the sheriff, his executors administrators, or estate, as aforesaid, the court, upon a motion of such bail, or of such sheriff, his executors or administrators, or any other person on behalf of his estate, may order an attachment against the estate of such defendant or defendants, returnable to the next succeeding court; and upon the execution and return of such attachment the court shall order the estate seized, or so much thereof as will be sufficient to satisfy the judgment and costs, and all costs accruing on the attachment, to be sold as goods taken in execution upon a *feri facias*, and out of the money, such judgment, and all costs, shall be satisfied, and the surplus, if any, restored to the defendant or defendants when required.

Special bail,
how taken.

XVIII. Any judge of the said court, when the court is not sitting, or any justice of the peace authorised for that purpose by the said court may take recognizance of special bail in any action therein depending, which shall be taken *de bene esse*, and shall be transmitted by the person taking the same, before the next succeeding general court, to the clerk of the said court, to be filed with the papers in such action; and if the plaintiff or his attorney shall except to the sufficiency of bail so taken, notice of such exception shall be given to the defendant or his attorney, at least ten days previous to the day on which such exception shall be taken. And if such bail shall be judged insufficient by the court, the recognizance thereof shall be discharged, and such proceedings shall be had as if no such bail had been taken.

How except-
ed to.

How special
bail may sur-
render prin-
cipal.

XIX. Every special bail may surrender the principal, before the court where the suit hath been or shall be depending, at any time either before or after judgment shall be given, and thereupon the bail shall be discharged, and the defendant or defendants shall be committed to the custody of the sheriff or jailer attending such court, if the plaintiff or his attorney shall desire the same; or such special bail may discharge himself or herself by surrendering the principal or principals to the sheriff of the county where the original writ was served, and such sheriff shall receive such defendant or defendants, and commit him, her, or them, to the jail of his county, and shall give a receipt for the

body or bodies of such defendant or defendants, which shall be by the bail forthwith transmitted to the clerk of the court where the suit is or was depending.

XX. When such render, after judgment, shall be to the sheriff, he shall keep such defendant or defendants in his custody, in the same manner, and subject to the like rules, as are provided for debtors committed in execution during the space of twenty days, unless the creditor, his attorney or agent, shall sooner consent to his, her, or their discharge. The bail shall give immediate notice of such render to the creditor, his attorney or agent, and if, within the said twenty days, such creditor, his attorney or agent, shall not in writing charge the debtor or debtors in execution, he, she, or they, shall be forthwith discharged out of custody; but the plaintiff or plaintiffs may, nevertheless, afterwards sue out any legal execution against such debtor or debtors.

Principal surrendered after judgment, how kept.

XXI. When the sheriff, or other proper officer, shall return on any original or mesne process, that he hath taken the body of any defendant, and committed him to prison for want of appearance bail, the plaintiff may proceed, and the defendant make his defence, in like manner as if his appearance had been entered and accepted; but such defendant shall not be discharged out of custody until he shall put in good bail, or the plaintiff shall be ruled by the court to accept an appearance without bail; and where any defendant, after appearance entered, shall be confined in prison, the plaintiff may file his declaration, give a rule to plead, and deliver copies of such declaration and rule to the defendant or his attorney, and if the defendant shall fail to enter his plea within two months after receiving such declaration and notice, the plaintiff may have judgment by default, as in other cases.

Proceedings against defendant in custody.

XXII. Where the sheriff, or other proper officer, shall return on any writ of *capias* to answer in any civil action, that the defendant is not found within his bailiwick, the plaintiff may either sue out an *alias*, or a *pluries capias*, until the defendant shall be arrested, or a *testatum capias*, where he shall be removed into another county, or may, at his election, sue out an attachment against the estate of the defendant to force an appearance; and if the sheriff, or other officer, shall return that he hath attached any goods, and the defendant shall not appear and replevy the same, by entering his ap-

Capias returned 'not found,' what further process.

Proceedings on attachment returned 'executed.'

pearance and giving special bail, in case he shall be ruled so to do, the plaintiff shall file his declaration, and be entitled to a judgment for his debt, or damages and costs, which judgment shall be final in all actions of debt founded on any specialty, bill, or note in writing ascertaining the demand; and in other cases, the damages shall be settled by a jury sworn to inquire thereof. The goods attached shall remain in the hands of the officer till such final judgment be entered, and then be sold in the same manner as goods taken upon a *feri facias*; and if the judgment shall not be thereby satisfied, the plaintiff may sue out execution for the residue, and in case more goods be attached than will satisfy the judgment, the surplus shall be returned to the defendant.

Proclama-
tion, after
pluries.

XXIII. On the return of the *pluries*, that the defendant is not to be found, the court, instead of the process to outlawry formerly used, may order a proclamation to be issued, warning the defendant to appear at a certain day therein to be named, or that judgment will be rendered against him, which proclamation shall be published on three successive court days at the door of the courthouse of the county to which the last process was directed, and also three times in the Virginia Gazette; and if the defendant fails to appear pursuant to such proclamation, the same proceedings shall be had, and the same judgment given, as in other cases of default.

Rules of
practice.

XXIV. In the prosecution of all suits in the general court, the following rules shall be observed: The plaintiff shall file his declaration in the clerk's office at the succeeding rule day after the defendant shall have entered his appearance, or the defendant may then enter a rule for the plaintiff to declare, and if he shall fail or neglect so to do at the succeeding rule day, or shall at any time fail to prosecute his suit, he shall be nonsuited, and pay to the defendant or tenant, besides his costs, one hundred and fifty pounds of tobacco, where his place of abode is at the distance of twenty miles or under from the place of holding the general court, and where it is more, five pounds of tobacco for every mile above twenty. One month after the plaintiff hath filed his declaration, he may give a rule to plead with the clerk; and if the defendant shall not plead accordingly at the expiration of such rule, the plaintiff may enter

judgment by default for his debt, or damages and costs.

XXV. All rules to declare, plead, reply, rejoin, or for other proceedings, shall be given regularly from month to month, shall be entered in a book to be kept by the clerk for that purpose, and shall be out on the succeeding rule day.

XXVI. All judgments by default for want of an appearance, special bail, or pleas as aforesaid, and nonsuits or dismissions obtained in the office, and not set aside on the eighth day of the succeeding general court, shall be entered by the clerk as of that day, which judgment shall be final in actions of debt founded on any specialty, bill, or note in writing ascertaining the demand; and in all other cases, the damages shall be ascertained by a jury to be empannelled and sworn to inquire thereof, as is herein after directed.

XXVII. In all such cases, and other judgments for plaintiff or defendant, the clerk shall allow a lawyer's fee in the bill of costs, if the party employed one; which fee, in real, personal or mixed actions, where the title or bounds of land shall or may come in question, shall be five pounds, or one thousand pounds of tobacco, and in all other cases fifty shillings, or five hundred pounds of tobacco, at the election of the party paying.

XXVIII. No plea in abatement, or of *non est factum*, shall be admitted or received unless the party offering the same shall prove the truth thereof by affidavit or affirmation, as the case may be; and where a plea in abatement shall upon argument be judged insufficient, the plaintiff shall recover full costs to the time of over-ruling such plea, a lawyer's fee only excepted.

XXIX. The plaintiff in replevin, and the defendant in all other actions, may plead as many several matters, whether of law or fact, as he shall think necessary for his defence.

XXX. In all cases where a fine is laid on the justices of any county court, or the vestry of a parish, one action may be brought against all the members jointly. Justices, &c. may be sued jointly.

XXXI. Before every general court the clerk shall enter in a particular docket all such causes, and those only in which an issue is to be tried or inquiry of damages to be made, or a special verdict, case agreed, Rules for docketing causes.

demurrer, appeal, or other matter of law to be argued, in the same order as they stand in the course of proceeding, setting, as near as may be, an equal number of causes to each day.

Making up records. XXXII. When any cause shall be finally determined, the clerk of the general court shall enter all the pleadings and papers filed as evidence therein, and the judgment thereupon, so as to make a complete record thereof; and those wherein the title to lands is determined, shall be entered in separate books to be kept for that purpose.

Orders, read and signed. XXXIII. For prevention of errors in entering up the judgments of the said court, the proceedings of every day shall be drawn at large by the clerk against the next sitting of the court, when the same shall be read in open court, and such corrections as are necessary being made therein, they shall be signed by the presiding judge, and carefully preserved among the records.

Witnesses, how summoned. XXXIV. In all cases where witnesses are required to attend the general court, a summons shall be issued by the clerk, expressing the day and place where they are to appear, the names of the party to the suit, and in whose behalf summoned.

Depositions, *de bene esse*. XXXV. When any witness shall be about to depart the country, or by age, sickness, or otherwise, shall be unable to attend the court, upon affidavit thereof, or on a certificate from any justice of the peace, the court, when they are sitting, or any judge thereof in vacation, may, on request of either party, award a commission for taking the deposition of such witness *de bene esse*, to be read as evidence at the trial, in case the witness shall then be unable to attend; but the party obtaining such commission shall give reasonable notice to the other party of the time and place of taking the deposition, otherwise the same shall be void.

Single witness. XXXVI. If any party in a suit at common law shall make oath that he verily believes his claim, or defence, as the case may be, or a material point thereof, depends on a single witness, the court, or any judge thereof, may award a commission to take the deposition of such witness *de bene esse*, although he or she be not about to depart the country, nor under any disability, the party in such case giving reasonable notice of the time and place of taking such deposition to the adverse party.

XXXVII. If any person summoned as a witness, and attending the court, or the commissioners appointed to take his or her deposition as aforesaid, shall refuse to give evidence upon oath or affirmation, as the case may be, to the best of his or her knowledge, every person so refusing shall be committed to prison, either by the court or commissioners, there to remain, without bail or mainprise, until he or she shall give such evidence.

Witness refusing to testify.

XXXVIII. No person convicted of perjury shall be capable of being a witness in any case, nor shall any negro, mulatto, or Indian, be admitted to give evidence but against or between negroes, mulattoes, or Indians.

Who may not be a witness.

XXXIX. If any person summoned as a witness to attend the general court shall fail to attend accordingly, they shall fine such person five pounds, or one thousand pounds of tobacco, at the option of the payer, to the use of the party for whom such witness was summoned, and the witness so failing shall farther be liable to the action of the party for all damages sustained by the non-attendance of such witness; but if sufficient cause of his or her inability to attend be shewn to the court at the time he or she ought to have appeared, or at the next succeeding court, then no fine or action shall be incurred by such failure.

Witnesses failing to attend.

XL. Witnesses shall be privileged from arrests in civil cases during their attendance at the general court, coming to and returning from thence, allowing one day for every twenty miles from their places of abode; and all such arrests shall be void. Every witness summoned, and attending the general court, shall be paid, by the party at whose suit the summon issues, two pounds of tobacco, or fourpence per mile for travelling to the place of attendance, and the same for returning, besides ferriages, and sixty pounds of tobacco, or ten shillings per day for his attendance, which allowance shall be entered by the clerk of course, except where disputes arise concerning the same, and then such disputes shall be determined by the general court. And the said court shall have power to try all issues, and inquire of damages by a jury in all causes before them, and to determine all questions concerning the legality of evidence, and other matters of law which may arise for which trials the court shall cause the sheriff attending them to empanel and return jurors of the bystanders, qualified as the law directs, to be sworn well and

Witnesses privileged from arrests.

Their allowance.

Issues, how tried.

truly to try the issue joined, or to inquire of damages, as the case may be. according to evidence.

Three witnesses to one fact, taxed. **XL.** There shall not be allowed in the bill of costs the charge of more than three witnesses for the proof of any one particular fact.

Appeals to general court. **XLII.** Where any person or persons, body politick or corporate, shall think themselves aggrieved by the judgment or sentence of any county court or court of Hustings, in any action, suit, or contest whatever, where the debt or damages, or other thing recovered or claimed in such suit, exclusive of the costs, shall be of the value of ten pounds, or two thousand pounds of tobacco, or where the title or bounds of land shall be drawn in question, or the contest shall be concerning mills, roads, the probat of wills, or certificates for obtaining administration, such person or persons, body politick or corporate, may enter an appeal to the general court from such judgment or sentence.

Damages, in personal actions. **XLIII.** Where the defendant in any personal action appeals, if the judgment be affirmed, the damages, besides costs, shall be ten per centum per annum upon the principal sum, and costs recovered in the inferiour court, in satisfaction of all damages or interest.

In real or mixed. **XLIV.** In real or mixed actions, the damages shall be ten pounds, or two thousand pounds of tobacco, besides costs; and where the plaintiff appeals in any action, if the judgment be affirmed, and in all controversies about mills, roads, probat of wills, or certificates for administration, if the sentence of the inferiour court be affirmed, the party appealing shall pay to the other five pounds, or one thousand pounds of tobacco, besides all costs.

No appeal, &c. before final judgment. **XLV.** No appeal, writ of error, or *supersedeas*, shall be granted in any cause until a final judgment shall be given in the county or other inferiour court.

Supersedeas how obtained. **XLVI.** The party paying* a writ of *supersedeas* shall petition the judges of the general court for the same, pointing out the error he means to assign in the proceedings, and procure some attorney practising in the general court to certify that in his opinion there is sufficient matter of error for reversing the judgment, whereupon the court in their session, or any two judges in vacation, may order such writ to be issued, or reject the petition, as to them shall seem just; but no *superse-*

* So in original; but it should be *praying*.

deas shall be issued in any case, except such as, in respect to its value or nature, would have admitted of an appeal.

XLVII. Writs of error shall not be sued out of the general court, to judgments of inferiour courts, but with leave of the court, upon the motion of the party desiring the same, and ten days previous notice thereof given in writing to the adverse party. [Writs of error, how sued out.]

XLVIII. Before granting any appeal, or issuing a writ of error or *supersedeas*, the party praying the same shall enter into bond with sufficient security, in a reasonable penalty, with condition to satisfy and pay the amount of the recovery in the county or other inferiour court, and all costs and damages awarded by the general court, in case the judgment or sentence be affirmed. Bond and security.

XLIX. If upon hearing any appeal, writ of error, or *supersedeas*, the judgment of the inferiour court shall be reversed, the general court shall enter such judgment thereupon as ought to have been entered in the inferiour court. Judgment on reversal.

L. If any person or persons shall desire to remove any suit depending in any inferiour court into the general court, provided the same be originally cognizable therein, a *certiorari* for such removal may be granted by the general court for good cause shewn, upon motion, and ten days notice thereof given in writing to the adverse party; or in vacation, the party desiring such writ shall, by petition to the judges of the general court, set forth his or her reasons, and make oath before a magistrate to the truth of the allegations of such petition, whereupon any two judges of the said court may, under their hands, order the *certiorari* to issue, and direct the penalty of the bond to be taken previous thereto, or may reject such petition, as to them shall seem just, provided that ten days previous notice of the time and place of applying for such writ be given in writing to the adverse party, upon which order of the judges the clerk shall issue the *certiorari*. Certiorari, how obtained.

LI. *Provided*, that the party shall enter into bond with sufficient security, in the penalty so directed, with condition for satisfying all money or tobacco, and costs, which shall be recovered against the party in such suit; but if any suit so removed by writ of *certiorari* shall be remanded to the inferiour court by writ of *procedendo* or otherwise, such cause shall not after- Bond and security.
Procedendo, effect of.

wards be removed to the general court before judgment shall be given therein in the inferior court.

Punishment
of false
swearers.

LII. The clerk of the general court shall carefully preserve all such petitions for writs of *certiorari*, with the affidavits thereto, in the office; and if any person in such affidavit shall take a false oath, and be thereof convicted, upon a prosecution commenced within twelve months after the offence committed, such offender shall suffer the pains and penalties directed for wilful and corrupt perjury.

Habeas cor-
pus cum
causa how
obtained.

LIII. Where any person shall be committed, in any civil action, to the jail of any county or corporation, for a cause or matter cognizable in the general court, it shall be lawful for the clerk of the general court, and he is hereby required, upon the application of such person, and a certificate of his or her being actually in jail, to issue a writ of *habeas corpus cum causa* to remove the body of such prisoner into the publick prison for debtors, and the cause of his commitment into the general court, returnable on the first day of the succeeding general court; if issued in vacation on the last day of the term, if sued out whilst the court are sitting.

Prisoner,
not tried,
when bail-
able.

LIV. If any person committed for treason or felony, specially expressed in the warrant of commitment, shall apply to the general court the first week of the term and desire to be brought to trial, and shall not be indicted and tried some time in that term or session, the judges shall set such prisoner at liberty, upon bail for his appearance to answer the offence at the next succeeding term or session, unless it appears by affidavit that the witnesses for the commonwealth could not be produced at such term or session; and if any such prisoner shall not be indicted and tried the second term or session after commitment, he shall be discharged from his imprisonment, in manner aforesaid.

Proviso.

LV. *Provided*, that this shall not extend to discharge any person in custody of the sheriff for any other cause.

Criminal ju-
risdiction of
the court.

LVI. The general court to be held as aforesaid shall have full power to hear and determine all treasons, murders, felonies, and other crimes and misdemeanors which shall be brought before them.

Examining
court, how
summoned.

LVII. When any person, not being a slave, shall be charged before a justice of the peace with any criminal offence, which in the opinion of such justice ought

to be examined into by the county court, the said justice shall take the recognizance of all material witnesses to appear before such court, and immediately by his warrant commit the person so charged to the county jail, and moreover shall issue his warrant to the sheriff of the county requiring him to summon the justices of the county to meet at their courthouse on a certain day, not less than five or more than ten days after the date thereof; to hold a court for examination of the fact, which court shall consider whether, as the case may appear to them, the prisoner may be discharged from farther prosecution, may be tried in the county, or must be tried in the general court, and if they shall be of opinion that the fact may be tried in the county, the prisoner shall be bound over to the next grand jury to be held for that county for trial, or upon refusing to give sufficient bail shall be remanded to the county jail, there to remain until such court, or until he or she shall be bailed; but if they shall be of opinion that the prisoner ought to be tried in the general court, they shall take the depositions of the witnesses, and bind such as they shall think proper by recognizances to appear and give evidence against such criminal at his trial, and having remanded the prisoner to jail, any two of the justices, one being of the quorum, by warrant under their hands and seals, shall direct the sheriff or his deputy to remove the prisoner and commit him to the publick jail, there to be safely kept until he or she be discharged by due course of law, by virtue of which warrant, the sheriff, as soon as may be, shall remove the prisoner, and deliver him or her with the warrant to the keeper of the publick jail, who shall receive and safely keep him or her accordingly. And for enabling the sheriff safely to convey and deliver such prisoner, the said two justices, by their warrant, shall empower him, as well within his county as without, to impress such and so many men, horses, and boats, as shall be necessary, for the guard and safe conveyance of the prisoner, proceeding therein as the law may direct in cases of impressing on other occasions; and all persons are to pay due obedience to such warrant.

LVIII. *Provided*, that if such persons shall in the opinion of the court, be bailable by law, he or she shall not be removed within twenty days after the examining court, but shall and may be admitted to bail before any justice of the same county within that time, or

Its powers.

Bail, after
examining
court.

at any time afterwards, before any judge of the general court.

LIX. When any person shall be so removed to be tried for treason or felony, the clerk of the county from whence the prisoner is removed shall, immediately after the court held for his or her examination, issue a writ of *venire facias* to the sheriff of the county, commanding him to summon twelve good and lawful men, being freeholders of the county residing as near as may be to the place where the fact is alledged to have been committed, to come before the general court on the sixth day of its next session and return a pannel of their names, which freeholders, or so many of them as shall appear, not being challenged, together with so many other good and lawful freeholders of the byestanders as will make up the number twelve, shall be a lawful jury for the trial of such prisoner.

LX. Every *venire* man summoned, and attending the general court, shall have the same allowance for travelling and attendance as is herein before provided for witnesses, to be paid by the publick.

LXI. If any person summoned as a *venire* man shall fail to attend accordingly, not having a reasonable excuse, to be made at the time he should have appeared, or at the next general court, they may fine every such person, not exceeding forty shillings, or four hundred pounds of tobacco, for the use of the commonwealth.

LXII. If a prisoner shall desire any witnesses to be summoned for him or her to appear either at the examining court or on the trial at the general court, the clerk of the said court, or of the county court, as the case may be, shall issue *subpœnas* for such witnesses, who being summoned, and attending, shall have the like allowance for travelling and attendance, and be subject to the same penalty for failing to attend, as is provided for witnesses in civil causes.

LXIII. The keeper of the publick jail, by order of any two justices of his county, may impress guards for the safe keeping of all prisoners in his custody, to be paid by the publick.

LXIV. The fee to the sheriff of the county, and to the publick jailor, for keeping and dieting any such prisoner, shall be one shilling per day, and no more.

LXV. Where the criminal shall be convicted, and hath estate sufficient to pay the charges of prosecution,

Venire facias how summoned.

Allowance to venire men.

Their fine for non attendance.

Subpœnas for prisoners witnesses, their allowance &c.

Guards to the public jail.

Fees to sheriff, &c.

Charges of prosecution.

the whole shall be paid out of such estate, and the publick only made chargeable where there is no such estate, or not sufficient to be found.

LXVI. The sheriff for the time being of the county in which the general court is held shall, before every meeting of the general court, summon twenty four freeholders of this commonwealth, qualified as the laws require, for grand jurors to appear at the succeeding general court on the sixth day thereof, which the said sheriff is hereby empowered to do, as well without his county as within the same; and the said twenty four men, or any sixteen of them, shall be a grand jury, and shall inquire of and present all treasons, murders, felonies, or other misdemeanors whatever, which shall have been committed or done within this commonwealth, and upon any indictment for a capital offence, being found by a grand jury to be true, against any person or persons, the judges shall cause such person or persons to be immediately arraigned and tried by a petit jury summoned as herein before directed, and, he or they being found guilty, pass such judgment as the laws direct, and thereupon award execution, and if the prisoner shall be found not guilty, to acquit him or her of the charge.

Grand juries

Prisoners, how arraigned and tried.

LXVII. *Provided*, that in all trials the defendant shall on petition be allowed counsel, and that when sentence of death shall be passed upon any prisoner there shall be one kalendar month at least between the judgment and execution.

Allowed counsel.

Suspension of execution.

LXVIII. No grand jury shall make any presentments of their own knowledge upon the information of fewer than two of their own body, nor where the penalty inflicted by law is less than twenty shillings, or two hundred pounds of tobacco.

Presentments on grand jury's knowledge.

LXIX. Every person summoned to appear on a grand jury, and failing to attend, not having a reasonable excuse, shall be fined by the court, not exceeding four hundred pounds of tobacco to the use of the commonwealth.

Fine on grand juror not attending.

LXX. Upon presentment made by the grand jury of an offence not capital, the court shall order the clerk to issue a summons, or other proper process, against the person or persons presented to appear and answer such presentment at the next court, and thereupon hear and determine the same according to law.

Process against persons presented for offences not capital.

Attendants,
&c. of ve-
niresmen, &c.
to be enter-
ed.

LXXI. The clerk of the general court shall, in a book by him kept for that purpose, enter the names of all *venire* men and witnesses who attend for the trial of criminals at such court, the number of days each shall attend, the ferries they shall have crossed, and the distances they shall have travelled on that occasion, and shall, before every session of general assembly, deliver all such books to the clerk of the house of delegates, that the allowance may be made to such *venire* men and witnesses.

Keeper of
public jail,
his duty, al-
lowance, &
privilege.

LXXII. The keeper of the publick jail shall constantly attend the general court and execute the command of the court from time to time, and take or receive into his custody all persons by the court to him committed on original or mesne process, or in execution in any civil suit, or for any contempt of the court, and him or them safely kept until thence discharge by due course of law, and may demand and receive of every such prisoner the legal fees for diet and care; but where such prisoner is so poor as not to be able to subsist him or herself in prison, the jailer shall be allowed by the publick one shilling per day for the maintenance of every such poor prisoner, and no security shall be demanded of him or her, nor shall he or she be detained for such prison fees. And the said jailer, during his continuance in office, shall be exempted from serving in the militia and on juries, and shall have such allowance, over and above the fees, as by the general assembly shall be thought reasonable.

Salary of
judges.

LXXIII. Each judge of the general court, for performing the whole duty of his office, shall receive an annual salary of five hundred pounds, which shall be paid by the treasurer out of the publick money in his hands.

Tax on pro-
cess.

LXXIV. *And it is farther enacted*, that instead of the tax formerly imposed on process sued out of the general court, which shall henceforth cease, a duty or tax of five shillings for every original writ or process sued out of the general court, for every ejection returnable thereto, and for every writ of error, *certiorari*, and *supersedeas*, issued from the clerk's office of the said court, shall be paid by the party suing out such writ or process before the same shall be issued, and by the plaintiff in such ejection before any proceeding shall be allowed thereon, and taxed in the bills of costs, if the party recovers costs; which taxes shall be ac-

counted for half yearly, in the months of March and September, by the clerk of the general court, upon oath, and paid to the treasurer of this commonwealth, the clerk deducting five per centum for receiving and paying the same, and in case of failure may be recovered with costs upon motion of the treasurer in the general court, and ten days previous notice given of such motion.

LXXV. All the penalties hereby inflicted, and not otherwise appropriated, shall be one moiety to the use of the commonwealth, and disposed of as the general assembly shall direct, and the other moiety to the informer, and be recovered by action of debt or information in any court of record where the same is cognizable; and where fines shall be laid by the general court on any person or persons for not attending as jurymen, the clerk shall annually, before the last day of January, transmit to the sheriff of each county a list of all such fines, and all others imposed to the use of the commonwealth by the general court on persons residing in the county; and such sheriff shall collect and levy the same in like manner as is provided for county levies, and account for and pay the money, deducting five per centum for commission, and also insolvents, to the treasurer of this commonwealth, on or before the first day of September; or the said treasurer may receive the same with costs by motion in the general court, on ten days previous notice given in writing of such motion; and the clerk of the general court shall deliver copies of all lists so sent to the sheriffs to the treasurer, to enable him to call such sheriffs to account.

LXXVI. This act shall commence and be in force from and after the first day of February next; and all other acts, so far as they relate to any matter or thing contained or within the purview of this act, are hereby repealed.

Penalties,
appropriated.

Duty of clerk
to transmit
lists of fines.

Duty of
sheriffs to
collect.

CHAP. XVIII.

An act for forming several new counties, and reforming the boundaries of two others.

Part of Augusta county added to Hampshire.

Boundaries.

Rockingham county and parish formed out of Augusta.

Boundaries.

Green Brier county and parish formed out of Botetourt & Montgomery.

WHEREAS it is represented to this present session of assembly, by the inhabitants of Augusta and Botetourt counties, that they labour under many inconveniencies by reason of the great extent of the said counties and parishes: *Be it therefore enacted by the General Assembly,* That from and after the first day of March next the said county and parish of Augusta shall be divided by a line beginning at the north side of the North Mountain, opposite to the upper end of Sweedland Hill, and running a direct course so as to strike the mouth of Seneca creek, on the north fork of the south branch of Potowmack river, and the same course to be continued to the Allegheny mountain, thence along the said mountain to the line of Hampshire county; and all that part of the said county and parish of Augusta which lies to the northward of the said line shall be added to and made part of the said county and parish of Hampshire. And that the residue of the county and parish of Augusta be divided by a line to begin at the South Mountain, and running thence by Benjamin Yardley's plantation so as to strike the north river below James Byrd's house, thence up the said river to the mouth of Naked creek, thence leaving the river a direct course so as to cross the said river at the mouth of Cunningham's branch, in the upper end of Silas Hart's land, to the foot of the North Mountain, thence fifty five degrees west to the Allegheny mountain, and with the same to the line of Hampshire; and all that part which lies north eastward of the said line shall be one distinct parish,* called and known by the name of Rockingham.

And be it further enacted, That from and after the first day of March the said county and parish of Botet-

* So in the original; but it should be "county"—or, more probably the words "county and" should be introduced between "distinct" and "parish," so as to read *distinct county and parish*, as is done in relation to the other counties and parishes mentioned in this act.

tourt shall be divided by a line beginning on the top of the ridge which divides the Eastern from the Western waters, where the line between Augusta and Botetourt crosses the same, and running thence the same course continued north fifty five degrees west to the Ohio, thence beginning at the said ridge, at the said lines of Botetourt and Augusta, running along the top of the said ridge, passing the Sweet Springs, to the top of Peter's mountain, thence along the said mountain to the line of Montgomery county, thence along the same mountain to the Kanhawa, or New river, thence down the said river to the Ohio. And all that part of the counties and parishes of Botetourt and Montgomery between and to the westward of the said lines shall be one distinct county and parish, and be called and known by the name of Green Brier.

And be it farther enacted, That the remaining parts of the said counties and parishes of Augusta and Botetourt be divided into three counties and parishes, as follows, to wit, by a line beginning on the top of the Blue Ridge, near Steel's mill, and running thence north fifty five degrees west, passing the said mill, and crossing the North mountain to the top, and the mountain dividing the waters of the Calf Pasture from the waters of the Cow Pasture, and thence along the said mountain, crossing Panther's gap, to the line that divides the counties of Augusta and Botetourt; and that the remaining part of the county of Botetourt be divided by a line to begin at Audley Paul's, and running thence south fifty five degrees east, crossing James River, to the top of the Blue Ridge, thence along the same, crossing James River, to the beginning of the aforesaid line dividing Augusta county, then beginning again at the said Audley Paul's, and running north fifty five degrees west till the said course shall intersect a line to be run south forty five degrees west from the place where the above line dividing Augusta terminated. And all those parts of the said counties and parishes of Augusta and Botetourt included within the said lines shall be one distinct county and parish, and shall be called and known by the name of Rockbridge; and all the remaining parts of the said counties and parishes of Augusta and Botetourt shall each of them respectively be a distinct county and parish, and retain their respective names.

And for the administration of justice in the said counties of Rockingham, Green Brier, and Rockbridge, af-

Boundaries.

Rockbridge county and parish formed out of Augusta and Botetourt.

Boundaries.

Court days of Rockingham, Green Brier, and Rockbridge.

ter the commencement thereof, a court for every of them shall be held therein, for the county of Rockingham on the fourth Monday in every month, for the county of Green Brier on the third Tuesday in every month, and for the county of Rockbridge on the first Tuesday in every month; the first court for the said county of Rockingham to be held at the house of Daniel Smith, for the said county of Green Brier at John Stewart's, for the said county of Rockbridge at Samuel Wallace's. And the justices for the said courts respectively, or a major part of them being present, and having taken the oaths required by law, and administered the oaths of office to the sheriffs, every of the said courts shall fix on a place for holding courts in their counties, at or as near the centre as the situation and convenience thereof will admit of, and shall thenceforth proceed to erect the necessary publick buildings at such places, and shall also appoint such places for holding courts in the meantime, until such buildings shall be completed, as they shall think fit, and shall have power to adjourn themselves to such places as they shall appoint; and, after the publick buildings shall be completed, the courts for the said counties shall thenceforth be held at such places.

And be it farther enacted, that it shall be lawful for the governour, or in his absence for the president, with the advice of the council, to appoint a person in every of the said counties to be first sheriff thereof; and the sheriffs of the said counties of Augusta, Botetourt, and Montgomery, shall have power to collect and distrain for any publick dues or fees which may remain unpaid by the inhabitants of the counties of Rockingham, Green Brier, and Rockbridge, and that part of the county of Augusta which is added to Hampshire, and that part of the county of Montgomery which is added to Green Brier, at the time of their taking place, and shall be answerable for them in the same manner as if this act had never been made. And in all future elections of senators, the said counties of Rockingham and Green Brier shall be of the same districts of which the county they were taken from now are, and the county of Rockbridge shall be of the same district that the county of Augusta now is.

Town of
Lexington
established,

And be it farther enacted, that at the place which shall be appointed for holding courts in the said county of Rockbridge there shall be laid off a town, to be

called Lexington, thirteen hundred feet in length and nine hundred in width. And in order to make satisfaction to the proprietors of the said land, the clerk of the said county shall, by order of the justices, issue a writ directed to the sheriff commanding him to summon twelve able and disinterested freeholders to meet on the said land on a certain day, not under five nor over ten days from the date, who shall upon oath value the said land, in so many parcels as there shall be separate owners, which valuation the sheriffs shall return, under the hands and seals of the said jurors, to the clerk's office, and the justices, at laying their first county levy; shall make provision for paying the said proprietors, their respective proportions thereof, and the property of the said land shall, on the return of such valuation, become vested in the justices and their successors, one acre thereof to be reserved for the use of the said county, and the residue to be sold and conveyed by the said justices to any persons, and the money arising from such sale to be applied towards lessening the county levy; and the publick buildings for the said county shall be erected on the lands reserved as aforesaid.

at Rock-
bridge court
house.

Lots, how
acquired, &
disposed of.

And whereas many suits and petitions are now depending before the courts of Augusta and Botetourt, in which the process have not been executed on the defendants, who, after the said divisions, will reside in the counties of Rockingham, Green Brier, and Rockbridge: *Be it enacted*, 'That the clerks of the counties of Augusta and Botetourt make out a docket of all such suits and petitions in their respective courts, and deliver the same to the clerks of the said counties of Rockingham, Green Brier, and Rockbridge, respectively, together with all papers filed therein, and a copy of all costs, and shall take such clerk's receipt for the same, and thereupon the courts of the said county shall have jurisdiction thereof, in as full and ample a manner as if they had been originally commenced in such counties; and the courts of the said counties of Augusta and Botetourt shall have jurisdiction of all other actions and suits now depending before them respectively, in the same manner as if this act had never been made.

Suits transferred to the
new counties.

Provided also, That no appointment of clerks of the peace, or of places for holding courts, shall be made unless a majority of the justices be present, if such majority shall have been prevented from attending by un-

avoidable accidents; but, in such case, the appointments shall be postponed till the next court day, and so on, from court day to court day, as often as such accidents shall happen.

Vestry in
parish of
Augusta dis-
solved.

And whereas several of the vestry of the parish of Augusta will by the division be taken into new parishes, whereby it is necessary to dissolve the said vestry, and the inhabitants of the parish of Botetourt having failed to elect a vestry agreeable to an act of assembly in that case made and provided: *Be it therefore enacted*, That the vestry of the said parish of Augusta be, and the same is hereby dissolved.

Vestries to
be elected
in parishes
of Rocking-
ham, Augus-
ta, Rock-
bridge, Bo-
tetourt, and
Green Brier.

And be it farther enacted, that the inhabitants of every of the said parishes of Rockingham, Augusta, Rockbridge, Botetourt, and Green Brier, respectively, shall meet at some convenient time and place, to be appointed and publickly advertised by the sheriffs of the said counties before the first day of May next, and then and there elect twelve able and discreet persons who shall be a vestry for the said parishes respectively; but the collectors of the parishes of Augusta, Botetourt, and Montgomery, respectively, shall have power to collect and distrain for any dues which shall remain unpaid by the inhabitants of the said parishes of Rockingham, Rockbridge, and Green Brier, and that part of Augusta parish added to Hampshire, and that part of the parish of Montgomery which is added to Green Brier, at the time of the divisions taking place, and shall be answerable for the same in like manner as if this act had never been made.

Name of
Dunmore
county chan-
ged to Sha-
nando.

Court day
altered.

And for altering the court day of the county of Dunmore, and changing the name of the said county, *Be it enacted*, that from and after the first day of February next the said county shall be called and known by the name of Shanando, and that the courts of the said county of Shanando shall be constantly held on the last Thursday in every month.

And be it farther enacted, that the court of the said county of Shanando shall have jurisdiction of all matters and suits now depending before the court of Dunmore county; and all officers, civil and military, within the same, shall have power to execute their respective offices in the said county of Shanando in the same manner as if this act had never been made.

CHAP. XIX.

An act for establishing the town of Moorefield, in the county of Hampshire.

WHEREAS it hath been represented to this present general assembly, that the establishing a town on the lands of Conrad Moore, in the county of Hampshire, would be of great advantage to the inhabitants, by encouraging tradesmen to settle amongst them: Town of Moorefield, in Hampshire county established.

Be it therefore enacted by the General Assembly, That sixty two acres of land belonging to the said Conrad Moore, in the most convenient place for a town, be, and the same is hereby vested in Garret Vanmeter, Abel Randall, Moses Hulton, Jacob Read, Jonathan Heath, Daniel M^rNeil, and George Rennock, gentlemen, trustees, to be by them, or any four of them, laid out into lots of half an acre each, with convenient streets, which shall be, and the same is hereby established a town, by the name of Moorefield.

And be it farther enacted, That after the said sixty two acres of land shall be laid off into lots and streets, the said trustees, or any four of them, shall proceed to sell the said lots, or so many of them as they shall judge expedient, at publick auction, for the best price that can be had, the time and place of sale being previously advertised for three months in the Virginia Gazette, the purchasers respectively to hold the said lots subject to the condition of building on each a dwelling-house eighteen feet square at least, with a brick or stone chimney, to be finished within two years from the day of sale; and the said trustees, or any four of them, shall, and they are hereby empowered to convey the said lots to the purchasers thereof in fee simple, subject to the condition aforesaid, and pay the money arising from such sale to the said Conrad Moore, his executors, administrators, or assigns. Lots, how disposed of.

And be it farther enacted, That the said trustees, or the major part of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to settle such rules and orders for the regular and orderly building of houses Conditions.

thereon as to them shall seem best and most convenient; and in case of the death, removal out of the county, or other legal disability, of any of the said trustees, it shall and may be lawful for the other trustees to elect and choose so many other persons, in the room of those dead, removed, or disabled, as shall make up the number, which trustees so chosen shall be to all intents and purposes vested with the same power and authority as those in this act particularly mentioned.

Privileges of inhabitants. *And be it farther enacted, by the authority aforesaid,* That the purchasers of the lots in the said town, so soon as they shall have built upon and saved the same according to the conditions of their respective deeds of conveyance, shall be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated by charter, have, hold, and enjoy.

Forfeiture for not building. *And be it farther enacted,* That if the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or the major part of them, may thereupon enter into such lot, and may either sell the same again, and apply the money towards repairing the streets, or in any other way for the benefit of the said town, or they may appropriate the said lot, or part of it, to any publick use for the benefit of the inhabitants of the said town.

CHAP. XX.

An act to empower the commissioners of the Gun manufactory at Fredericksburg to take apprentices therein.

Commissioners authorized to take apprentices, at gun manufactory, at Fredericksburg.

WHEREAS it will tend not only to promote the manufacture of fire arms for publick use, but to increase the number of artists in that useful branch of business, if the commissioners of the gun manufactory at Fredericksburg were empowered to take apprentices therein:

Be it therefore enacted by the General Assembly, That it shall and may be lawful for the said commissioners, from time to time, to take into the said manufactory such a number of white apprentices, properly educated, as they may judge necessary, under such covenants for fidelity, and for such time as they shall think proper, and agree to and on the part of the commonwealth, may engage to furnish the apprentices with good and sufficient clothing, bedding, and provisions, during the term they are bound for, and at the expiration thereof to pay them such sum of money as the said commissioners may think reasonable, not exceeding thirty pounds each.

Covenants
to be per-
formed by
public.

All covenants for or on the part of the said apprentices, and all profits of their labour, shall enure to the benefit of the publick; and all engagements on the part of the said commissioners, entered into pursuant to this act, shall be made good by the publick; and all complaints of such apprentices for misuse, in respect of clothing, provisions, or immoderate correction, shall be heard and determined in the county court, as in case of other apprentices.

CHAP. XXI.

*An act for continuing an act intituled
An act for the more regular lay-
ing off the borough of Norfolk,
and an act intituled an act for ap-
pointing commissioners to inquire
into and ascertain the losses sus-
tained by the late inhabit^{ants} of the
borough of Norfolk, and for other
purposes.*

WHEREAS an act passed the last session of assem-
bly, intituled "An act for the more regular laying off
the borough of Norfolk, and also one other act, intitule-

Acts for
more regu-
larly laying
off borough

of Norfolk, and for ascertaining losses sustained by its burning, further continued.

led An act for appointing commissioners to inquire into and ascertain the losses sustained by the late inhabitants of the borough of Norfolk," will expire at the end of this present session of assembly, and whereas the commissioners, appointed by the said recited acts, at their late meeting in the borough of Norfolk, did not fully complete the aforesaid business, and it is thought necessary the said acts should be farther continued:

Be it therefore enacted, that the same shall continue and be in force until the next session of Assembly, and no longer.

Commissioners to ascertain losses, at Portsmouth.

And the said commissioners shall and are hereby authorised and required to inquire into and ascertain the damages sustained by the burning of any houses in the town of Portsmouth by the troops of this commonwealth, and the damages to the proprietors of any houses used as barracks by the said troops in the said town of Portsmouth, and also in the town of Suffolk, and at the Great Bridge, in the county of Norfolk, in the same manner, and to make the like report, as was directed in the case of property in the town of Norfolk. And the said commissioners, for their services, shall have the same allowance as is directed by the above mentioned act.

CHAP. XXII.

An act for giving certain powers to the Governour and Council.

ramble.

WHEREAS the present war between America and Great Britain was undertaken for defence of the common rights of the American states, and it is therefore just that each of them when in danger should be aided by the joint exertions of all; and as on any invasion of this commonwealth in particular we should hope for and expect necessary aids of militia from our neighbouring sister states, so it is incumbent on us to yield the same assistance to them under the like circumstances, and the laws heretofore empowering the gover-

nour and council to send aids of militia to such states will expire at the end of this present session of Assembly:

Be it therefore enacted by the General Assembly, That Governor authorised to send assistance to a sister state, on an invasion.

on the invasion of any sister state, and application from Congress, or from the legislative, or executive powers of such state for aids of militia, it shall be lawful for the governour, with the advice of the council of state, to order to their assistance such corps of the militia from any of the counties of this commonwealth as the exigence of the case may require or admit, having regard in such orders to the convenience and vicinity of such counties to the place invaded, their internal security, and the imminence of the danger; and moreover, to appoint such general, field, and staff officers, as may be requisite to command, attend, and provide for the same, to have them furnished with necessaries for travelling and camp uses, and such arms, ammunition, and accoutrements, as may be called for, if the same can be procured and spared from this commonwealth. And to answer the expenses hereof, in the first instance, the governour is empowered to draw for any sums of money necessary to carry these purposes into effect on the treasurer for this commonwealth, who is hereby authorised to pay the same out of any publick money in his hands, keeping a separate and distinct account thereof, in order that the same may be reimbursed to the commonwealth.

Such militia, while on duty, shall be subject to the continental rules and articles of discipline and government; save only, that all courts martial, whether general or regimental, which shall be holden on any of them, shall consist of their own officers only.

This act shall be in force till the end of the next session of general assembly, and no longer.

CHAP. XXIII.

[Chan. Rev. p. 76.] *An act to amend an act intituled An act to restrain the operations of the acts for limitation of actions and recording deeds in certain cases.*

Preamble.

I. WHEREAS during the confusions in this commonwealth, occasioned first by the expiration of the fee bill on the twelfth day of April one thousand seven hundred and seventy four, and the suspension of government subsequent thereto, the justices in many places omitted to hold their courts, and it would be unreasonable that persons should be barred of their just rights by acts of limitation in respect to the time incurred during the said confusion and omission to hold courts, and the portion of time withdrawn from the operation of the said acts by one other act passed in the year one thousand seven hundred and seventy six, intituled "An act to restrain the operations of the acts for limitation of actions and recording deeds in certain cases," is not sufficiently extended to relieve all those who may justly claim relief:

Certain periods excepted out of the act of limitations.

II. *Be it therefore enacted by the General Assembly,* That in all questions which may arise in any court of record upon any act for limitation of actions, making entries into lands, or limitation of evidence in the computation of time, the period between the said twelfth day of April one thousand seven hundred and seventy four, and the twelfth day of April next, shall not be accounted any part thereof, so as to bar such action, entry, or evidence; but, in all such computations, the progression shall be from the said twelfth day of April one thousand seven hundred and seventy four to the twelfth day of April next, as one day.

CHAP. XXIV.

An act to prevent private persons from issuing bills of credit in the nature of paper currency. [Chan. Rev. P. 76.]

I. WHEREAS divers persons have presumed, upon their own private security, to issue bills of credit, or notes payable to the bearer, in the nature of paper currency, which may tend to the deception and loss of individuals, as well as to the great injury of the publick, by increasing the quantity of money in circulation, already exceeding the present medium of commerce: Preamble.

II. *Be it therefore enacted by the General Assembly,* That every person who, from and after the passing of this act, shall, without authority from the legislature of this commonwealth, issue, or offer in payment, any bill of credit, or note for any sum of money payable to the bearer, shall forfeit and pay ten times the sum of every such bill of credit, or note payable to the bearer, so issued or offered in payment, to be recovered with costs, by warrant from any justice of the peace where the penalty shall not exceed the sum of twenty five shillings, by petition in the county court where the penalty shall be more than twenty five shillings and shall not exceed the sum of five pounds, or by action of debt or information in any court of record where the penalty shall be above the sum of five pounds; one moiety whereof to the informer, and the other moiety to the use of the county where the offence shall be committed, towards lessening the county levy, or the whole to the use of the county where the prosecution shall be first instituted, on behalf of the county only. Penalty on private persons, for issuing bills of credit or notes, payable to bearer.

III. *And be it farther enacted,* That any justice of the peace for the county where such offence shall be committed may, and he is hereby empowered and required, either upon his own knowledge or information, and due proof thereof made, to require any person issuing or offering in payment any such bill of credit, or note payable to the bearer, to give bond with sufficient security, in the sum of five hundred pounds, for his good behaviour, and upon refusal or neglect to commit such offender to prison, there to remain until he shall give security accordingly; and if the offender shall thereafter Power and duty of justices.

issue or offer in payment any such bill of credit, or note payable to the bearer, the same shall be adjudged a breach of the good behaviour, and forfeiture of the bond.

CHAP. XXV.

An act for adding part of the county of Westmoreland to King George, and part of the county of King George to Westmoreland.

Part of the county of Westmoreland added to King George, & part of King George to Westmoreland.

FOR adding part of the county of Westmoreland to the county of King George, and part of the county of King George to the county of Westmoreland, *Be it enacted by the General Assembly*, That from and after the twentieth day of March next all that part of the county of Westmoreland which lies above a line to be run from the head of Bristol Mine run directly to Washington's mill, on Rosier's creek, and down the said creek to Potowmack river, be added to the county of King George, and that all that part of the county of King George which lies below the said line be added to the county of Westmoreland. The said line shall be run by the surveyor of the county of Richmond, at the equal expense of the two counties, to be levied by their respective courts.

Provided always, That nothing herein contained shall be construed to hinder the sheriffs or collectors of the counties of King George and Westmoreland respectively from collecting and making distress for any publick dues or fees which remain due and unpaid by the inhabitants of the said counties; but such sheriffs or collectors shall have the same power to collect and distraint for the same, and be answerable in like manner, as if this act had never been made.

CHAP. XXVI.

An act to enlarge the time for making draughts of the militia to recruit the Virginia regiments in the continental service.

WHEREAS the continuance of this session of as- Preamble
sembly, beyond the time it was expected to adjourn,
hath made it necessary to enlarge the time in the re-
mote counties appointed for making draughts of the
militia, pursuant to the act "For speedily recruiting
the Virginia regiments on the continental establish-
ment, and for raising additional troops of volunteers:"

Be it therefore enacted by the General Assembly, That Time for
in each county to the westward or north westward of making
the mountains called the Blue Ridge, the county lie- drafts to re-
tenant, or commanding officer of the militia thereof, cuit the
be empowered and required to summon the field offi- Virginia re-
cers, captains, and first lieutenants of his militia, to giments, on
meet at the courthouse, for the purposes of the said act, continental
at any time within fifteen days after he shall have estab-
received notice of the said act, although the same be ish-
after the second Monday in February next, and there- ment, in the
upon such farther proceedings shall be had, and all counties be-
persons subjected to the penalties for neglect or breach yond the
of duty, as in the said act is directed and prescribed. *Blue Ridge*
enlarged.

CHAP. XXVII.

[Chan. Rev. p. 77.] *An act appointing the place for holding the High Court of Chancery and General Court, and empowering the said High Court of Chancery to appoint their own serjeant at arms.*

Place for holding high court of chancery, & general court, appointed.

I. WHEREAS by the acts constituting the high court of chancery and general court the said courts are to be holden at such place as the legislature shall direct, and no place hath as yet been appointed for that purpose:

II. *Be it therefore enacted by the General Assembly,* That for the term of one year after the end of this present session of assembly, and from thence until the end of the session then next ensuing, the said courts shall be holden in the capitol in the city of Williamsburg.*

Serjeant at arms.

III. *And be it farther enact d,* That it shall be lawful for the said high court of chancery to appoint from time to time their own serjeant at arms, who shall be attendant on the said court to perform the duties of his office, for which he shall receive such fees as shall be allowed by law.

* Now held at *Richmond*, by virtue of the act of May 1779, chap. XXI. for the removal of the seat of government.

CHAP. XXVIII.

An act for giving proper salaries to certain officers of government.

WHEREAS it is just and reasonable that those who dedicate their time and labour to the publick service should receive some proportionable compensation for the same, and the salaries and wages hitherto allowed to the officers of government herein after mentioned have become altogether inadequate to the sustenance of themselves and their families, and the necessary expences of their offices:

Preamble.

Be it enacted by the General Assembly, That from and after the first day of January, in this present year, all former salaries and wages heretofore allowed to the said officers of government shall cease: And in lieu thereof shall be paid to the governour fifteen hundred pounds by the year; to the members of the privy council, or council of state, a salary of two thousand four hundred pounds by the year, to be divided among such of them as attend, or shall be in Williamsburg ready to attend and prevented by sickness; to the treasurer of the commonwealth for the time being the sum of twelve hundred pounds by the year; to the attorney general three hundred pounds by the year; and to each of the auditors of publick accounts four hundred pounds by the year. Which several sums shall be paid by the treasurer of this commonwealth in quarterly payments, on the last days of March, June, September, and December, in every year, out of any publick money in his hands.

Salaries of Governor, Privy Council, Treasurer, Attorney General, and Auditors, increased.

Salary of Councillors to be divided among those who attend, or shall be in Williamsburg ready to attend, and prevented by sickness.

CHAP. XXIX.

An act for appointing a naval officer on Nattaway and Blackwater

Naval officer appointed for Nottoway, and Blackwater rivers.

BE it enacted by the General Assembly, That a naval officer shall be appointed for the following district by joint ballot of both houses of assembly, to wit, the rivers of Blackwater and Nottaway, who shall be commissioned and qualified, entitled to the same fees, and be subject to the like penalties for neglect of duty or misfeasance of office, as is directed, prescribed, and inflicted, for other naval officers, by an act intituled "An act for the appointment of naval officers, and ascertaining their fees."



CHAP. XXX.

An act to revive and amend an act for appointing commissioners to ascertain the value of certain Churches and Chapels in the parishes of Frederick, Norborne, and Beckford, and for other purposes therein mentioned.

Preamble.

WHEREAS by an act of general assembly, passed in the year one thousand seven hundred and seventy two, intituled "An act for dividing the parishes of Frederick in the county of Frederick, and Cameron, in the county of Loudoun, and for other purposes therein mentioned," it was among other things enacted, that the vestries of the parishes of Frederick and Norborne, when elected, should respectively pay unto the parish of Beckford a proportionable part of the first cost of two churches in the said parishes of Frederick and Norborne, according to the number of tithables in the said parishes at the time the said division took place, which they have failed to do;

Be it therefore enacted by the General Assembly, That Vestries of each of the vestries of the said parishes of Frederick, Norborne, and Beckford, shall appoint two of their members commissioners to ascertain the value of the churches and chapels in the said parishes of Frederick, Norborne, and Beckford, at the time the said division took place; and that the said commissioners, or a majority of them, being first duly sworn, shall, on or before the first day of May next, ascertain the value of the said churches and chapels at the time aforesaid, and shall certify the same under their hands and seals to the vestries of the said parishes of Frederick Norborne, and Beckford. And the said vestry of the said parish of Frederick is hereby directed to levy, account for, and pay unto the vestries of the said parishes of Norborne and Beckford whatever the value of the said churches and chapels shall exceed that of two chapels in the parishes of Norborne and Beckford aforesaid, in proportion to the number of tithables at the time when the said division took place, any thing in the said recited act to the contrary in any wise notwithstanding.

parishes of Frederick, Norborne, & Beckford, authorised to appoint commissioners to ascertain the value of the churches & chapels in parishes of Frederick & Norborne.

CHAP. XXXI.

An act to empower the Justices of Cumberland and Fluvanna counties respectively to appoint new places for holding their courts, and to repeal the act for laying off a town in the county of Cumberland.

WHEREAS by an act passed the last session of general assembly, for dividing the county of Cumberland, it was among other things enacted, that the justices of the said county of Cumberland should meet on the fourth Monday in July then next coming, at such place as should be appointed by the sheriff thereof, and then and there appoint a place for holding courts in the

Justices of Cumberland and Fluvanna authorised to appoint new places for holding their courts.

said county, at or as near the centre of the county as convenience will admit, at which place they were to cause a parcel of good ground to be laid off for a town to be called Effingham, and the courts for the said county were thenceforth to be held at such place, and by one other act, passed at the same session, for dividing the county of Albemarle, the justices of Fluvanna county were authorised to meet on the first Thursday in August then next ensuing, at the house of Thomas Napier, esq. and to fix on a place for holding courts in the said county of Fluvanna, at or as near the centre thereof as convenience would admit; and whereas, pursuant to the said acts, the justices of the said counties met as they were directed, and appointed places for their several courthouses, but the inhabitants of the said counties have petitioned this present assembly respectively that their justices may be empowered to re-consider their said appointments, and the inhabitants of the said county of Cumberland have farther petitioned that a town may not be laid off at the courthouse of the said county, as is directed by the former of the said acts:

Act establishing the town of Effingham, at Cumberland court house repealed.

Be it therefore enacted by the General Assembly, That so much of the said recited act as directs the justices of the said county court of Cumberland to cause a parcel of ground to be laid off for a town at the place appointed, or to be appointed, for holding courts in the said county, be, and the same is hereby repealed; and that the justices of the said county courts shall, and they are hereby required to meet respectively at the places formerly by them appointed for holding their sessions, on the fourth Monday in March next, and, the major part of them being then present, shall and may appoint the same, or any other places as near the centre of their counties respectively as convenience will admit, for holding their future courts, and provide for building a courthouse, prison, pillory, and stocks, at such places, and in the mean time shall hold their sessions at such places as they shall from time to time adjourn to.

Provided, and it is farther enacted, That if a majority of the justices named in the commissions of the peace for the said counties respectively shall not be present in the said fourth Monday in March next, those present shall not proceed to fix the place for holding their courts as aforesaid, but the same shall be done at the first succeeding court at which such majority shall be present.

CHAP. XXXII.

An act for dissolving the vestry of the parish of Christ Church, in the county of Lancaster.

WHEREAS it is represented to the general assembly, that only four of the vestry of the parish of Christ Church, in the county of Lancaster, were elected by the freeholders and housekeepers thereof, *Be it therefore enacted by the General Assembly*, That the same shall be, and is hereby accordingly dissolved.

And be it farther enacted, That the freeholders and housekeepers of the said parish of Christ Church shall, before the fifth day of March next, meet at some convenient time and place, to be appointed and publickly advertised by the sheriff of the said county of Lancaster at least one month before such meeting, and then and there elect twelve of the most able and discreet persons, being freeholders and resident in the said parish, for vestrymen; which vestrymen so elected, having in the court of the said county of Lancaster taken the oath prescribed by law, shall to all intents and purposes, be deemed and taken to be the vestry of the said parish of Christ Church.

Provided, That any suit now depending, or hereafter to be brought by or against the vestry or churchwardens of the said parish, may be prosecuted in the same manner as if this act had never been made.

 CHAP. XXXIII.
An act for altering the court day of the county of Washington.

WHEREAS by an act of general assembly, intituled "An act for dividing the county of Fincastle into three distinct counties, and the parish of Botetourt into four distinct parishes," it is enacted that the court of the

Vestry of
parish of
Christ
Church, in
Lancaster,
dissolved.

Court day of
Washington
county alter-
ed.

county of Washington shall be held on the last Tuesday in every month, which is found to be very inconvenient to the inhabitants of the said county:

Be it therefore enacted by the General Assembly, That from and after the first day of January next the court of the said county of Washington shall be held on the third Tuesday of every month, any law to the contrary notwithstanding.

CHAP. XXXIV.

An act to empower the vestry of St. Patrick's parish in the county of Prince Edward, to sell the glebe of the said parish, and to lay out the money in purchasing a more convenient glebe.

Vestry of St. Patrick's parish in Prince Edward, authorised to sell their glebe.

WHEREAS it is represented to this present general assembly, that the glebe lands in the parish of St. Patrick, in the county of Prince Edward, are for the most part worn out, and that the small part remaining uncleared is very inconveniently situated, and not stocked with timber sufficient to keep up the necessary repairs, and that it would be very advantageous to the minister of the said parish, as also to the inhabitants thereof in general if the vestry of the said parish were empowered to dispose of the said glebe, and to lay out the money arising from the sale thereof in purchasing other lands for a glebe: *Be it therefore enacted by the General Assembly,* That the said glebe lands, with the appurtenances, be, and the same are hereby vested in the vestry of the said parish, in trust; nevertheless, that the said vestry, or the greater part of them, shall by deed or deeds of bargain and sale sell and convey the said glebe, with the appurtenances, for the best price that can be got, to any person or persons who shall be willing to purchase the same, to hold to such purchaser or purchasers, his or their heirs and assigns, for ever.

And be it farther enacted, That the money arising by the sale of the said glebe shall be by the said vestry laid out and applied towards purchasing a more convenient glebe, for the use and benefit of the minister of the said parish for the time being for ever.

CHAP. XXXV.

An act to empower the trustees and feoffees of the town of Fredericksburg to assess the expense of keeping the streets of the said town in repair, on the inhabitants thereof.

FOR repairing the streets in the town of Fredericksburg, in the county of Spotsylvania, *Be it enacted by the General Assembly,* That the trustees and directors of the said town, or the major part of them being assembled, shall, and they are hereby empowered to levy and assess annually on the freeholders and inhabitants of the said town a tax not exceeding seven shillings for every tithable person, and shall and may appoint one or more collector or collectors of the said tax; and if any person or persons, on whom such tax shall be assessed, shall neglect or refuse to pay the same at the time appointed for the payment thereof, it shall and may be lawful for such collector to levy the same by distress and sale of such delinquent's goods, in the same manner as is directed and prescribed by law in case of the non-payment of publick and county levies.

Trustees of Fredericksburg authorised to assess a tax on the inhabitants, for the purpose of keeping the streets in repair.

The collector of the said tax, before he undertakes the same, shall give bond and security, in a reasonable penalty, payable to the said trustees, for the due collection and payment thereof, and in case of failure, shall be liable in the same manner as the collectors of the county and parish levies are by law made liable.

And if the said trustees, or either of them, shall neglect or refuse to apply the said taxes, when collected, to the purposes aforesaid, he or they so offending shall

forfeit and pay the sum of fifty pounds to the informer, to be recovered with costs in any court of record upon motion: Provided the defendant or defendants have ten days previous notice thereof, in writing.

This act to continue and be in force until the first day of January in the year of our Lord one thousand seven hundred and seventy nine.

CHAP. XXXVI.

An act for dissolving the vestries of the parishes of Meherrin and St. Anne.

Vestries of parishes of Meherrin in Brunswick, and St. Anne in Albemarle, dissolved.

WHEREAS it hath been represented to this present general assembly, that by the death and resignation of sundry members of the vestries of Meherrin parish, in the county of Brunswick, and of the parish of St. Anne, in the county of Albemarle, there is not a sufficient number of members to hold a vestry in either of the said parishes, by which means the business of the same hath been for a considerable time unsettled: *Be it therefore enacted by the General Assembly,* That from and after the passing of this act the said vestries shall be dissolved; and the sheriff of the county of Brunswick is hereby required to summon the freeholders of the said parish of Meherrin, and others entitled to vote, to meet at Randall's ordinary, in the said parish, on the second day of March next, and the sheriff of the county of Albemarle, in the like manner, to summon the freeholders, and others entitled to vote in the said parish of St. Anne, to meet at the new church upon Hardware river on the same day, then and there to choose twelve of the most able and discreet persons of their respective parishes to be a vestry for the said parishes respectively.

The vestries so chosen, after taking an oath of fidelity to this commonwealth, shall proceed to regulate and settle the business of their respective parishes, and shall have full power and authority to levy all salaries or

arrears of salaries due to the incumbents of the said parishes before the first day of January last, also to assess and levy such sums of money as shall be sufficient to enable them to comply with their parochial engagements before that date, and to demand and recover of any collector or collectors all arrears of money or tobacco due to the said parishes and put into their hands to collect, and to do any other act which the said vestries hereby dissolved might by law have respectively done had they continued full and undissolved.

CHAP. XXXVII.

An act to empower the vestry of the parish of St. Paul, in the county of Hanover, to sell the glebe of the said parish, and to lay out the money in the purchase of a more convenient glebe.

WHEREAS it is represented to this present general assembly, that it would be of great advantage to the minister of the parish of St. Paul, in the county of Hanover, as well as to the inhabitants thereof, to sell the glebe lands of the said parish, and to lay out the money arising from such sale in the purchase of other lands for a glebe, *Be it therefore enacted by the General Assembly,* That the said glebe lands, with the appurtenances, be, and the same are hereby vested in the vestry of the said parish of St. Paul, in trust; that they, or the major part of them, shall sell the said land at publick auction for the best price that can be got, and convey the same to the purchaser or purchasers thereof, his or their heirs and assigns, for ever.

And be it farther enacted, That the money arising from such sale shall be by the said vestry laid out and applied towards purchasing a more convenient glebe, for the use and benefit of the minister of the said parish for the time being for ever.

Vestry of
parish of St.
Paul, in Han-
over, autho-
rised to sell
their glebe.

GENERAL ASSEMBLY

BEGUN AND HELD

At the Capitol, in the City of Williamsburg, on Monday the fourth day of May, in the year of our Lord one thousand seven hundred and seventy eight, and in the second year of the commonwealth.

Patrick Henry, esq. Governor.

CHAP. I.*

An act for raising Volunteers to join the Grand Army.

WHEREAS it is of the greatest importance to the interest and freedom of America that a speedy reinforcement should be sent out of this commonwealth to his excellency general Washington, to render the operations of the present campaign more decisive and honorable to the American arms:

Preamble

Be it therefore enacted by the General Assembly, That two thousand volunteers rank and file be raised, who are to join the commander in chief of the American army when ordered by his excellency the governor or chief magistrate of this commonwealth.

2000 volunteers to be raised, to join the grand army.

And be it farther enacted, That as an inducement to engage volunteers at this important and critical period, a bounty of thirty dollars, and a complete suit of regimentals, to consist of a coat, jacket, a pair of breeches, two pair of shoes, two pair of stockings, two shirts, and a hat, shall be given to every soldier who obliges himself to serve till the 1st day of January, in the year of our Lord one thousand seven hundred and seventy nine, unless sooner discharged by the commander in chief; the bounty to be paid on the volunteers receiving orders to march out of their county, and the regimentals to be delivered at the place of general rendezvous. And that

Encouragement.
Bounty and clothing.
Exemptions.

* In the original, none of the acts of this session are distinguished by chapters or sections. Those only are so distinguished in this collection, as were published in the Chancellors' Revision.

for the farther encouragement of such volunteers, they shall be exempt from all draughts and military duty, except in case of an actual invasion of this commonwealth, or insurrection therein, and from payment of any tax on their persons for the space of twelve months, to commence from the day of their obtaining their discharge from the commanding officer in chief of the American army; that their pay and rations be the same of the soldiers in the continental army, and that while in camp they shall be supplied with a gill of spirits per day gratis, if to be procured; and all such articles as they may actually want, in the opinion of their brigadier general, or commanding officer of brigade, shall be furnished them on the terms such articles were usually sold on in the year one thousand seven hundred and seventy-four.

Spirits.

Goods, at the prices in 1774.

Officers, how appointed.

Proportion to several counties.

And for the more speedy carrying this act into execution, two copies thereof shall be forthwith printed for each county hereafter named, and shall be despatched by messengers express, or otherwise, to the county lieutenant or the commanding officer in the said counties, who shall call together the militia of his said county, within ten days after receiving the same, and shall then, with his field officers and captains attending, appoint the most proper man or men in the county as officer or officers for the volunteer service. The proportion of officers to the several counties hereafter named is as followeth, viz. Albemarle, one captain, one lieutenant, one ensign; Amelia, one captain, one lieutenant, two ensigns; Augusta, one captain, one lieutenant, one ensign; Amherst, one captain, one lieutenant; Bedford, two captains, two ensigns; Berkeley, two captains, one lieutenant, one ensign; Brunswick, two captains, one lieutenant, one ensign; Buckingham, one captain, one ensign; Caroline, one captain, one lieutenant; Culpeper, two captains, one lieutenant, two ensigns; Cumberland, one lieutenant; Dinwiddie, one captain, one lieutenant; Shenando, one captain, one lieutenant, one ensign; Essex, one captain, one ensign; Fairfax, one captain, one lieutenant; Fauquier, one captain, one lieutenant, two ensigns; Fluvanna, one lieutenant; Frederick, one captain, one lieutenant, one ensign; Gloucester, one captain, one lieutenant; Goochland, one lieutenant, one ensign; Halifax, one captain, one lieutenant, one ensign; Hampshire, one captain, two ensigns; Hanover, one captain, one lieutenant, one ensign; Henrico, one captain, one ensign; Henry, one

captain, one ensign; King and Queen, one lieutenant, one ensign; King George, one lieutenant; King William, one lieutenant, one ensign; Lancaster, one ensign; Loudoun, two captains, two lieutenants, one ensign; Louisa, one captain, one ensign; Lunenburg, one lieutenant, one ensign; Middlesex, one ensign; Mecklenburg, one captain, one lieutenant, one ensign; New Kent, one lieutenant; Northumberland, one captain, one lieutenant; Orange, one lieutenant; Pittsylvania, one captain, one lieutenant, one ensign; Powhatan, one lieutenant; Prince Edward, one captain, one ensign; Prince George, one lieutenant, one ensign; Prince William, one captain, one lieutenant; Richmond, one lieutenant, one ensign; Rockbridge, one captain, one lieutenant, one ensign; Rockingham, one captain, one lieutenant, one ensign; Spotsylvania, one lieutenant; Stafford, one lieutenant; Sussex, one captain, one lieutenant; Westmoreland, one captain, one ensign.

The officers being so appointed, shall immediately proceed to enlist volunteers to make up their respective quotas; a captain twenty four, a lieutenant sixteen, an ensign ten. And if any person so appointed should refuse to act, or if any one who shall act fails to complete his quota within twenty days after his appointment, the said field officers and captains, or a majority of them, may appoint any other person they may judge most likely to complete the said quota, provided they should think the service would be benefitted by the new appointment; and all volunteer officers appointed under this act shall have full liberty to recruit any where within this commonwealth. The captains, besides their quotas, are to recruit two serjeants, one drummer, and one fifer; the subalterns, one serjeant each.

And be it farther enacted, That from and after the first day of August next all enlistments under this act shall cease; and where it may be the case that the full quota of men is not raised in any by the time aforesaid, the governour and council may join together the parts of companies in the several counties, so as to form them into complete companies. The county lieutenant, or commanding officer in the respective counties, is hereby directed to transmit to the governour and council, on or before the tenth day of August next, by express, to be paid by the treasurer on a warrant from the governour, a just and accurate return of the number of men raised in his county; and for the farther encourage-

Number of
volunteers
to each offi-
cer.

Vacancies,
how suppli-
ed.

When en-
listments to
cease.

Returns.

Recruiting
expenses.

ment of the officers recruiting volunteers, the sum of five dollars shall be paid for each man recruited.

Volunteers
organized.

And be it enacted, That the said volunteers shall be formed into four distinct battalions, to consist of ten companies of fifty men each rank and file, to be under the command of one captain, one lieutenant, one ensign, and four serjeants, and allowed a drummer and fifer; each battalion to be under the command of a lieutenant colonel commandant and major, and be allowed a chaplain, adjutant, quartermaster, surgeon, one surgeon's mate, and a quartermaster serjeant, and the whole shall be under the command of a brigadier general, who shall be appointed by the governour, with the advice of the council, and commissioned by the governour. The governour and council shall appoint the field officers, who, with the captains and subalterns, shall be commissioned by the governour.

Staff.

Form of en-
listment.

And be it farther enacted, That every officer appointed in the manner before directed, shall, on the enlistments of the volunteers under him, obtain their subscription in the following terms, to wit: We do severally enlist to serve in the corps of volunteers now raising to reinforce the continental army, for the time and upon the terms directed by an act of assembly intituled "An act for raising volunteers;" and that the volunteers so raised, when they join the grand army, are to be governed by the like rules, regulations, and articles of war, as govern continental officers and soldiers. The said volunteers when raised, shall, during the time they remain in the commonwealth, be subject to the orders of the governour and council, who shall, from time to time, as they may see cause, fix their place of rendezvous, and adjust all disputes about rank, paying proper regard to priority.

Pay and ra-
tions.

The brigadier, field officers, captains, and subalterns pay and rations, to be the same of officers of equal rank in the continental army, and to commence from the time of their being called into service.

Tents, arms,
&c.

And be it farther enacted, That the governour, with the advice of the council, is hereby authorised to use the most expeditious and effectual means for furnishing the said volunteers with proper tents, arms, and accoutrements, and moreover to appoint one or more paymasters, commissaries, or contractors, for the more regularly and punctually paying and providing necessaries for the said troops.

That the acts of general assembly heretofore passed, for the relief and support of the distressed wives and families of such soldiers as have hitherto enlisted into the service of this commonwealth, extend to the distressed wives and families of all such volunteer soldiers as may engage under the terms aforesaid.

Wives and families provided for.

The treasurer shall, from time to time, on warrants from the governour and council, pay all such sums of money as may be requisite for the purposes before mentioned, such warrants being previously entered at the auditors office, and certified by them to be so entered. The sum so certified by the auditors shall by them be charged in account to those to whom they are payable, and due credits be given them for all expenditures authorised by their instructions from the governour and council, and properly vouched. All sums not so expended shall be repaid to the treasurer, whose receipt being delivered to the auditors they shall give to such person a discharge in full. If any such person shall fail to render account of the application of any such money, or to repay to the treasurer the unexpended balance, and produce his receipt for the same when called on by the auditors, such proceedings shall be used against him as are prescribed by an act of general assembly passed in the year one thousand seven hundred and seventy seven, for the recovery of monies due to the publick.

Appropriation for expenses incurred.

CHAP. II.

An act for raising a regiment of Horse.

FOR strengthening the continental army under the command of general Washington during the present campaign, *Be it enacted by the General Assembly,* That a regiment of horse, to consist of three hundred and fifty rank and file, shall be raised within this commonwealth, with all possible despatch, by such persons as shall be appointed by the governour, with the advice

Regiment of cavalry to be raised to join the continental army.

Organiza- tion. of the council, for that purpose. That the said regi-
 ment shall be formed by the governour into six troops,
 each troop to be commanded by a captain, two lieu-
 tenants, and a cornet, and the whole by a colonel, lieu-
 tenant colonel, and major. The commissioned officers
Officers. how appointed. of each troop to be chosen by the troop itself, so soon
 as formed. The field officers to be appointed by the
 governour with the advice of the council, and the staff
 by the field officers. That the officers and troopers
Pay. shall have the same pay, rations, and forage, as those
 of the continental army, to commence from the time of
 their rendezvous; that they shall continue in service du-
 ring the present campaign, unless sooner discharged by
 the commander in chief of the army, and shall, during
 the time of their service, be subject to the continental
 rules and articles of discipline and government. The
 chirurgeons shall be removed by the field officers, at
Horses, &c. how furnish- ed. any time, for neglect of duty. If any of the said troop-
 ers shall furnish himself with a horse, arms, or accou-
 trements, such horse, if he be killed, or die, or be cap-
 tured, or otherwise lost, not through the default of the
 trooper, and such arms and accoutrements, if captured,
 or otherwise lost, without the default of the trooper,
 shall be made good to such trooper by the publick.
 Horses, arms, and accoutrements, requisite for the said
 regiment, in addition to those furnished by the troop-
 ers themselves, together with ammunition and necessa-
 ries for travelling and camp uses, so far as they cannot
 be furnished or conveniently spared from the publick
 stores, shall be provided at the publick expense, with all
 possible despatch, by persons to be appointed by the
 governour with the advice of the council, under such
 limitations of kind, quality, and price, as they shall think
 expedient.

Appropriation for ex- penses in- curred. The treasurer shall from time to time, on warrants
 from the governour with the advice of the council, pay
 all such sums of money as may be requisite for the pur-
 poses before mentioned, such warrants being previous-
 ly entered at the auditors office, and certified by them
 to be so entered. The sums so certified by the audi-
 tors shall by them be charged in account to those to
 whom they are payable, and due credits be given them
 for all expenditures authorised by their instructions from
 the governour with the advice of the council, and pro-
 perly vouched. All sums not so expended shall be re-
 paid to the treasurer, whose receipt being delivered to

the auditors, they shall give to such person a *quietus*. If any such person shall fail to render account of the application of any such money, or to repay to the treasurer the unexpended balance, and produce his receipt for the same when called on by the auditors, such proceedings shall be used against him as are prescribed by an act of general assembly passed in the year 1777 for the recovery of monies due to the publick. All sums actually expended for the purchase of horses, pay of the troopers, or other necessaries before directed, or for the reimbursement of their losses as aforesaid to the troopers, and the value of all arms, accoutrements, or other necessaries furnished from the public stores or works, shall be carried by the auditors into account against the United States; and when the said regiment shall be discharged, due credit shall be given for all such horses and other articles as shall remain for the publick use, and shall be delivered by the commanding officer to the governour's order, according to their value, to be settled in such manner as the governour, with the advice of the council, shall find practicable and just. And such accounts shall by them, on behalf of this commonwealth, be submitted to congress for their allowance.

And for greater encouragement to those who shall enter into the said service, it is provided, that they shall not thereby lose their capacity to be of either house of assembly, and that they shall be free from all draughts (except in the case of an invasion of this commonwealth, or insurrection therein) from the time of their discharge, for so long a time as they shall have actually been in the said service.

Privileges of
officers and
troopers.

When so many of the said regiment shall be raised and ready, as in the opinion of the governour, with the advice of the council, it may be expedient to send on, he shall give orders for them to rendezvous, and proceed with all possible despatch to join the grand army under the command of general Washington, and so from time to time as the remaining parts shall be raised and made ready.

When to
march.

CHAP. III.

An act for raising a Battalion of Infantry for garrison duty, and for other purposes.

Battalion of infantry, to be raised for garrison duty.

Number, of officers, and staff.

Bounty, pay, and rations.

Term of service.

Recruiting expenses.

Who may not be enlisted.

Appropriation.

FOR garrisoning the fortifications and batteries erected for the defence of the several ports and harbours within this commonwealth, *Be it enacted by the General Assembly*, That a battalion of infantry, to consist of eight companies, and each company of sixty eight rank and file, shall be raised within this commonwealth by such persons as shall be appointed by the governour and council for that purpose; that each company shall have one drummer and fifer, and be commanded by a captain, two lieutenants, an ensign, and four serjeants, and the whole by a colonel, lieutenant colonel, and major; the commissioned officers shall be appointed by the governour and council, and the staff by the field officers. That the said battalion shall have the same bounty, pay, and rations, as are allowed in the continental service, to commence from the time of their rendezvous, shall continue in service three years from that time, unless sooner discharged, and shall be subject to the continental rules and articles of discipline and government, save only, that the powers of confirming the sentences of courts martial in capital cases, or of pardon in the same cases, shall be in the governour and council.

Every person authorised by the governour and council to enlist for the said battalion shall receive, for every man he shall so enlist, the sum of ten dollars; but it shall not be lawful for him to enlist any artificer employed by contract in writing for hire in the publick manufactories of fire arms, or at any iron works, nor any indentured apprentice in such manufactory or work, nor any imported servant, without leave in writing from the manager of such manufactory or work, or owner of such servant.

The treasurer shall from time to time pay all monies necessary for the enlistment, bounty, pay, or subsistence of the said battalion, such monies for enlistment and bounty being drawn for by warrant from the governour and council, and previous to their payment entered in account against the person receiving the same

in the auditors office, and the monies for pay and subsistence by warrant from the auditors to be entered in account in like manner. And the auditors shall from time to time call for settlements of the said accounts, for vouchers for the due expenditure of the monies received, and for repayment of all unexpended sums to the treasurer, and certificate thereof by him; and if any person fails, when called on, so to account, such proceedings shall be used against him as are prescribed by an act of general assembly passed in the year one thousand seven hundred and seventy seven, "For recovery of monies due to the publick."

If any person enlisted for the said battalion shall at any time be ordered to march out of the commonwealth, such order shall amount to a discharge. That all soldiers who shall enlist into the regiment of artillery now raising for the defence of this state shall be entitled to the same bounty and clothing as the troops now to be raised by this act are entitled to. That the said regiment of artillery shall be officered in the same manner, and that the officers thereof shall receive the same pay and rations as is customary in artillery regiments in the service of the United States of America.

An order to march out of the state equal to a discharge.

State artillery, pay rations, &c.

And for farther encouragement to those who shall enlist into the said service, or artillery, they shall be free from all draughts, except in case of an invasion of this commonwealth, or insurrection therein, from the time of their discharge, for so long a time as they shall have actually been in the said service.

Privileges.

CHAP. IV.

An act for recruiting the continental army, and other purposes therein mentioned.

Future enlistments for continental army, three years, or during the war.

FOR preventing the inconveniency of draughting men to make up the deficiencies in the quota of continental troops to be furnished by this state, for giving encouragement to soldiers, and putting our army on a more permanent foundation, *Be it enacted by the General Assembly,* That the men hereafter to be raised in this state for the continental army shall be engaged by voluntary enlistments to serve for three years, or during the war.

Recruiting officers, how appointed.

And the governour, with the advice of the council, is hereby authorised to appoint from time to time such and so many recruiting officers in this state as in their judgment shall be requisite for the said service, and to give them such instructions as they shall judge necessary for the government of such officers respectively in the execution of their office.

Pay of officers, and recruiting expenses.

That all officers so appointed shall be under the immediate direction of the governour and council, and accountable to them for their conduct, who shall call them to account, and shall continue or displace them from time to time according to their success and good or ill behaviour. Every such officer shall be allowed ten shillings per day, to commence from the date of his instructions, and also a bounty of ten dollars for each soldier he shall enlist and deliver to a continental officer at the place of general rendezvous to be appointed by the governour and council. Every recruiting officer is empowered to appoint a drummer and fifer to attend him, who shall receive the same pay, and two such rations, as are allowed in the continental army, and two dollars each for every soldier enlisted by the recruiting officer with whom they act. The governour,

Recruits, how reviewed.

with the advice of the council, shall appoint in every county, or at the place of general rendezvous, some proper person to review and pass all soldiers enlisted in this state fit for service, who shall give to the officer requiring the same a certificate respecting each soldier reviewed and passed by him. The governour, with

Appropriation.

the advice of the council, shall from time to time issue

his warrant upon the treasurer for the payment of such sums of money to the several recruiting officers as may be requisite for the recruiting service, which warrants shall be charged in account to the officers respectively receiving them in the auditors book, and endorsed by the auditors before payment. And all sums of money thus received by any officer shall be accounted for to the auditors in their office, who, if the said money shall not have been duly expended, shall certify the balance due from the officers respectively to the treasurer for the time being, to the end that all such balances may be collected and paid into the publick treasury; and on failure, to be recovered as is directed by an act of the general assembly for the recovery of debts due to the publick.

And be it farther enacted, That a bounty of one hundred and fifty dollars be given to each soldier, at the time of his enlistment, who shall enlist to serve during the war, and of one hundred dollars to each soldier, at the time of his enlistment, who shall enlist to serve for three years; and that all persons receiving such bounty shall be deemed soldiers and subjected to the articles of war, and shall be entitled to receive the pay and rations which are allowed to soldiers in the continental army. Every soldier enlisted shall be furnished, at the publick expense, with the following articles, a coat, waistcoat, and breeches, two shirts, one hat, two pair of stockings, and one pair of shoes, to be delivered at the place of general rendezvous; and with the same articles every year afterwards, during his continuance in service, to be delivered to him at his station. Provided, that the suit of clothes to be given annually to soldiers by this act shall not be additional to that annual suit which hath been allowed by congress. And if any soldier enlisted according to this act shall be ordered to march out of this state, without having first received such clothes, such order shall amount to a discharge.

That all officers, sailors, and soldiers, raised by this state, shall, during their continuance in the service, be furnished by the agent or commissary of stores, in behalf of this state, with the following necessaries, at the prices herein affixed to them, that is to say: Osnaburgs at one shilling and sixpence per yard, coarse hats at seven shillings and sixpence each, coarse shoes at eight shillings per pair, coarse yarn stockings at five shillings

Bounty, pay,
and rations.

Clothing

Goods, at
specified
prices.

per pair, rum or brandy at the rate of ten shillings per gallon, and whiskey at the rate of five shillings per gallon, and such other imported articles as may be necessary for them at the rate of one hundred and twenty per centum upon the first cost, at the European port whence they shall be imported; and if such articles shall not be imported from Europe, but purchased by the publick in any of the United States, or the West India islands, they shall be retailed at the same advance, in the estimation of the agent or commissary of stores, as if the same had been imported from Europe on the publick account. And as a farther encouragement, all soldiers who have enlisted, or may enlist, to serve in the army during the war, and shall actually serve that time, shall be exempted from the payment of all levies and taxes, for their own persons, during life, such soldiers producing to the court of the county in which they may reside a certificate from the commander of the regiment in which they served of their service and due discharge.

Soldiers serving during the war exempted from personal taxes and levies for life.

And be it farther enacted, That every soldier who is now enlisted for a limited time, and shall hereafter engage for the war, shall, at the time of re-enlistment, be entitled to a bounty of one hundred and fifty dollars, and all privileges given by this act.

Bounty for re-enlistment during the war.

And be it farther enacted, That all soldiers who may be disabled in the service shall be entitled to receive full pay during life, to commence at the time of their discharge.

Pensions, full pay for life.

CHAP. V.

An act providing a supply for the Publick Exigencies.

Preamble.

WHEREAS, in order to carry into effect the several acts passed at this present session of general assembly for raising a regiment of horse, for raising a battalion of infantry for garrison duty, for raising volunteers to join the grand army, for recruiting the continental army, and other purposes therein mentioned, and the resolutions of the twenty ninth of May one thousand se-

ven hundred and seventy eight, for making good the losses of certain sufferers in the town of Norfolk, it will be necessary to make a farther emission of treasury notes, and to provide for the redemption thereof:

Be it enacted by the General Assembly, That it shall Further emission of treasury notes, or paper money authorised.
 be lawful for the treasurer to issue treasury notes in dollars, or parts of a dollar, for any sum which may be requisite for the purposes aforesaid, in addition to the sums issuable by former acts of assembly, so as the said sum to be issued by authority of this act do not exceed six hundred thousand dollars; and he shall cause the said notes to be engraved and printed in such manner, and on such paper, as he shall judge most likely to secure the same from being counterfeited, and shall appoint proper persons to overlook the press, and to number and sign the notes, upon the best terms on which he can procure them.

And whereas there is reason to believe that the taxes imposed by an act passed at the last session of general assembly, “For raising a supply of money for publick exigencies, will be more than sufficient to answer the purposes expressed in the said act, *Be it farther enacted,* That after the taxes which shall be levied by authority of the said act shall have effected the purposes to which they are appropriated by the said act, so much of what shall remain, as shall be sufficient for the redemption of the notes to be issued by authority of this present act, shall be applied to that purpose; and if so much as shall be sufficient shall not remain, farther provision shall be made by law for making good the deficiency, and redeeming the whole before the first day of December, which shall be in the year of our Lord one thousand seven hundred and eighty five.

If any person shall counterfeit any of the said treasury notes issued by authority of this act, or shall be accessory thereto, or shall pass any such counterfeited note knowing the same to be counterfeit, he shall, on conviction thereof, suffer death without benefit of clergy. Forging or counterfeiting death without clergy.

CHAP. VI.

An act to amend an act for providing against invasions and insurrections.[Chan. Rev.
p. 78.]Punishment
for mutiny,
desertion,
&c. increas-
ed.

I. WHEREAS by an act of general assembly, intituled "An act for providing against invasions and insurrections," it has been found by experience that the fine to be inflicted on any officer or soldier guilty of mutiny, desertion, disobedience of command, absence from duty or quarters, neglect of guard, or cowardice, is by no means sufficient to deter defaulters from committing all or any of the said offences:

II. *Be it therefore enacted by the General Assembly,* That it shall and may be lawful for a court martial to inflict any fine upon such delinquent as they shall determine reasonable, so as such fine do not exceed six months pay.

III. *And be it farther enacted,* That so much of the said act as relates to the fine aforesaid shall be, and the same is hereby repealed.

CHAP. VII.

An act empowering the Judges of the High Court of Chancery to supply certain vacant offices, making a temporary provision for the Clerk thereof, and establishing a method of appealing to that Court in particular cases.[Chan. Rev.
p. 78.]Judges of
High Court
of Chancery
authorised
to appoint a
clerk in va-
cation.

I. *BE it enacted by the General Assembly,* That the judges of the high court of chancery, or any two of them, may before the next term appoint a clerk thereof, in the room of him who lately died, by writing under their hands and seals, and at any time hereafter, when that office, or the office of serjeant at arms, shall by any means become vacant, may in like manner appoint

a successour; and such succeeding clerk or serjeant, having in any court of record taken the oaths required by law, shall exercise the same power, perform the same duty, and be entitled to the same fees and profits, as he might have exercised, performed, and been entitled to, if he had been appointed in term time.

II. The clerk of the high court of chancery shall be paid by the treasurer out of any publick money that may be in his hands a salary at the rate of one hundred and fifty pounds by the year, until the general assembly shall make such other provision for him as will encourage a man of sufficient ability to accept the office. Salary of clerk.

III. Any party thinking himself aggrieved by a decree of the court of a county, city, or borough, in chancery, and not having entered an appeal from the decree at the time it was pronounced, may appeal from such decree at any time within three months after passing this act, or within one month after the decree pronounced, lodging for that purpose with the clerk of the high court of chancery a copy of the proceedings in the suit, and a petition suggesting error in the decree signed by some counsel attending the high court of chancery, and also lodging with the petition a bond executed by the appellant or his agent, and a surety or sureties with the like condition as is annexed to other appeal bonds and affidavits, or solemn affirmations, verifying the sufficiency of the sureties; and the clerk shall thereupon issue a summons against the appellee, requiring him to appear and answer the said petition and appeal, and shall also issue a supersedeas, if necessary, to enjoin from proceeding in execution of the decree, and the court shall and may hear and determine the appeal in the same manner as if the appeal had been entered at the time the decree was pronounced. Appeals to High Court of Chancery, within one month after decree, as of right.

CHAP. VIII.

An act for giving a farther time to the purchasers of lots in the town of Bath to build thereon.

Farther time allowed purchasers of lots in town of Bath to build thereon:

WHEREAS by an act of the general assembly, intituled "An act for establishing a town at the Warm Springs, in the county of Berkeley," it was among other things directed, that the purchasers of lots in the said town should within twelve months from the day of sale build upon each of the said lots a dwelling-house twelve feet square fit for habitation, and whereas it hath been represented to this present general assembly that the time limited for building upon and saving the said lots was of too short a period:

Be it therefore enacted by the General Assembly, That the purchasers of lots in the said town shall be allowed until the first day of September one thousand seven hundred and seventy nine as a farther time to build upon and save the same, any thing in the said recited act to the contrary notwithstanding.

 CHAP. IX.

[Chan. Rev. p. 79.]

An act to enable the Judges of the General Court to hold two additional sessions.

Preamble.

I. WHEREAS there are only two sessions of the general court held in the year, to wit, one in the month of March, the other in the month of October, so that persons committed to the publick jail for criminal offences are obliged to undergo a long and painful confinement before they can be brought to trial, which is contrary to justice, and the principles of the constitution:

Two additional terms

II. *Be it therefore enacted, That henceforth there shall be two other sessions of the general court held in*

every year, to wit, one on the second Tuesday of June, and one other on the second Tuesday of December, at which sessions they shall hear and determine of all treasons, felonies, misdemeanors, and other pleas of the commonwealth cognizable before the said court at their sessions heretofore established, as well against those who shall be then in the publick jail as others, and of no other matters or causes whatsoever; and against such as shall be found guilty by the verdict of the petit jury, the said court shall proceed to judgment according to law, and award execution thereupon, saving to the governour his right of granting pardons to capital offenders, according to the laws or constitution of government, and shall discharge all others not so found guilty.

of general court, for criminal cases.

III. *And be it farther enacted,* That it shall and may be lawful for the sheriff of the county of York, and for the sheriff of the county of James City, for the time being, upon writs to them directed by the clerk of the general court, which writs the said clerk is hereby empowered and required to issue six days at least before the holding such sessions, to summon each of them twelve good and lawful men, being freeholders of this commonwealth, to appear and attend at such sessions, which twenty four freeholders, or any sixteen thereof, shall be a grand jury to inquire of and present all treasons, felonies, and other criminal offences cognizable by the said court which shall have been committed or done in any county or counties within this commonwealth; and the said court, at their sessions aforesaid, shall have power to adjourn from day to day until all such criminals shall be tried, and shall in all cases, except in such as are herein otherwise directed, observe the same rules and regulations, in the trial of all such criminals, as are directed by an act intituled "An act for establishing a general court."

Grand juries for, how summoned.

IV. And whereas it is required by the above recited act, that every judge, before he enters upon the duties of his office, shall in open court take and subscribe the oath of fidelity to the commonwealth, and also the oath of office: *Be it enacted,* That any judge may take the aforesaid oaths at either of the sessions by this act established, to be administered by the first justice who may be present, and may thereafter enter upon the duties of his office, in the same manner as if he had taken the said oaths at the session in March or October.

Judges may qualify at such additional terms.

CHAP. X.

[See October 1777, chap. xxii]

An act for continuing an act for giving certain powers to the Governour and Council.

Act giving certain powers to governour and council further continued.

WHEREAS an act of general assembly, intituled "An act for giving certain powers to the governour and council," passed in the year of our Lord one thousand seven hundred and seventy seven, will expire at the end of this present session of assembly, and it is necessary the same be continued:

Be it therefore enacted by the General Assembly, That the same be continued and be in force, from and after the expiration thereof, until the end of the next session of general assembly, and no longer.

 CHAP. XI.

[Chan. Rev. p. 79.]

An act giving speedy remedy to the United States against Defaulters.

Preamble.

I. WHEREAS divers persons receiving money of the United States of America for publick uses apply it to different purposes, and when called on refuse or neglect to repay the same, others enter into contracts for supplying the army and navy of the United States with provisions and other necessaries, and fail or refuse to comply therewith; and whereas, in like cases respecting this commonwealth in particular, speedy remedy was given by an act of general assembly passed in the year one thousand seven hundred and seventy seven, intituled "An act to establish a mode for the speedy and summary recovery of such sums of money as are or may become due to the publick, and for enforcing all contracts entered into with government," and it is expedient that the same speedy remedy be given in like cases respecting the United States:

II. *Be it therefore enacted by the General Assembly,* That where, in any case, a remedy is by the said act given to this commonwealth or any of its agents or contractors, in a like case, the same remedy shall be given to the United States, their agents and contractors; and where, by the said act such proceedings are directed to be instituted by the treasurer, in the name of the governour for the time being, in a like case respecting the United States, the proceeding shall be instituted by their deputy paymaster general within this commonwealth, and in the name of the president of congress for the time being.

'Same remedy given to United States, their agents and contractors, against public defaulters, as to this state.

CHAP. XII.

An act to attaint Josiah Philips and others, unless they render themselves to justice within a certain time.

WHEREAS a certain Josiah Philips, labourer, of the parish of Lynhaven and county of Princess Anne, together with divers others inhabitants of the counties of Princess Anne and Norfolk, and citizens of this commonwealth, contrary to their fidelity, associating and confederating together, have levied war against this commonwealth within the same, committing murders, burning houses, wasting farms, and doing other acts of hostility in the said counties of Princess Anne and Norfolk, and still continue to exercise the same enormities on the good people of this commonwealth; and whereas the delays which would attend the proceeding to outlaw the said offenders, according to the usual forms and procedures of the courts of law, would leave the said good people for a long time exposed to murder and devastation:

Josiah Philips of Princess Anne, and others his associates, *attaind*, unless they surrender themselves, within a limited time.

Be it therefore enacted by the General Assembly, That if the said Josiah Philips, his associates and confederates, shall not, on or before the last day of June in this present year, render themselves to the governour, or to some member of the privy council, judge of the general court, justice of the peace, or commissioned officer of

the regular troops, navy, or militia of this commonwealth, in order to their trials for the treasons, murders, and other felonies by them committed, that then such of them, the said Josiah Philips, his associates and confederates, as shall not so render him or themselves, shall stand and be convicted and attainted of high treason, and shall suffer the pains of death, and incur all forfeitures, penalties and disabilities, prescribed by the law against those convicted and attainted of high treason; and that execution of this sentence of attainder shall be done by order of the general court, to be entered so soon as may be conveniently after notice that any of the said offenders are in custody of the keeper of the publick jail. And if any person committed to the custody of the keeper of the publick jail, as an associate or confederate of the said Josiah Philips, shall alledge that he hath not been of his associates or confederates at any time after the first day of July in the year of our Lord one thousand seven hundred and seventy seven, at which time the said murders and devastations were begun, a petit jury shall be summoned and charged, according to the forms of the law, to try, in presence of the said court, the fact so alledged; and if it be found against the defendant, execution of this act shall be done as before directed.

And that the good people of this commonwealth may not in the meantime be subject to the unrestrained hostilities of the said insurgents, *Be it farther enacted*, That from and after the passing of this act it shall be lawful for any person, with or without orders, to pursue and slay the said Josiah Philips, and any others who have been of his associates or confederates at any time after the said first day of July aforesaid, and shall not have previously rendered him or themselves to any of the officers civil or military before described, or otherwise to take and deliver them to justice, to be dealt with according to law.

Provided, That the person so slain be in arms at the time, or endeavouring to escape being taken.

CHAP. XIII.

An act to amend an act intituled An act for forming several new counties, and reforming the boundaries of two others.

WHEREAS by an act of the last session of the general assembly, intituled "An act for forming several new counties, and reforming the boundaries of two others," part of the county and parish of Augusta was added to the county and parish of Hampshire, but no surveyor was appointed by the said act to run the boundary line: Surveyor of Augusta to run the boundary line between that county and Hampshire.

Be it therefore enacted by the General Assembly, That the surveyor of the county of Augusta shall, on or before the first day of July next, run the line in manner directed by the said act, at the equal expense of the counties of Rockingham and Hampshire, to be levied by their respective courts.

CHAP. XIV.

An act for appointing commissioners to ascertain the value of sundry houses the property of Robert Tucker, and for other purposes.

WHEREAS an act of general assembly, passed in May one thousand seven hundred and seventy seven, intituled "An act for the more regular laying off the borough of Norfolk," and an act intituled "An act for appointing commissioners to inquire into and ascertain the losses sustained by the late inhabitants of the borough of Norfolk," which were continued and amended by an act of assembly the last session, expired at Acts for more regularly laying off the borough of Norfolk, and ascertaining losses by the burning thereof, further continued.

the commencement of this present session of assembly, and it is thought necessary the said several acts should be revived and continued:

Be it therefore enacted by the General Assembly, That the said several acts be, and they are hereby revived, and shall continue and be in force until the next session of assembly.

And be it farther enacted, That Willis Riddick, William Cowper, Miles King, John Driver, John Cary, Henry Riddick, and Worlich Westwood, or any three of them, be, and they are hereby appointed commissioners for the purposes mentioned in the said recited acts.

Value of property of Robert Tucker, in Norfolk, destroyed by order of convention, to be ascertained.

The said commissioners are moreover empowered and directed to inquire into the value of certain mills and houses in the county of Norfolk, the property of Robert Tucker, destroyed by order of convention, and report the value of the same, and by whom and at what period they were destroyed.

CHAP. XV.

An act to increase the allowance to the members of the General Assembly.

Wages of members of assembly increased.

WHEREAS the former allowance to the members of the general assembly is at this time very inadequate to their necessary expenses, *Be it enacted, That* every member of the general assembly shall be paid out of the publick money, by the treasurer of this commonwealth, the sum of twenty shillings for each day he shall serve in general assembly, together with the like wages for his coming and returning to and from such general assembly, also all ferriages.

Travelling expenses.

And whereas the laws heretofore made have not fixed the number of travelling days to some counties, *Be it enacted, That* the members of all such counties shall receive one day's wages for every thirty miles in travelling to and from the said general assembly, besides ferriages, to be paid by the treasurer as aforesaid.

So much of every act and ordinance as is contrary to this act is hereby repealed.

Provided always, That this act shall continue and be in force until the end of the next session of assembly, and no longer.

CHAP. XVI.

An act establishing a Clerkship of Foreign Correspondence. [Chan. Rev. p. 80.]

I. WHEREAS it is necessary for the governour and council to be provided with a person learned in the modern languages for assisting them in a communication with foreign states, and that a competent salary for such person should be provided by law: Preamble.

II. *Be it therefore enacted,* That a clerkship of foreign correspondence be henceforth established, under the direction and controul of the governour and council, who shall from time to time, at their will, appoint such person to the said office as they shall find worthy of confidence, and qualified to perform the duties thereof, and remove him in like manner at their will. Such clerk having taken before them an oath of fidelity to the commonwealth, and of secrecy in all cases where he shall be specially charged with secrecy, may enter on the exercise of his office, and shall receive for his trouble a yearly salary of two hundred pounds, to be paid by the treasurer in quarterly payments, on warrant from the auditors, who are hereby required to enter such warrants in account against such person. Clerkship of foreign correspondence established.

CHAP. XVII.

*An act to amend an act intituled an act
for raising a supply of money for
publick exigencies.*

Preamble.

WHEREAS by an act of the last session of general assembly, intituled "An act for raising a supply of money for publick exigencies," the several county courts were required to take bonds, with sufficient sureties, of their respective sheriffs, in the penalty of three thousand pounds, for the faithful collection and accounting for all the taxes thereby imposed, which sum in many counties will be less than the amount of the taxes to be collected in the same counties:

Penalties of
sheriffs'
bonds en-
creased.

Be it therefore enacted, That the bonds heretofore taken under direction of the said act shall be cancelled, and in lieu thereof others shall be taken, according to the directions of the said act; save only, that the penalty of every such bond shall be equal at least to what may be the whole amount of the said taxes, in the judgment of the court of the county, using the best means in their power to inform themselves of such amount.

Court of
Hustings of
Williams-
burg to take
bond of their
serjeant.

And whereas the court of Hustings for the city of Williamsburg were not authorised by the said act to take bond with sufficient sureties from the collector for the true and faithful collection and accounting for the money arising from all duties and taxes thereby imposed on the inhabitants of the said city, *Be it therefore enacted by the General Assembly*, That the court of Hustings shall, at their court to be held in the months of June or July in the present year, and in the six following years, in the months of April or May, take bond with sufficient sureties of the serjeant of the city, in the penalty of three thousand pounds, payable to the treasurer of the commonwealth for the time being, for the use of the commonwealth, with condition for the true and faithful collection and accounting for all the duties and taxes imposed by the above recited act, and paying the money for which he shall be accountable according to the said act; and if the serjeant shall refuse or fail to give such surety, the court shall appoint some other person to collect the said taxes, and take the like bond and surety of him, which bond shall be recorded in the

court, and an attested copy thereof transmitted by the clerk without delay to the publick treasurer, which shall be admitted as evidence in any suit or proceeding founded thereon.

CHAP. XVIII.

An act for farther suspending the payment of the salaries heretofore given to the Clergy of the Church of England.

WHEREAS by an act of general assembly passed in the year one thousand seven hundred and seventy six, intituled "An act for exempting the different societies of dissenters, and for other purposes therein mentioned," reciting, that by the exemptions allowed dissenters it might be too burthensome in some parishes to the members of the established church if they should still be compelled to support the clergy by certain fixed salaries, and that it was judged best that this should be done for the present by voluntary contributions, it was enacted, that so much of an act of the general assembly made in the twenty second year of the reign of king George the second, intituled "An act for the support of the clergy, and for the regular collecting and paying the parish levies," or any other act as provided salaries for the ministers, and authorised the vestries to levy the same, except in the cases in the same act of one thousand seven hundred and seventy six before directed, should be suspended until the end of the then next session of assembly, which said act was farther suspended by several other acts until the end of this present session of assembly, and it is reasonable that the same suspension should be farther continued:

Salaries of clergy of Church of England further suspended.

Be it therefore enacted by the General Assembly, That so much of the said acts, as was so suspended by the above recited act of one thousand seven hundred and seventy six, shall be farther suspended until the end of the next session of assembly.

CHAP. XIX.

An act vesting powers in the Commissioners of the Navy for varying the rates of Pilotage according to the exigencies of times.

Commissioners of navy authorised to vary rates of pilotage. *BE it enacted by the General Assembly, That the commissioners of the navy shall have full power and authority, from time to time, to vary the rates of pilotage, and to regulate the fees of all pilots within this commonwealth, according to the exigencies of times; and the said commissioners of the navy shall enter any alterations of such fees on their journals, and deliver, or cause to be delivered, an attested copy thereof to each acting pilot within this state, who shall constantly carry the same with him when in the execution of his office, and show the same to the master of any ship or vessel when he shall receive his fees. And if any such pilot shall refuse to produce such copy, he shall forfeit and pay twenty pounds to any person who shall sue for the same.*

This act shall be in force from and after the passing thereof to the end of the next session of assembly, and no longer.

GENERAL ASSEMBLY

BEGUN AND HELD

At the Capitol, in the City of Williamsburg, on Monday the fifth day of October, in the year of our Lord one thousand seven hundred and seventy eight, and in the third year of the commonwealth.

Patrick Henry, esq. Governor.

CHAP. I.*

An act for preventing the farther importation of Slaves.

[Chan. Rev p. 80.]

I. FOR preventing the farther importation of slaves into this commonwealth, *Be it enacted by the General Assembly*, That from and after the passing of this act no slave or slaves shall hereafter be imported into this commonwealth by sea or land, nor shall any slaves so imported be sold or bought by any person whatsoever.

Further importation of slaves prohibited.

II. Every person hereafter importing slaves into this commonwealth contrary to this act shall forfeit and pay the sum of one thousand pounds for every slave so imported, and every person selling or buying any such slaves shall in like manner forfeit and pay the sum of five hundred pounds for every slave so sold or bought, one moiety of which forfeitures shall be to the use of the commonwealth, and the other moiety to him or them that will sue for the same, to be recovered by action of debt or information in any court of record.

Penalties.

III. *And be it farther enacted*, That every slave imported into this commonwealth, contrary to the true intent and meaning of this act, shall, upon such importation become free.

Slaves so imported, declared free.

* In the original, none of the acts of this session are distinguished by *chapters* or *sections*. Those only are so distinguished in this collection, as were published in the Chancellors' Revision.

Exceptions. IV. *Provided always*, That this act shall not be construed to extend to those who may incline to remove from any of the United States, and become citizens of this, provided, that within ten days after their removal into the same they take the following oath before some magistrate of this commonwealth: "I, A. B. do swear, that my removal to the state of Virginia was with no intention to evade the act for preventing the farther importation of slaves within this commonwealth, nor have I brought with me, or will cause to be brought, any slaves, with an intent of selling them, nor have any of the slaves now in my possession been imported from Africa, or any of the West India islands, since the first day of November, 1778. So help me God." Or to travellers and others, making a transient stay in this commonwealth, bringing slaves with them for necessary attendance, and carrying them out again.

Further exceptions.

V. *Provided also, and be it farther enacted*, That this act shall not be construed to extend to persons claiming slaves by descent, devise, or marriage, or to any citizens of this commonwealth being now the actual owners and proprietors of slaves residing or being in any of the United States and removing such slaves into this commonwealth.

VI. *And it is farther enacted*, That so much of an act of assembly made in the year 1753, intituled "An act for the better government of servants and slaves," as comes within the purview of this act, shall be, and the same is hereby repealed.

CHAP. II.

An act to amend an act intituled an act for establishing a General Court, and other purposes. [Chan. Rev. p. 81.]

I. *Be it enacted*, That instead of the days heretofore set apart for the trial of criminal causes in the general courts held in the months of March and October, the said court shall, at the commencement of the said terms, enter upon the trial thereof, as well those for capital offences as others, setting apart the four first days for that purpose; but the judges may direct the clerk, at any time before his docket be made out, and subpoenas issued for witnesses, to appropriate a longer or shorter time to such business, and to those days so set a part no other causes shall be docketed, and all process issued either from the county courts or the general court in those causes shall be returnable to the first day of the next succeeding session. Days assigned for criminal causes, in general court.

II. That all indictments, presentments, informations, actions, and suits, which now are, or which were on the twelfth day of April 1774 depending in any court within this commonwealth, in the name or on behalf of George III. king of Great Britain, or in the name of any persons on behalf of themselves and the said king, shall, where trials have not been already had, be carried on in the name of the commonwealth, or in the names of such persons and the commonwealth, instead of the said king, in the same manner as if they had been found made entered or commenced since the establishment of the said commonwealth. Indictments, &c depending in name of the king, prosecuted in name of the commonwealth.

III. That all appeals depending against the said king shall be carried on against the commonwealth, instead of the said king; and all bonds and recognizances entered into, to the said king, shall operate as if given to the commonwealth; and in cases of breaches thereof, suits or prosecutions may be carried on in the name of the commonwealth. Appeals against king, carried on against commonwealth; and bonds, &c. to him to operate as if to commonwealth.

IV. That where trials have been had, and judgments given in the name or on behalf of the said king, or in the names of any other persons on behalf of themselves and the said king, and not satisfied the same shall enure Judgments in favor of king to enure to commonwealth.

No time bars to the commonwealth, instead of the said king; and executions may thereupon issue accordingly, but no time shall bar the commonwealth of execution.

Criminal prosecutions discontinued by change of government revived.

V. That all indictments, presentments, informations, actions, and suits, in the name or on behalf of the said king, or in the name of any persons on behalf of themselves and the said king, and all appeals against the said king which may have been discontinued or abated in any court within this commonwealth on account of the abolition of regal government, shall be forthwith revived, re-docketed, and carried on in the manner before directed. And all judgments for or against the commonwealth shall be the same as would have been entered for or against the king, had no revolution in government taken place.

Criminals, not tried within a limited time, discharged.

VI. That any persons who shall be charged with a capital offence, and not tried at the second session after their examination in the county court, and after petition to the general court for trial, shall be acquitted and discharged of such offence, unless good cause be shewn for postponing their trial, but if they be not tried at the third session, they shall be for ever acquitted and discharged of such offence.

CHAP. III.

An act for the more effectual execution of an act intituled An act to empower the Governour and Council to lay an embargo for a limited time.

Preamble. WHEREAS the inordinate lust of gain may tempt many persons to risk the penalties inflicted by an act passed this present session of assembly, intituled "An act to empower the governour and council to lay an embargo for a limited time," by exporting provisions contrary to the same, which during the present alarming scarcity and publick distress would be highly criminal:

Be it enacted by the General Assembly, That any and every person, who, during the continuance of the said recited act, shall export, or cause to be put on board any vessel for exportation, any sort of grain or other victual contrary to the said act, and on which an embargo hath been or shall be laid by the governour and council in pursuance thereof, shall for ever thereafter be disabled from exercising or carrying on, either by himself or by any other in trust for him, or for his use and benefit, or in partnership with any other, any manner of merchandise or commerce within this commonwealth, and from buying or selling any kind of goods, wares, or merchandise, other than what shall be necessary for the use and consumption of his own family, or those in his employ, or shall be the produce of his own estate or manufacture, under pain of forfeiting the full value of the goods, wares, or merchandise, which shall be so bought or sold, to be recovered by action of debt or information in any court of record, one half to the informer, and the other half to the use of the commonwealth.

Further penalties for violating embargoes.

And for the more effectual discovery of any provisions which may be put on board any vessel for exportation contrary to the said recited act, *Be it enacted,* That the master of every vessel now in this commonwealth, or building within the same, or which shall hereafter come hither, shall, before he presume to load any such vessel, give bond with sufficient security to the naval officer of the district, in a sum proportioned to the tannage of such vessel, after the rate of fifty pounds per tun, that such vessel shall not, during her stay here, take on board any of the articles prohibited to be exported by the said recited act more than will be necessary for the sustenance of the crew of such vessel for her voyage or cruise; and every vessel loading or taking on board any goods or commodities, before such bond be given, shall, together with her furniture, apparel, and tackle, be liable to seizure, and be forfeited, one half of the value thereof to the informer, and the other to this commonwealth, to be sued for and recovered as in manner before directed.

Bonds to prevent sailing in contempt of embargoes.

And whereas part of the trade of this commonwealth is carried on by persons who have refused to take the oath of fidelity to the same, and it may be dangerous to allow any recusant to have such opportunity of injuring the republick, *Be it therefore enacted,* That if

Penalty for trading without taking the oath of fidelity.

any inhabitant of this commonwealth, who hath not heretofore taken the oath or affirmation of fidelity to the same, shall, after the fifteenth day of March next, carry on any trade or commerce whatever, either by himself or any other person in trust for him, or for his use or benefit, or in partnership with any other, he shall forfeit and pay the full value of his merchandise in which he shall so trade, unless he, before the said fifteenth day of March, take the oath or affirmation of fidelity to this state, to be recovered in the same manner as the penalties inflicted by this law are herein before directed to be recovered.

CHAP. IV.

An act to prohibit the Distillation of Spirits from Corn, Wheat, Rye, and other grain, for a limited time.

Distillation of spirits from grain prohibited, for a limited time.

WHEREAS the great quantity of grain consumed in the distilleries will increase the present alarming scarcity, *Be it enacted by the General Assembly*, That no kind of spirituous liquors shall be distilled from Indian corn, wheat, rye, oats, barley, buck wheat, meal, or flour, within this commonwealth, between the fifteenth day of February next and the fifteenth day of October next, on pain of forfeiting the liquor so distilled, or the worth thereof, if sold before seizure, together with the still in which the same was distilled, to be recovered in any court of record within this commonwealth, by action of debt, bill, plaint, or information, by any person who shall sue for the same, one half thereof to the informer, and the other half to the use of the commonwealth; and upon the recovery of any still or stills sued for under this act, the court by whom judgment is given shall order the sheriff to sell the same for ready money to the highest bidder, and pay one half of the money arising from such sale into the publick treasury.

Penalties.

Proviso.

Provided, That the penalties of this act shall not be extended to any person distilling wheat or rye unless he

shall have refused to sell the same to some publick agent or contractor offering to purchase at the following prices, to wit, the wheat at fifteen shillings per bushel, and the rye at fifteen shillings per bushel. And wherever any dispute shall arise from what species of grain any liquor hath been distilled contrary to this act, the *onus probandi* shall lie upon the distiller.

CHAP. V.

An act to extend the powers of the Governour and Council. [Chan. Rev p. 81]

I. WHEREAS the act of general assembly intituled "An act for giving certain powers to the governour and council," passed in the year of our Lord one thousand seven hundred and seventy seven, which has been continued by one other act, passed the last session of assembly, intituled "An act for continuing an act for giving certain powers to the governour and council," which will expire at the end of this session of assembly, ought to be farther continued, *Be it therefore enacted*, That the same be continued and be in force, from and after the expiration thereof, until the end of the next session of assembly, and no longer.

Act giving certain powers to governour and council further continued.

II. And whereas there is some reason to apprehend that the enemy are meditating an attack on our sister state of South Carolina, and it may be attended with bad consequences if she should not be assisted till actually invaded, *Be it farther enacted*, That during the continuance of the said recited act, the governour, with the advice of the council, may, if he shall receive certain information that such an invasion is intended against that or any other sister state, march any number of the militia of this state, not exceeding three thousand men, to assist in repelling such invasion.

Assistance to South Carolina authorised, by anticipation.

III. And whereas no power is given to the governour and council by the act of government to appoint justices where so many refuse to act, die, or remove out of any county, as not to have a sufficient number to constitute a court, *Be it enacted*, That in future, in any

Governor & council may appoint justices in certain cases.

such case, the governour for the time being, with the advice of the privy council, shall have full power to issue a commission or commissions of the peace for the appointment of any number of magistrates, in such county so circumstanced, as shall be judged necessary for the carrying on the business of the same.

And remove
for miscon-
duct.

IV. And there being no mode pointed out by which justices of the peace, who may be guilty of misconduct, can be removed from their offices, *Be it farther enacted,* That upon any charge being made against a justice of the peace for misconduct, neglect of duty, or mal-practices, it shall and may be lawiul for the governour, with the advice of the council, to inquire into the charge, and if the facts alledged be proved, he in that case may, with the advice aforesaid, remove such justice from the execution of his office.

CHAP. VI.

An act to empower the Governour and Council to superintend and regulate the Publick Jail.

Preamble.

WHEREAS the extraordinary rise of every kind of provisions renders it impossible for the keeper of the publick jail to maintain the prisoners for the former allowance of one shilling per day for each prisoner, and the great increase of prisoners may render it necessary to increase the salary of the jailer in proportion to his extraordinary trouble, which cannot be so well done by the general assembly:

Governor,
&c. authori-
sed to super-
intend the
public jail,
and direct
allowances
to prisoners
and compen-
sation to
keeper.

Be it enacted by the General Assembly, and it is hereby enacted, That from and after the first day of January next, the governour, with the advice of the council, shall have the direction of the publick jail, and he is hereby empowered, from time to time, to order and direct such allowance to be made for the maintenance of the prisoners confined there, and to fix what shall be paid to the keeper thereof for his trouble, as the said governour, with the advice aforesaid, shall think reasonable. And he is hereby empowered to certify such al-

lowances from time to time to the board of auditors, who are hereby directed to debit the same, and to give a warrant upon the treasurer for the payment thereof.

This act shall continue and be in force until the end of the next session of assembly and no longer.

CHAP. VII.

An act to revive and amend an act intituled an act to make provision for the support and maintenance of Ideots, Lunaticks, and persons of unsound minds. [Chan. Rev. p. 82.]

I. WHEREAS the act of assembly intituled "An Act making provision for the support and maintenance of ideots, lunaticks, and other persons of unsound minds," hath lately expired, and it is necessary that the same should be revived and amended, *Be it therefore enacted by the General Assembly,* That the said recited act shall be, and the same is hereby revived, and shall continue and be in force, from and after the passing of this act, for and during the term of one year, and from thence to the end of the next session of assembly.

II. *Provided always, and it is hereby enacted,* That a farther sum of twenty five pounds shall be allowed and paid for the maintenance and support of each person in the publick hospital. Further allowance to patients.

III. And whereas the court of directors (notwithstanding the expiration of the said act) judged it expedient and proper to proceed on the business of the hospital, trusting that the same would be approved and confirmed by the general assembly, *Be it therefore enacted,* That all orders and rules by them made, since the expiration of the said act are hereby confirmed, and shall be as valid and effectual, to all intents and purposes, as if the said act had not expired. Proceedings of directors confirmed.

CHAP. VIII.

[Chan. Rev. p. 82.] *An act for providing a supply in aid of the Loan Office.*

Further emission of paper money in aid of the loan office.

I. WHEREAS in aid of the loan to be procured by the treasurer, agreeable to an act of assembly intituled "An act to empower the treasurer to borrow a farther sum of money," passed this session, it may be necessary for answering the publick exigencies to make a farther emission of treasury notes, *Be it enacted by the General Assembly,* That it may and shall be lawful for the treasurer of this commonwealth to issue treasury notes in dollars, and parts of a dollar, for any sum which may be required to answer the demands on the treasury, in addition to the sums issuable by former acts of assembly, so as the said sum to be issued by authority hereof do not exceed one million seven hundred thousand dollars. And he shall cause the said notes to be engraved and printed in such manner, and on such paper, as he shall judge most likely to secure the same from being counterfeited, and shall appoint proper persons to overlook the press, and to number and sign the notes upon the best terms he can procure them. And if the taxes imposed by the several acts now in force shall be insufficient to answer the purposes for which the said taxes were laid, and also for the redemption of the notes to be issued by authority of this present act, farther provision shall be made by law for making good the deficiency, and redeeming the whole before the first day of December, which shall be in the year of our Lord one thousand seven hundred and eighty five.

CHAP. IX.

An act to empower the Treasurer to borrow a further sum of Money. [Chan. Rev. p. 82.]

I. WHEREAS it has been proved by experience Preamble. that it is more beneficial to this commonwealth to borrow money on interest than to make large emissions of paper money: *Be it therefore enacted by the General Assembly* That George Webb, esq; or the treasurer for the time being, shall open an office for that purpose at the treasury, previous to which, for the faithful discharge of the duties thereof, he shall give bond with sufficient security in the sum of two hundred thousand pounds, payable to the governour and his successours, for the use of the commonwealth. And the said George Webb, or the treasurer for the time being, is hereby empowered to receive from any person whatever sum in specie, continental paper dollars, or bills of credit, issued by authority of this commonwealth, he shall be willing to lend, so as such sum lent by any one person be not less than three hundred dollars, and to certify the receipt, and promise repayment thereof with interest, within any term not less than one nor exceeding three years from the date thereof, in the following form: The treasurer of the commonwealth of Virginia acknowledgeth the receipt of _____ dollars from _____ which he promises to repay to the said _____ on the _____ day of _____, and to pay interest thereon annually in the meantime, at the rate of _____ per centum by the year, according to an act of assembly passed in the year one thousand seven hundred and seventy eight intituled "An act to empower the treasurer to borrow a farther sum of money." Witness the hand of the treasurer, this day of _____. Which certificate shall be signed by the treasurer, who shall keep a book containing a counterpart thereof as a check, and be delivered to the lender; the said lender having carried the said certificate to the auditors, there to be entered in account, and having obtained on the back thereof their counter-certificate of such entry, it shall be lawful for the treasurer, and he is hereby required to make annual payments of

Loan office to be opened by treasurer.

Form of certificates.

Certificates not assignable.

the interest accruing thereon, and at the term of payment, or sooner, if the lender shall so desire, and the state of the treasury will conveniently admit, repay the principal, and take in the said certificate; such certificates, or the debts thereby attested, shall not be assignable or transferable in law or equity by the lender, except to his representatives, in case of his death.

Certain loan office certificates to be called in, & discharged or exchanged.

II. And the treasurer, so soon as the state of the treasury will conveniently admit, shall call in all loan office certificates heretofore issued, other than those issued for the monies of British subjects, and shall pay off the principal and interest due thereon in money, or shall give other certificates, according to this act, in exchange for the same, at the election of the holder.

Treasurer's commission.

III. The treasurer shall be allowed to retain one eighth per centum on all monies which he shall receive in loan under this act.

CHAP. X.

An act for reviving several Publick Warehouses for the inspection of Tobacco.

Tobacco for exportation to be first inspected at warehouse.

FOR the more effectual preventing the exportation of trash, bad, unsound, and unmerchantable tobacco, and for preventing frauds in the duties thereon, *Be it enacted by the General Assembly,* That all tobacco which from and after the commencement of this act shall be exported out of this state by water, except only such tobacco as hath been or shall be reviewed and inspected according to the directions of the laws which expired on the first day of October one thousand seven hundred and seventy eight, shall be first brought to some or one of the publick warehouses hereafter mentioned, and shall be there viewed and inspected in manner as herein after is expressed.

No tobacco to be taken on board vessels, unless in hogsheads and packed.

And be it farther enacted, That no person shall put on board, or receive into any ship or other vessel, in order to be exported therein, any tobacco not packed in hogsheads or casks, upon any pretence whatsoever,

nor in any hogshead or cask, to be in that or any ship or other vessel exported out of this state, before the same shall have been reviewed and inspected according to the direction of this act, except as before excepted; but that all tobacco whatsoever to be received or taken on board any ship or other vessel, and to be therein exported, or to be carried and put on board any other ship or vessel for exportation as aforesaid, shall be received and taken on board at the several warehouses for that purpose herein after mentioned, or some or one of them, and at no other place or places whatsoever.

And every master, mate, or boatswain, of any ship or other vessel which shall arrive in this state in order to load tobacco, during the continuance of this act, shall, before the said ship or vessel be permitted to take on board any tobacco whatsoever, make oath before the naval officer of the district wherein such ship or vessel shall arrive; which oath the said naval officer is hereby empowered and required to administer, that they will not permit any tobacco whatsoever to be taken on board their respective ships or vessels, except the same be packed in hogsheads or casks, stamped by some inspector legally thereunto appointed, which oath they shall subscribe in a book to be kept by the naval officer for that purpose. And if any master shall cause any person who is not really and *bona fide* mate or boatswain to come on shore and take such oath, he shall for the said offence forfeit and pay five hundred pounds.

And if any master or commander of any ship or vessel shall take on board or suffer to be taken on board the ship or vessel whereof he is master, any tobacco brought from any other place than some or one of the publick warehouses herein after mentioned, or any hogshead or cask of tobacco not stamped by some lawful inspectors, or shall suffer to be brought on board any tobacco, except in hogsheads or casks, stamped as aforesaid, every such master and commander shall forfeit and pay fifty pounds for every hogshead or cask of tobacco which shall not have been brought from one of the said publick warehouses, or which shall not be stamped as aforesaid; and moreover, every such hogshead or cask of tobacco shall be forfeited, one moiety thereof to the use of the informer, and the other moiety to the use of the commonwealth.

Oath required of master of vessel

Penalty on master of vessel, for breach of this act.

Penalty on others, not servants or slaves.

And be it farther enacted, That if any person not being a servant or slave taking upon himself to carry any tobacco to or from any of the said warehouses in his boat, or other vessel, for hire, shall take on board, or permit or suffer to be taken on board any tobacco whatsoever, in bulk or parcels, such tobacco shall not only be forfeited, and may be seized by any person or persons whatsoever, but the master or skipper offending herein shall forfeit and pay two shillings for every pound weight of such tobacco; and the master or commander of any ship or vessel, wherein any tobacco in bulk or parcels shall be found, shall, over and above the forfeiture thereof, be subject and liable to the same penalty, to be recovered if it doth not exceed five pounds before any two justices of the peace of any county (one of them to be of the quorum) near the place where such ship, boat, or other vessel shall lie; and if it exceeds five pounds in any court of record, by action of debt, wherein the plaintiff shall recover his costs.

Penalty on servants or others for taking on board tobacco in parcels.

And if any servant or other person employed in navigating any such boat or other vessel shall connive at or conceal the taking or receiving on board any tobacco in bulk or parcel as aforesaid, he shall pay the sum of five pounds, to be recovered as aforesaid; and if such servant or other person shall be unable to pay the said sum, he or they, and every slave so employed, shall, by order of such justice receive on his bare back thirty nine lashes well laid on; and if such boat or other vessel be under the care and management of a servant who cannot pay and satisfy the penalty so to be inflicted on the master or skipper offending as aforesaid, then such servant, and every other person employed under him, unable to pay the said penalty, who shall be guilty of conniving at or concealing the taking on board tobacco in bulk or parcel as aforesaid, shall, upon complaint thereof made to any justice of the peace have and receive by order of the said justice thirty nine lashes well laid on; and if any servant shall again be entrusted with the care and management of any boat or other vessel, and shall be convicted a second time of taking or receiving on board the same any tobacco in bulk or parcel, contrary to the directions of this act, the owner of such servant shall forfeit and pay the like sum of two shillings per pound for every pound weight of such tobacco so taken or received on board in bulk or parcel, and shall also forfeit and pay ten shillings for every day such

servant shall thereafter be employed as skipper or master of any boat or other vessel to him belonging, to be recovered and applied as aforesaid.

Provided nevertheless, That it shall be lawful for the proprietor or proprietors to break any hogshead of tobacco after it shall be passed and stamped, and to repack and prize the same into small casks for the conveniency of stowing, provided it be done at the warehouse where the same was inspected, and weighed, and marked, and stamped; and the inspectors shall particularise all such casks in their manifests to be given to the masters or skippers of the vessel in which such tobacco shall be laden. Exceptions.

Provided always, That nothing herein before contained shall be construed to prohibit any person from carrying or causing to be carried to the said warehouses in any boat or other vessel any tobacco in bulk or parcels for the payment of his or her levies, debts, or other duties, or to prohibit any person to put or take on board any boat or other vessel any hogsheads or casks of tobacco to be waterborn to any warehouse appointed by this act, so as the same be not carried out of the naval officer's district wherein the said tobacco shall be made, nor to prohibit the owner of any tobacco to transport his crops or any part thereof in hogsheads or casks from one plantation to another for the better handling or managing thereof, nor any purchaser of tobacco from bringing the same by water to be repacked, sorted, stemmed, or prized, before the same be carried to the said warehouses, so as such last mentioned tobacco be packed in hogsheads or casks; but no tobacco on any pretence whatsoever shall be carried or transported by water to be inspected out of the district limited and appointed for the several naval officers of this state wherein the same shall be made, or being so carried shall not be inspected or passed by any inspectors knowing the same to be made out of such district, upon pain of forfeiting by the owner of such tobacco, and the inspectors who shall pass the same, fifty shillings for every hogshead to the informer. Further exceptions.

Provided nevertheless, That it shall and may be lawful for the inhabitants of Fleet's bay, on the south side of Indian creek, in the county of Lancaster, to carry their tobacco by water to the publick warehouses at Indian creek, and the inhabitants of Warrasqueak bay and Privilege of inhabitants of Fleet's bay, and Warrasqueak.

the parts adjacent to carry their tobacco to be passed at any warehouse in the upper district of James river.

Manifests.

And be it farther enacted, That every master of a ship or vessel wherein tobacco shall be laden, shall, at the time of clearing, deliver to the naval officer a fair manifest of all the tobacco on board his ship or vessel, expressing the marks and numbers of every hogshead or cask, and the tare and neat weight stamped thereon, the person by whom shipped, and from what warehouse; and shall make oath thereto, and that the same is a just and true account of the marks, numbers, tare, and neat weight of each respective hogshead or cask, as the same was taken down by the person or persons appointed by him to take the same before the said tobacco was stowed away; and no ship or vessel shall be cleared by the naval officer before he shall have received such list and manifest, which shall by the said naval officer be transmitted to the treasurer of this commonwealth for the time being.

Felony to put on shore tobacco carrying to warehouse, or open hogshead & take tobacco thereout.

And be it farther enacted, That if the skipper of any boat or vessel, or the person or persons to whom the care and management thereof shall be entrusted, shall land or put on shore any hogshead, cask, or package of tobacco, put on board the same to be carried to any publick warehouse at any other place or places than the warehouses by this act appointed for the reception and inspection of tobacco, or at some or one of them, or the wharfs or other landing to such warehouse or warehouses belonging, or shall put the same on board any other vessel, or suffer the same to be done, so as the same be not delivered at some of the said publick warehouses without fraud or embezzlement, or shall open any hogshead or cask of tobacco so as aforesaid waterborn and landed, and take thereout any tobacco before the same be received by the inspectors according to the directions of this act, or after the same has been viewed shall fraudulently open any hogshead or cask and take thereout any tobacco, every such offence shall be adjudged felony, and the offender or offenders shall suffer as in case of felony.

Exceptions.

Provided always, That nothing herein before contained shall be construed to prohibit the landing or putting on shore any hogshead, cask, or package of tobacco, out of any boat or other vessel which by distress of weather shall be forced on ground or become leaky, so as such landing be really and bona fide for the pre-

servation of the tobacco laden in such vessel, and that the same may with all convenient speed be carried thereafter to the warehouse or ship (as the case may be) to which it was designed, without embezzlement.

Provided also, That if by any of the accidents aforesaid, or negligence of the master or skipper of any vessel, any tobacco which hath been viewed and stamped shall in its carriage to the ship or vessel in which it is intended to be exported receive so much damage as that the master of such ship or vessel will not receive it on board, every hogshead or cask of tobacco so damaged, shall, with all convenient speed be carried to some warehouse appointed by this act, and there lodged until the owner of the said tobacco, or master of the vessel in which it was damaged, shall have separated the same and repacked the good tobacco; and then the same shall be weighed and stamped with the weight by the inspector attending such warehouse without fee or reward. But if the owner of such tobacco, or the master of the vessel in which it was damaged, shall fail or delay to separate and repack the same within ten days, then the inspectors at the warehouse where such damaged tobacco shall be landed, shall, and they are hereby required to separate, repack, weigh, and stamp the same, and such inspectors shall receive of the owner of such tobacco fifteen shillings for their own use for each hogshead or cask of tobacco, to be paid by such owner before the said tobacco shall be delivered out for exportation.

Damaged tobacco, how managed.

And be it farther enacted, That any light hogshead, or parcel of tobacco, after the same shall be passed at any publick warehouse and not stamped, shall and may be delivered out by the inspectors to the owner of their receipts; and such tobacco may be carried away for the better sorting, stemming, or cutting the same, provided that such tobacco shall not be shipped off until it shall again be inspected, passed, and stamped, for which the inspectors shall receive the established fees, under the same penalties as are herein before inflicted for shipping off and taking on board any ship or other vessel tobacco not inspected, viewed, and stamped, according to the directions of this act.

Light hogheads, when delivered out.

And be it farther enacted, That publick warehouses for the reception and inspection of tobacco pursuant to this act shall be kept at the several places herein after mentioned, that is to say: In the county of Accomack,

Warehouses at what places.

at Pitt's landing upon Pocomoke, at Guilford, and at Pungoteague, where the warehouses were lately established, under one inspection; in the county of Caroline, at Roy's, and Conway's; in the county of Charles City, at Kennon's, and Swinyard's, under one inspection; in the county of Dinwiddie, at Bolling's Point, Bollingbroke, and Cedar Point; in the county of Essex, at Hobb's Hole, and at Piscattaway, and Bowler's, under one inspection, and at Layton's, and Port Micou, under one inspection; in the county of Fairfax, at Colchester, at Polick, at Alexandria, where the inspection called Hunting creek was formerly established, and at the falls of Potowmack; in the county of Gloucester, at Poropotank, and at Deacon's neck; in the county of Hanover, at Crutchfield's, at Page's, and at Meriwether's; in the county of Chesterfield, at Cary's, at Osborne's, at Rocky Ridge, and at John Bolling's; in the county of Henrico, at Byrd's, and Shocko; in the county of Isle of Wight, at Smithfield, and at Fulgham's, under one inspection; in the county of King and Queen, at Turner's, and Shepherd's, under one inspection; and at Mantapike, and Frazer's, in the county of King William, under one inspection; and at Todd's, in King and Queen, and at Aylett's, in the county of King William, under one inspection; in the county of King William, at Williams's, and at the Piping Tree, under one inspection; in the county of King George, at Boyd's Hole, at Gibson's, at Machotack, and at Morton's; in the county of Lancaster, at Davis's, and at Lowry's, under one inspection; in the county of Northumberland, at Coar's, and at south Wycomico, and at north Wycomico, at Dyer's, and at Indian creek, under one inspection, and at Deep creek, and Glasscock's, under one inspection; in the county of Middlesex, at Urbanna; in the county of Nansemond, at South Quay, on the land of Benjamin Baker, and at Milners; in the county of Northampton, at Cherrystones, Hungar's, and at Nasswaddox, under one inspection; in the county of New Kent, at Littlepage's, at the Brick House, and at Waddy's; in the county of Prince George, at Boyd's, at Davis's, at Blandford, and at Noble's; in the county of Prince William, at Quantico, and Dumfries; in the county of Richmond, at Cat Point, and Beckwith's, under one inspection, and at Totuskey; in the county of Surry, at Cabbin Point, and at Gray's creek; in the county of Stafford, at Acquia, at Falmouth,

at Dixon's, and at Cave's; in the county of Spotsylvania, at Fredericksburg, and at Royston's; in the county of Warwick, at Denbigh; in the county of Westmoreland, at Nominy, at Leeds, and Maddox, under one inspection, at Yeocomico, and Rust's, under one inspection; at the College Landing, in the county of James City; and Capitol Landing, in the county of York, under one inspection, and at Roe's, in the county of York.

And be it farther enacted, That the rents of the several warehouses hereby established shall be, and they are hereby established at the following rates: At Pungoteague eight pounds; at Nasswaddox six pounds; at Pitt's and Guilford's ten pounds; at Cherrystones and Hungar's five pounds; at Roe's ten pounds; at the College Landing ten pounds; at the Capitol Landing ten pounds; and at all the other warehouses there shall be paid and allowed for the rents of the same four shillings annually for every hogshead of tobacco that already have been or shall be received, inspected and delivered out of such warehouses respectively.

Provided always, That where wharfs are, or shall be necessary to be built or kept in repair at any of the said warehouses, and the rents hereby established are not sufficient for building and keeping in repair such wharfs, or where any new warehouses shall hereafter be built in pursuance of this act, and the rent hereby established shall not be proportionable to the expense of such building in both the said cases, such farther allowance shall be made by the general assembly as shall be thought reasonable, and the rents aforesaid, together with the inspectors salaries, shall be paid and allowed by the treasurer to the several inspectors upon the passing their accounts, and the inspectors shall pay the rents to the persons entitled to receive the same out of the money received by them for inspecting tobacco; and if the money received by any inspector of any of the warehouses aforesaid shall not be sufficient to pay the salaries and rents aforesaid, and other incident charges in this act mentioned, such deficiency shall be made good out of the general fund arising by the profits of the other warehouses; and if that shall prove deficient then the said rents and charges, together with the inspectors salaries, shall be paid and satisfied out of any other publick money in the hands of the treasurer for the time being.

Rents of
warehouses.

Expenses of
wharves and
new ware-
houses, how
reimbursed

Warehouses
already built
how rented.

New ones,
how erected

Proceedings
thereon.

And be it farther enacted, That where the warehouses are already built at any of the places herein before mentioned and appointed for keeping the same, and are now made use of for publick warehouses, the proprietors and owners of such warehouses shall be and they are hereby obliged to let the same to the inspectors during the continuance of this act and the rent hereby established for such warehouses respectively; and if any proprietor or owner shall refuse so to do he shall forfeit and pay five hundred pounds. And where warehouses are not already built at any of the places aforesaid, or where any new warehouses shall be hereafter appointed to be kept at any other place, it shall be lawful for the justices of the court of that county wherein such place is or shall be, and they are hereby required, at the next court to be held for their county, after the commencement of this act, or after such new warehouse shall be so appointed (as the case may be) to order and direct so many strong, close, and substantial houses, secured with strong doors hung on iron hinges, and with strong locks or bolts, as will contain sufficient room for two thirds of the number of hogsheads, which in their opinion will be annually brought to the same, and one brick square, or funnel, six feet high at least, and four feet diameter, with a proper arch at the bottom of the same for burning tobacco refused and picked at such warehouses, and such wharfs, and other conveniencies as shall be necessary, and shall cause the owner or proprietor of the land where such warehouses are appointed to be kept, and if such owner or proprietor be under age, feme covert, or out of the country, then the guardian, husband, or known attorney, or agent (as the case may be) of such owner or proprietor, to be summoned to appear before them at the next succeeding county court after such summons shall issue, there to declare, whether they will undertake to erect and build such houses, funnel, wharfs, and other conveniencies, and let the same to the inspectors appointed to attend at such warehouses at the rent settled by this act, or which shall be hereafter settled for the same; and in case such owner, guardian, husband, known attorney, or agent, will undertake the same, then the said court shall and they are hereby required to take bond with one sufficient security in a reasonable penalty, payable to the governour and his successours, to the use of the commonwealth, with a condition for the due perform-

ance of such undertaking; and if such owner, guardian, husband, known attorney, or agent, shall refuse to undertake the same, or to give such bond as aforesaid, then it shall be lawful for the said justices, and they are hereby required to value an acre of the said land, and to pay or tender to the proprietor, his or her guardian, husband, known attorney, or agent, the value thereof, which shall be repaid to the said justices by the publick, and from thenceforth the justices of the said county for the time being shall be seized in fee of the said land in trust, and for the use of the publick during the time the said place shall be made use of for a publick warehouse; and the said justices shall agree with some person or persons to erect and build thereon such houses, fannel, wharfs, and other conveniencies, as is herein before directed, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby directed and required to pay the same out of the publick money in his hands arising from the inspection of tobacco, and shall take and receive of the inspectors the rent established at such warehouses for reimbursing the publick the charge of such buildings until the same shall be repaid.

Tenure of
new ware-
houses.

And where the justices of any county court, or any other person or persons have already built warehouses on the lands of another person by virtue of, or in pursuance of the laws lately in force, the said justices or other person or persons shall in like manner be seized in fee of the acre of land upon which such warehouses are built, so long as the said places respectively shall be made use of for publick warehouses; but if any of the warehouses which are or shall be built by the publick, the justices, or other persons, shall hereafter be discontinued, the proprietor of the land returning the price paid for the same shall be from thenceforth seized of his former estate.

Tenure of
warehouses
already built

And be it farther enacted, That the inspectors at the several warehouses shail, at the court to be held for their respective counties in the month of September yearly, or at the next succeeding court, produce and render into court an exact account under their hands of the number of hogsheads of tobacco inspected at their respective warehouses the preceding year, and of the condition of the warehouses under their charge, and the quantity of tobacco they are capable of containing; and thereupon such court, if they shall not be satisfied

Inspectors
to report to
court, con-
dition of
warehouses.

Proceedings
thereupon.

that the warehouses already built at any of the said inspections are properly secured, and contain sufficient room for two thirds of the number of hogsheads mentioned in such account to be conveniently stowed, shall enter an order that the owner or proprietor of such warehouses shall, within such reasonable time as the said court shall think fit to allow, repair and make close the warehouses already built, and secure the same with strong doors hung on iron hinges, and with strong locks or bolts; and that such owner or proprietor shall also before the first day of April, in the ensuing year, erect, build, and completely finish such and so many other strong, close, and substantial houses, as with the other houses already built, shall be sufficient in the opinion of such court conveniently to contain two thirds of the quantity of tobacco mentioned in such inspector's account, and secure the same in the manner herein before directed; a copy of which order shall be served on such owner or proprietor, or his or her guardian, husband, attorney, or agent (as the case may be) and if such owner or proprietor, his or her guardian, husband, attorney, or agent, shall fail to appear at the next succeeding court after such notice, and enter into bond with sufficient security in a reasonable penalty, payable to the governour for the time being, and his successours, with a condition for the due performance of the same, then it shall be lawful for the said court, and they are hereby required to cause such repairs and houses to be made and built as aforesaid, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby required to pay the same out of the publick money in his hands arising from the inspection of tobacco, and shall take and receive from the inspectors a proportion of the rents established at such warehouses for reimbursing the publick the charge of such buildings and repairs, which proportion shall be settled by the court. and by them certified to the treasurer; but if there shall appear to be an immediate occasion to hire houses before others can be built as aforesaid, the rent of such houses shall be paid by the publick without any charge upon the landlord, provided, that where two or more inspections are established in one county within the distance of one mile, and it shall be necessary to build more houses at any of them, the court shall direct the building such additional houses at such of the said inspections as to them shall seem

most proper, and if there shall be in the whole sufficient house-room, according to the directions of this act, for two thirds of the tobacco brought to such inspections, the court shall not direct the building other houses at any of them.

And be it further enacted, That if any county court shall fail or refuse to do their duty in directing such houses, funnels, wharfs, and other necessary conveniences, at the places established by this act for erecting new warehouses, or such additional buildings and repairs at the places where houses are already built, and causing the same to be built or made according to the directions of this act, every justice so failing or refusing shall forfeit and pay twenty pounds, to be recovered in the general court with costs, by action of debt or information against such justices jointly.

Penalty on county courts for failure of duty.

Provided always, That nothing herein contained shall be construed to give power to the said justices to take away the houses, orchards, or other immediate conveniences of any proprietor of land for the uses or purposes aforesaid, nor to the said inspectors to keep any horses, cattle, or hogs, at any publick warehouses, except their riding horses, upon the land appointed for such warehouses. And if any swine belonging to the said inspectors, or any of them, shall be found at large upon the land appropriated for such warehouses or the lands adjoining thereto, it shall be lawful for the proprietors of the said lands to kill or cause to be killed or destroyed all such swine.

Restrictions, as to houses, orchards, &c.

Inspectors not to keep hogs at warehouse

Provided also, That where any warehouses have been or shall be built by the justices or other persons as aforesaid, and the first proprietor of the land shall desire to have the same again, such proprietor, upon payment of so much money as shall be sufficient to reimburse the said justices or other person the principal money expended for the purchase of the land and the building such warehouses, with lawful interest, deducting the rents received by the said justices or other person, shall be restored to his former estate in the land whereon such warehouses are built, and shall receive the rents afterwards growing due for such warehouses.

How lands re-vested in the proprietor.

Provided also, That if any proprietor, so as aforesaid restored to his estate, shall neglect or refuse to build and repair such houses and wharfs as the court shall think necessary, the justices shall again be seized of the fee simple estate in such land during the time such

How he may lose it, by failing to build.

place shall be made use of for a publick warehouse, and such proprietor shall not have any benefit of the rents that shall hereafter become due.

Waste or destruction in warehouses, proceedings on.

And be it farther enacted, That on complaint being made by the owner or owners of any of the warehouses aforesaid, to any justice of the peace in the county where such warehouses shall lie, against any person or persons for breaking, tearing, or committing any waste or destruction of, or in such warehouse or warehouses, it shall be lawful for such justice, and he is hereby empowered and required to give judgment, and award execution against the body or estate of such offender if found guilty for all damages occasioned by such breaking, tearing, waste, or destruction, provided such damages do not exceed the sum of twenty five shillings in his opinion; and if such damages shall exceed that sum then it shall be lawful for such owner or owners to commence and prosecute his, her, or their action at law against any such offender, in any court of record within this state.

Scales and weights.

And be it farther enacted, That there shall be kept at every one of the said warehouses herein before appointed, and at all others hereafter to be appointed, a good and sufficient pair of scales with weights to weigh fifteen hundred pounds at the least, and a set of small weights, the same that are or ought to be provided for the standard weights of each county; and where such scales and weights are not already provided, or now are or shall hereafter be worn out or become unfit for use, the justices of the respective county courts wherein any of the said warehouses are, or shall be, are hereby directed and required to provide the same with all convenient speed, and the treasurer for the time being is hereby empowered and required to pay the purchase money out of the publick money in his hands; and moreover the said justices are hereby required and directed, twice in every year at least, to appoint one or more of their number to view the said scales, and examine and try the weights at the several warehouses by the standard weights of the county, and if the said scales and weights shall want repairing, or the weights be found deficient or differing from the lawful standard, the said justices shall cause the same to be repaired and amended, and the weights made conformable to the standard, and if the justice or justices so appointed shall refuse or neglect to do the same, the justice or justices so refusing shall forfeit and pay the sum of one hundred

pounds; and the charge of repairing and amending the said scales and weights, and also for removing the standard to the several warehouses for trying the same, shall be paid by the inspectors respectively, and be again allowed to them in their account with the treasurer.

And be it enacted, by the authority aforesaid, That all tobacco which shall be brought to any of the publick warehouses shall be viewed, examined, and inspected by two persons to be thereunto appointed, who shall be called inspectors, which said inspectors shall be appointed in the manner following, that is to say: The courts of the several counties within this state wherein any of the publick warehouses appointed by this act are established, shall, and they are hereby required, once in every year, and no oftener, at their respective county courts held in the months of August and September, to nominate and recommend to the governour or chief magistrate for the time being, for so many offices of inspection as are or shall be in their respective counties, four fit and able persons reputed to be skilful in tobacco, for the execution of the office of inspectors; and where two warehouses under one and the same inspection happen to lie in different counties, in that case the court of each county shall nominate and recommend two for such inspection, which nomination the said courts shall cause to be entered upon record, and the clerks of the said courts shall, and they are hereby required forthwith to transmit a certificate of the same to the clerk of the privy council; and out of the said four persons nominated and recommended for each inspection, the governour or chief magistrate, with advice and consent of the council, shall choose and appoint two to execute the office of inspectors at such inspection, and in default of such nomination and recommendation by the county courts as aforesaid, the governour or chief magistrate, with the like advice and consent, shall appoint such persons as he shall think fit to be inspectors at such inspection for which no nomination or recommendation shall be made as aforesaid, and also in case of the death, resignation, or removal of any inspector the governour or chief magistrate shall and may appoint any person named in the last recommendation from the county court for that inspection where the vacancy shall happen, to succeed him, until the next nomi- Inspectors,
how appointed,

nation and appointment of inspectors, but if neither of the persons named in such last recommendation will not accept the said offices, in that case the governour or chief magistrate may appoint any other person they shall think fit; and besides the two inspectors appointed as aforesaid, the governour or chief magistrate for the time being, with the advice of the council, shall appoint one of the other persons recommended with such inspectors, to be an additional inspector at the warehouse for which he shall be recommended, which additional inspector shall officiate as such only in cases of the disagreement in opinion of the other inspectors as to the quality of tobacco brought to their inspection, or where either of them shall, through sickness, or otherwise, be absent from his duty, or shall bring his own tobacco to the warehouse whereof he is inspector, to be viewed, and the said additional inspector shall be paid for the services he shall perform, by occasion of the absence of either of the other inspectors, out of the salary of such absentee, in proportion to the time he shall officiate.

Additional
inspector.

Penalty on
inspectors
accepting
reward for
resigning

And be it farther enacted, That if any inspector shall hereafter accept, receive, or take, directly or indirectly, any fee, gratuity, service, or reward whatsoever, of any person for resigning or giving up his office of inspector, he shall not only be for ever disabled from holding the like office, but for such offence shall forfeit and pay the sum of two hundred pounds, to be recovered with costs, by action of debt in any court of record within this state, by any person suing for the same; and every person offering or paying, directly or indirectly, any fee, service, gratuity, or reward whatsoever, to any inspector to resign his said office, shall for the said offence be for ever disabled from holding the office of inspector within this state:

Justice, are
inspector
not to vote
in nomination.

Provided always, That no justice of the peace, being an inspector, or recommended to be an inspector, shall be allowed to vote in the nomination and recommendation of persons to be inspectors as aforesaid; and that all inspectors who were in office on the thirtieth day of September last upon taking the oaths hereby required at their next county court, or the court succeeding, shall continue to act without new commissions, until the next nomination of inspectors, at their respective warehouses, and where they, or any person once recommended as aforesaid, and executing the office of

Inspectors
in office may
act without
new com-
missions.

inspector in pursuance of such recommendation, shall be again recommended the next succeeding year, the same shall be a sufficient appointment to him to continue in the said office for another year without any new commission, and so from year to year, so long as he shall be so recommended as aforesaid.

And be it further enacted, That the inspectors at the several warehouses within this commonwealth shall, within twenty days after the passing of this act, take a true and perfect inventory of all the tobacco at their respective warehouses, and enter the same in a book to be kept for that purpose, and shall immediately thereafter be liable for all such tobacco to the proprietors thereof, who shall allow and pay them sixpence per hogshead as a recompence for their trouble in taking such inventory.

Provided always, That every person appointed or to be appointed an inspector by virtue of this act, shall, before he enters upon the execution of the said office, enter into bond with good security in the penalty of one thousand pounds, payable to the governour for the time being, and his successours, with condition for the true and faithful performance of his duty according to the directions of this act, which bond shall be transmitted by the clerk of the court to the treasurer under the penalty of one hundred pounds, who shall move for judgment against every inspector failing to discharge the same within two months after it becomes due under the penalty of one hundred pounds, and shall also take the following oath, that is to say: "You shall swear that you will diligently and carefully view and examine all tobacco brought to any publick warehouse or warehouses where you are appointed to be inspector, and that not separately and apart from your fellow, but in his presence, and that you will not receive any tobacco that is not in your judgment sound, well conditioned, merchantable, and clear of trash, nor receive, pass, or stamp, any tobacco, hogshead, or cask of tobacco, prohibited by one act of assembly intituled An act for reviving several publick warehouses for the inspection of tobacco, 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 an inspector, accord-

Inspectors
to take in-
ventory of
tobacco, on
hand.

Bond and se-
curity by
inspectors.

Their oath.

ing to the best of your skill and judgment, and according to the directions of the said act, without fear, favour, affection, malice, or partiality. So help you God." Which oath shall be taken before the governour or commander in chief of this state for the time being, before the general court, or in the court of the county wherein such inspector shall reside, or the warehouses at which he shall be inspector shall stand; but before any inspector shall enter upon the execution of his office he shall produce a certificate, if sworn before the governour or general court (as the case may be) of his having taken such oath, which certificate shall be lodged with the clerk of the county where such inspector shall be, and if any person shall presume to execute the office of inspector before he shall have given such bond, and taken such oath as aforesaid, he shall forfeit and pay five hundred pounds.

Inspectors,
when to at-
tend.

And be it farther enacted, That all inspectors to be appointed by virtue of this act, shall constantly attend their duty at the warehouse or warehouses under their charge from the first day of October to the tenth day of August yearly (except Sundays, and the holydays observed at Christmas, Easter, and Whitsuntide, or when hindered by sickness) and afterwards they, or one of them, shall constantly attend at the same (except Sundays) to deliver out tobacco for exportation, until all the tobacco remaining there the said tenth day of August shall be delivered, but no inspector shall be obliged to view any tobacco between the said tenth day of August and the first day of October, except such as remained in the warehouse on the said tenth day of August; and every inspector neglecting to attend as aforesaid, shall forfeit and pay to the party grieved twenty shillings for every neglect, or shall be liable to the action upon the case of the party grieved, to recover all such damages as he or she shall have sustained by occasion of any such neglect, together with his or her full costs, at the election of such party. And that all persons having tobacco at the publick warehouses may have equal justice, the inspectors 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 as they shall be brought in, and shall view and inspect the same in due turn as they shall be entered in such book, without favour or partiality, and shall uncase and break every hogshead and cask of tobacco

Further du-
ties of in-
spectors.

brought to them to be inspected as aforesaid, and if they shall agree that the same is good, sound, well conditioned, merchantable, and clear of trash, then such tobacco shall be weighed in scales, with weights of the lawful standard, and the hogshead or cask shall be stamped in the presence of the said inspectors, or one of them, with the name of the warehouse at which the tobacco therein contained shall be viewed and inspected as aforesaid, and also the tare of the hogshead or cask, and quantity of neat tobacco therein contained; but if the said two inspectors shall at any time disagree concerning the quality of any tobacco brought for their inspection to any warehouse under their charge, they shall, as soon as conveniently may be, call in the additional inspector appointed to attend such warehouse, who shall determine the difference and pass or reject such tobacco, and if he shall pass the same his name shall be entered in a book kept by the inspectors opposite to the mark, weight, and number of the hogshead by him passed, together with the name of the inspector at such warehouse, who shall officiate with him; and the inspectors at each of the warehouses revived or established by this act, shall constantly keep so many able hands at their respective warehouses, not exceeding two, as the courts of the several counties wherein they lie shall from time to time judge necessary and direct, for the purpose of taking care of all tobacco brought to such warehouse, and stowing it away after the same shall be inspected and stamped; and no inspector shall, by himself, his servant, or by any other person, either directly or indirectly, be concerned in picking any refused tobacco, unless it be his own property, on any pretence whatsoever, under the penalty of being forever thereafter disabled from holding the office of inspector.

Hands to be kept by inspectors.

And be it farther enacted, That when any tobacco shall be refused by the inspectors the proprietor shall either carry such refused tobacco from the inspection or be at liberty to separate the good from the bad, but if the owner shall neither carry away the same, nor have it picked within one month, then the inspectors shall employ one of the pickers attending the warehouse to pick and separate such refused tobacco, and give the owner credit for so much thereof as shall be found merchantable, after paying the picker one fifteenth part of the quality saved, and the inspectors shall cause the tobacco which shall by them be judged unfit to pass to be

Refused tobacco picked or burnt.

burnt in the brick funnel erected, or to be erected, at such warehouse, under the penalty of twenty shillings for every failure to the informer, recoverable with costs before any justice of the county wherein such warehouse shall lie.

Pickers, how appointed.

And whereas many persons attending the warehouses under the denomination of tobacco pickers, are guilty of great frauds, impositions, and abuses therein: For remedy whereof, *Be it enacted, by the authority aforesaid,* That the courts of the several counties wherein any of the publick warehouses appointed by this act are established, shall, and they are hereby required to nominate and appoint, from time to time, such and so many persons as to them shall seem necessary, who are willing to undertake the same, to attend the several warehouses within this state, to sort, separate, and pick such tobacco as shall be refused by the inspectors; and every person so appointed a picker, shall make oath before the court at the time of his appointment, or at the next succeeding court, that he will lawfully and diligently, without fraud or embezzlement, sort and separate all such tobacco as shall be refused by the inspectors, and the owner or proprietor thereof, or the inspectors shall employ him to pick, and every picker of tobacco shall be allowed to demand and receive from the respective proprietors five shillings per hogshead for opening, and one fifteenth part of all the tobacco saved out of any refused hogshead or cask by him picked, for his services in opening, sorting, and picking the same, and no more; and no picker of tobacco shall keep or employ any negro or mulatto slave at any publick warehouse on any pretence whatsoever, nor shall any picker presume to hinder any person who may choose to open their own tobacco, or to pick what may be refused by the inspectors, from the free use of the picking houses, and prize for the conveniency of picking, and prizing the same; and if any picker shall misbehave himself in his said office, it shall and may be lawful for the court of the county where such picker shall be appointed, on complaint and motion to them made, to remove such picker from his said office, and to appoint another person to act in his room, if to them it shall seem necessary, and every picker so removed, shall for ever after be rendered incapable of serving as a picker at any publick warehouse. provided, that such picker have ten days previous notice of such motion; and any person who

Compensation & duty.

How removed.

shall be aggrieved by any such misbehaviour in a picker, may make complaint thereof to any justice of the peace who is hereby empowered and directed to take depositions thereon (provided such picker have notice thereof) and to transmit the same to the next court to be held for the county where the offence shall be committed, to be there given in evidence, on the examination into such misbehaviour; and if any person not being appointed and sworn as aforesaid, shall presume to undertake the opening, picking, sorting, or separating any such tobacco, for hire or reward, every person so offending shall forfeit and pay twenty five shillings for every such offence, to be recovered by the informer to his own use before any justice of the peace. Provided, that any proprietor of tobacco who may choose to open, pick, and prize his own tobacco, may employ his own servants or slave or any other person or persons to assist him in opening, picking, or prizing the same, and the person or persons so employed shall not incur or be subject to the last mentioned or any other penalty or forfeiture for so doing. And the inspectors shall issue receipts for all tobacco saved by picking to the proprietors only of such tobacco, and not to the picker of the same, and the inspectors shall not suffer or permit any picker to prize up any tobacco that he shall have saved by picking for his own use.

And be it farther enacted, That if any tobacco shall be brought to any of the said warehouses for the discharge of any publick or private debt or contract, the said inspectors, or one of them, after they have viewed, examined, and weighed the said tobacco, according to the directions of this act, shall be obliged to deliver to the person bringing the same as many receipts under the hands of the said inspectors as shall be required for the full quantity of tobacco received by them, in which shall be expressed whether the tobacco so received be sweet scented or Oronoko, stemmed or leaf; which receipts shall be in the form following, to wit: river,

Transfer receipts, forms of.

number warehouse, the
 day of , 17 Received of
 pounds of transfer tobacco to be delivered on demand to him or his order, according to the directions of the act of assembly for reviving several publick warehouses for the inspection of tobacco. Witness our hands. And shall bear date the day the tobacco for which the same is given shall be received and passed, and shall be cur-

Currency of such receipts.

rent in all tobacco payments, according to the species expressed in the receipt within the county wherein such inspectors shall officiate, and in any other county next adjacent thereto, and not separate therefrom by any of the great rivers or bay herein after mentioned, that is to say: James river, below the mouth of Appamattox, York, below West Point, Rappahannock, below Taliaferro's mount, or by the bay of Chesapeake; and shall be transferrable from one to another in all such payments (except as herein is excepted) and shall be paid and satisfied by the inspector or inspectors who signed the same, upon demand. And for every hogshead of tobacco brought to any publick warehouse for the discharge of any publick or private debt, in good cask of such dimensions as herein after expressed, there shall be allowed by the inspector thereof to the person bringing the same, after the rate of four pounds of tobacco for every hundred pounds the tobacco therein contained shall weigh, after the same shall be viewed and passed, so as such allowance does not exceed thirty pounds of tobacco for each hogshead; and the said inspectors shall, and they are hereby obliged to make every hogshead by them paid away in discharge of any receipt by them given as aforesaid, to contain one thousand pounds of neat tobacco at the least, and for every such hogshead of tobacco by them paid away, well lined and nailed, fit for shipping, there shall be paid by the person receiving such hogshead ten shillings for inspecting, and six for prizing and for nails, which said sum of six shillings the said inspectors may retain in their hands for their own use, to reimburse them the expense and trouble of providing nails and prizing. And the person demanding or receiving tobacco in discharge of receipts as aforesaid, shall allow to the inspectors thirty pounds of tobacco for each hogshead so received for the cask, and two pounds of tobacco for every hundred pounds of tobacco contained in such receipts, and so proportionably for a greater or lesser quantity, for shrinkage and wasting, if the said tobacco be paid within two months after the date of the receipt given for the same, and one pound of tobacco for every hundred for every month the same shall be unpaid, after the said allowance, so as such allowance for shrinkage and wasting do not exceed in the whole six pounds of tobacco for every hundred; and if any inspector or inspectors, by whom any such receipts for tobacco as aforesaid

Allowance.

Weight of
hogsheads.

Fees for in-
specting,
prizing and
nails.

Allowance
for shrink-
age.

shall be signed, shall refuse or delay to pay and satisfy the same when demanded, every inspector so refusing or delaying shall forfeit and pay to the party injured double the tobacco so refused or delayed to be paid, to be recovered with costs in any court of record within this state, if the receipt or the receipts so refused or delayed to be paid exceed two hundred pounds of tobacco, and if the said receipt or receipts do not exceed twenty five pounds of tobacco the double value aforesaid shall and may be recovered before any justice of the peace of the county wherein the warehouse shall be, at which the receipt or receipts ought to be paid.

Remedy against inspector failing to deliver tobacco.

And be it further enacted, That all tobacco brought to any of the said warehouses in hogsheads or casks to be exported on account and for the use of the owner thereof, after the same shall have been viewed, examined, and weighed, and found to be good, shall be stamped as herein before directed, and the said inspectors, or one of them, shall deliver to the person bringing the same as many receipts, signed as aforesaid, as shall be required for the number of hogsheads so brought and stamped, in which shall be expressed whether the tobacco so received be sweet scented or Oronoko, stemmed or leaf, or whether the same be tied up in bundles or not, and where any hogshead hath part leaf and part stemmed shall signify the same at the bottom of such receipt, and they shall not mix stemmed and leaf tobacco in any hogshead which they shall prize and pay away in discharge of their transfer receipts; and for every hogshead and cask brought to any of the said warehouses to be exported on account and for the use of the owners thereof, there shall be paid to the inspectors there attending ten shillings for viewing, examining, and stamping the same, and the owners of the said tobacco shall find and provide nails for the nailing thereof. And if any inspector or inspectors shall alter, change, or deliver out any hogshead or cask of tobacco, other than the hogshead or cask for which the receipt for crop tobacco to be taken in was by him or them given, or shall alter or change any such tobacco, although no such receipt shall have been given, such inspector or inspectors shall forfeit and pay one hundred pounds for every hogshead or cask so altered, changed, or delivered out; and all inspectors shall, and they are hereby obliged, if required, to take in any receipt or receipts by them given for crop tobacco, and

Tobacco notes how to be given.

Inspection fees.

Penalty for changing tobacco.

after having weighed such tobacco, to give transfer receipts for the same, with an allowance of four per cent. for the cask, so as such allowance does not exceed thirty pounds of tobacco for every cask, provided, that such hogshead shall contain at least one thousand pounds of neat tobacco, and not mixed leaf and stemmed.

Pickers, how paid.

Provided nevertheless, That no inspectors shall give their receipt or receipts for any transfer or crop tobacco, which shall be opened or picked by any picker legally appointed, until the proprietor of such tobacco or his or her agent shall have first paid or tendered to such picker his lawful charges for opening or picking the same, and in the absence of any such picker, a payment or tender to either of the inspectors there attending, for the use of the picker, shall be as effectual as if made to such picker in person; and if any inspector shall deliver their receipt or receipts for any such tobacco so opened or picked, before such payment or tender be made, they shall be liable to such picker for the amount of the same.

How tobacco to be prized.

And for restraining the undue practice of mixing trash with stemmed tobacco, and preventing the packing tobacco in unsizable casks, *Be it enacted,* That all stemmed tobacco not laid straight, whether the same be packed loose or in bundles, shall be accounted unlawful tobacco; and that no tobacco packed in hogsheads which exceed eight and forty inches in the length of the stave, or thirty inches at the head within the crow, making reasonable allowance for prizing, which allowance shall not exceed two inches above the gauge in the prizing head, shall be passed or received, but the owner of such tobacco packed in casks of greater dimensions than before expressed, shall be obliged to re-pack the same in sizable casks, at his own charge, before the same shall be received and stamped by the inspectors.

Size of hogshead.

Penalty on inspectors for delivering tobacco without order.

And whereas many and great inconveniencies have arisen from inspectors undertaking to deliver tobacco, the property of others in their warehouses, without order from the proprietor of the same, *Be it enacted,* That from and after the passing of this act, if any inspector shall presume to deliver any tobacco in his warehouse without order from the owner or proprietors of such tobacco, every inspector so offending, and being thereof duly convicted in the court of the county wherein he officiates, is declared incapable of serving for ever after

as an inspector in this state, and moreover shall be liable to the penalty of fifty pounds for every hogshead of tobacco so as aforesaid delivered without order of the owner or proprietor thereof, to be recovered by such owner or proprietor if he or she shall prosecute within four months after the offence committed, or if he or she decline the prosecution, then after that time by any person who shall inform or sue for the same, by action of debt or information in any court of record within this commonwealth. And if any inspector shall deliver any transfer receipts, or notes of credit, for tobacco, to any person or persons, unless at the time of delivering the same he shall have actually and bona fide received and passed tobacco the property of him, her, or them, in whose name or names such receipts or notes shall be made out to the full amount of the quantity therein specified, every inspector so offending, and being duly convicted, shall be disabled from serving as an inspector, and moreover shall forfeit ten pounds for every such fictitious note to any person who will sue for the same, recoverable by action of debt in any court of record; and for every prosecution against any inspector for the said offence, the proof of his innocence shall lie upon himself.

Or receipts
for tobacco
not passed.

And be it farther enacted, That the owner of any transfer receipts may at any time before the sale of the tobacco contained in such transfer receipts as herein after is directed, receive and mark hogsheads of tobacco for satisfying such receipts, and the inspectors shall take in their former receipts and deliver crop receipts for such hogsheads, and shall be answerable for the safe keeping thereof in the same manner as they are for crop tobacco; but the person, receiving such hogshead shall pay to the inspectors sixteen shillings for the inspection and nails for every hogshead, that is to say, six shillings down to the use of the inspectors for nails and their trouble in prizing, and ten shillings when the tobacco shall be delivered. And the inspectors shall, at the court held for their county in the month of September yearly, or if there be no court in that month, then at the next court held for their county, lay before the court an account upon oath of all transfer receipts that were not by them taken in and received before the time of sale herein before mentioned, and after such account exhibited, and oath made, shall sell the tobacco in such

Transfer,
how conver-
ted into crop
tobacco.

Transfer to-
bacco, when
to be sold.

receipts contained, deducting the allowance for shrinkage and wasting, at publick auction at the door of the courthouse between the hours of twelve and two, and the inspectors shall pay the money arising by such sale, in satisfaction of their receipts, from time to time, to the proprietors thereof making their demand, under the same penalty as is inflicted for not paying inspectors receipts; and all inspectors shall keep a just and true account of the tobacco gained or saved upon the allowance made for cask and for shrinkage of transfer tobacco, or otherwise, and if any tobacco shall be so gained or saved, shall exhibit an account thereof upon oath in the same manner as is before directed concerning transfer tobacco not received, and shall also sell the tobacco so gained and saved in the manner as is directed for the sale of transfer tobacco, and shall account for the money arising by such sale to the treasurer of this state for the time being in their next account with him, and the said treasurer shall account for the same to the general assembly; and no inspector shall convert any tobacco so gained to his own use.

When inspectors to account with treasurer.

And be it farther enacted, That all inspectors shall, before the tenth day of October in every year, account with the treasurer of this state upon oath for all monies received, or which ought to be received by them by virtue of this act (except the money paid for nails and for their trouble in prizing or for repacking damaged tobacco which shall be relanded at their inspection) for every hogshead of transfer tobacco, in which account they shall be allowed their salaries, the rents of the warehouses, and all other necessary disbursements, in pursuance of this act.

Inspectors to deliver to treasurer account of tobacco shipped.

And for the more effectual prevention of frauds in shipping uninspected tobacco, and in the not regularly entering and reporting at the naval offices tobaccoes shipped from the warehouses, *Be it farther enacted,* That the several inspectors of tobacco in this state shall annually at the time of settling their accounts with the treasurer deliver to him an account upon oath of all the tobacco shipped from their respective warehouses within the year preceding, containing the number of hogsheads or casks sent on board each ship or vessel respectively, and every inspector failing herein shall forfeit and pay the sum of fifty pounds; and that the several naval officers shall, on or before the 25th day of October annually, return to the said treasurer an

account upon oath of all the tobacco on board each ship or vessel which shall have been cleared out in such naval officer's district in the preceding year, according to the manifests thereof delivered by the master of such ship or vessel at the time of clearing, distinguishing the number of hogsheads or casks put on board such ship or vessel from each respective warehouse, and every naval officer failing herein shall forfeit and pay the sum of one hundred pounds for every failure.

And if any justice of the peace shall know or be informed upon oath of any tobacco pressed or packed in order to be shipped off or carried out of this state by water, without being inspected, such justice by himself, or any sheriff or constable by warrant from such justice within the limits of his county, shall have power and authority, and is hereby required to enter any suspected houses and to break open all doors in the day time (the keys of such doors having been first demanded and refused to be delivered) to search for the same, and if any tobacco shall be found by such justice, sheriff, or constable, pressed in any hogshead, cask, barrel, or other package whatsoever, that shall not contain five hundred pounds of neat tobacco, such justice, sheriff, or constable, shall seize the same, and the person in whose possession such tobacco shall be found shall forfeit to the informer ten pounds for every hundred weight, and so in proportion for a less quantity, to be recovered with costs in any court of record if it be twenty five shillings current money or upwards. And if any justice of peace of any county near the place where any ship or other vessel shall ride, upon information to him made upon oath by any freeman, that there is good cause to suspect any tobacco uninspected, in cask, bulk, or parcels, to be on board such ship or other vessel, shall, and is hereby empowered and required to issue his warrant directed to the sheriff or any constable of his county, and the sheriff or constable shall have full power and authority, and he is hereby required to enter and go on board such ship or other vessel to search for and seize such tobacco, and the same being seized shall be brought on shore and carried before the same or any other justice, who shall cause the said tobacco to be carried to the nearest warehouse and there inspected, and if passed restored to the owner in case he shall be innocent of the fraud, but if he shall appear to have been concerned in such fraud, or if no owner shall claim within one month,

Duty of justices in presenting exportation of tobacco not inspected.

the said tobacco shall be sold by the inspectors, and the money arising from such sale be paid into the publick treasury, and accounted for to the general assembly, and the commanding officer or skipper of any ship or vessel on board which such tobacco be found shall forfeit to the informer ten pounds for every hundred weight, and in proportion for a less quantity, to be recovered with costs in any court of record if it be twenty five shillings or more; and if any master or commanding officer, or skipper of any ship or other vessel, or any other person whatsoever, shall resist the officer in the execution of any such warrant, every such master or commanding officer or skipper shall forfeit and pay two hundred pounds, and every sailor or other person so resisting shall forfeit and pay forty pounds; and if any action shall be brought against any justice of the peace, sheriff, or constable, for doing any thing in execution of this act, the defendant may plead the general issue, and give this act in evidence, and if the plaintiff shall be nonsuited, and a verdict pass against him, upon a judgment of demurer, the defendant shall recover double costs.

Tobacco undemanded, in warehouses, how disposed of.

And be it farther enacted, That if any tobacco hath remained or shall hereafter remain undemanded in a publick warehouse two years after the same hath been or shall be inspected, the inspectors at such warehouse shall advertise in the Virginia Gazette a list of the marks, numbers, weights, and names of the persons for whom such tobacco was inspected, and if no owner appears to claim the same within three months, they shall, at the next court to be held for the county in which such warehouse shall be, after the expiration thereof, deliver to the court the like list, which court is hereby empowered and required to order the same to be publickly sold at the courthouse door on a court day to the highest bidder, and the money arising from the sale thereof shall be repaid by the inspectors to the treasurer of this state for the time being, who shall account for the same, from time to time, to the general assembly; and if any person having a right to any tobacco so sold shall prove his property therein, the said treasurer shall repay to such person the money for which such tobacco was sold.

Inspectors ineligible to general assembly.

And be it farther enacted, That no person taking upon himself the office of inspector shall, during his continuance in that office, or within two years after he

shall be out of his said office, be capable of being elected a member of either house of assembly, or shall presume to intermeddle or concern himself with an election of a member or members of either of the said houses, otherwise than by giving his vote, or shall endeavour to influence any person or persons to give his or their vote, under the penalty of one hundred pounds for every offence; nor shall any inspector, by himself, or any person for him, be allowed to keep an ordinary or house of entertainment at or near the warehouse where he is an inspector, and every inspector herein offending shall be incapable of serving in that office, neither shall any inspector, during his continuance in that office, be, or undertake to be, collector of any publick tax (other than what relates to such office) county or parish levies, or any officers fees, nor shall directly or indirectly for himself, or for any other person, buy or receive by way of barter, loan, or exchange, any tobacco whatsoever, under the penalty of forfeiting fifty shillings for every hundred pounds of tobacco so bought or received; provided, that nothing herein contained shall be construed to hinder any inspector from receiving his rents in tobacco, which shall be first viewed, examined, and stamped, according to the directions of this act.

Not to interfere in elections.

Not to deal in tobacco.

And for the farther and better directions of the inspectors aforesaid in their duty, *Be it enacted*, That no inspectors shall take, accept, or receive, directly or indirectly, any gratuity, fee, or reward, for any thing by him to be done in pursuance of this act, other than his salary and the other payments and allowances herein before mentioned and expressed; and if any inspector shall take, accept, or receive, any such gratuity, fee, or reward, such inspector, being thereof convicted, shall forfeit and pay the sum of one hundred pounds current money, to be recovered with costs by any person or persons who shall inform and sue for the same, by action of debt or information in any court of record within this commonwealth, and moreover shall be disabled from holding the office of inspector during the continuance of this act; and if any person shall offer any bribe, reward, or gratuity, to any inspector for any thing by him to be done in pursuance of this act, other than the fees and allowances herein before directed, every person so offending, and being thereof convicted, shall for every such offence forfeit and pay the sum of twenty pounds current money, to be recovered in any court of record

Inspectors not to receive any fee or reward, except allowed by law.

within this state, one half of which forfeiture shall be for the use of such inspector refusing such bribe or reward, and the other half to the person who will inform and sue for the same.

Penalty for giving receipts for tobacco not received.

And be it further enacted, That if any inspector or inspectors shall give or deliver to any person whatsoever their receipt for any hogshead or cask of tobacco which they have not actually received into the warehouse whereof they are inspectors at the time of giving such receipt, he or they shall forfeit and pay five pounds for every hundred weight mentioned in such receipt, and so in proportion for a greater or lesser quantity; and there shall be paid to the several inspectors appointed to attend and attending the said several warehouses the salaries herein after mentioned, that is to say: To

Salaries of inspectors.

each of the inspectors at Pitt's, Guilford's, and Pungoteague, under one inspection, fifty pounds per annum; at Roy's, one hundred pounds; at Conway's, eighty pounds; in the county of Charles City, at Kennon's, and Swinyard's, under one inspection, fifty pounds; at Bolling's Point, one hundred and seventy five pounds; at Bollingbroke, one hundred and seventy five pounds; at Cedar Point, one hundred and seventy five pounds; at Hobb's Hole, fifty pounds; at Piscataway, and Bowler's, under one inspection, fifty pounds; at Layton's, and Port Micou, under one inspection, fifty pounds; at Colchester, eighty pounds; at Pohick, sixty pounds; at Alexandria, eighty pounds; at the falls of Potowmack, sixty pounds; at Poropotank, sixty pounds; at Deacon's neck, seventy pounds; at Crutchfield's, one hundred and seventy pounds; at Page's, one hundred and seventy pounds; at Meriwether's, one hundred pounds; at Cary's, one hundred and seventy pounds; at Rocky Ridge, one hundred and seventy five pounds; at Osborne's, one hundred and seventy five pounds; at John Bolling's, one hundred and fifty pounds; at Byrd's, one hundred and seventy five pounds; at Shocko's, one hundred and seventy five pounds; at Smithfield, and Fulgham's, under one inspection, seventy pounds; at Turner's, and Shepherd's, under one inspection, seventy pounds; at Mantipike, and Frazer's, under one inspection, sixty pounds; at Todd's, and Aylett's, under one inspection, ninety pounds; at William's, and the Piping Tree, under one inspection, sixty pounds; at Boyd's Hole, seventy pounds; at Falmouth, one hundred and twenty pounds; at Dixon's, one hundred and

and twenty pounds; at Gibson's, sixty pounds; at Morton's, sixty pounds; at Davis's, and Lowry's, under one inspection, sixty pounds; at north Wycomico, forty pounds, and south Wycomico, thirty six pounds; at Dyer's, and Indian creek, under one inspection, eighty pounds; at Deep creek, and Glasscock's, under one inspection, sixty pounds; at Urbanna, sixty pounds, at Milner's, one hundred and twenty pounds; at South Quay, fifty pounds; at Cherrystones, Hungar's, and Nasswaddox, under one inspection, ninety pounds; at Littlepage's, sixty pounds; at the Brickhouse, sixty pounds; at Waddy's, fifty pounds; at Coan's, seventy pounds; at Boyd's, one hundred and seventy five pounds; at Davis's, one hundred and seventy five pounds; at Blandford, one hundred and seventy five pounds; at Noble's, forty pounds; at Quantico, one hundred and seventy pounds; at Dumfries, one hundred and seventy pounds; at Cat Point, and Beckwith's, under one inspection, at Totuskey, seventy pounds; at Cat Point, one hundred pounds; and at Gray's creek, sixty pounds; at Acquia, one hundred pounds; at Cave's, fifty pounds; at Fredericksburg, one hundred and seventy pounds; at Royston's, one hundred and seventy pounds; at Denbigh, fifty pounds; at Nominy, sixty pounds; at Machotack, fifty pounds; at Leeds, and Mattox, under one inspection, one hundred and twenty pounds; at Yeocomico, and Rust's, under one inspection, eighty pounds; at the College Landing, and Capitol Landing, under one inspection, seventy pounds; and at Roe's, fifty pounds.

And for the better detecting inspectors who shall not do their duty, and for the more speedy and easy examination into complaints against them, *Be it enacted*, That any two justices of the peace, not being inspectors, shall have power to hear all complaints against any inspector within their county, and to take the deposition of witnesses upon the matter of such complaint on both sides, which shall be transmitted by them to the governour and council for their determination; and to the end such depositions may be taken, in the best manner, the clerk of the county, or some sufficient person by him to be appointed, shall attend the said justices for that purpose, and be paid by the county the same fee as is or shall be by law established for attending the examination of witnesses upon a *dedimus protestatum*; and moreover any two justices shall have power to visit

Power of
justices to
detect mis-
conduct in
inspectors.

Inspectors,
how remov-
ed from of-
fice.

all or any of the publick warehouses within their county, and if they shall discover any negligence in the inspectors either in securing the tobacco or stowing the same away in a proper manner for saving the room in such houses, or that they are guilty of any other breach or breaches of their duty, the said justices shall certify the governour and council thereof, and if any inspector shall be adjudged guilty of a breach of his duty he shall be removed from his office and be for ever after incapable of serving as an inspector. And if any inspector shall be removed from his office upon a complaint and prosecution against him in the method by this act prescribed, he shall be liable to the action on the case of the prosecutor for his necessary costs and expenses in such prosecution, in which the prosecutor shall recover his full costs of suit; but if the inspector or inspectors shall be acquitted upon such examination, the prosecutor shall be liable to the action of such inspector or inspectors for the recovery of all damages and expenses which he or they shall have sustained or been put to by such prosecution and costs; unless the governour and council shall certify that there was reasonable cause for such complaint; and every inspector shall moreover be liable to the action of the party grieved for all loss and damage that may happen to arise to any person by occasion of any failure of duty or neglect of any such inspector, in which action the plaintiff shall recover his full costs although the damages do not exceed forty shillings.

Levies and
officer's fees
how & when
payable.

And be it further enacted, That all tobacco due or to grow due and payable for publick county and parish levies, or for clerks, sheriffs, surveyors, or other officers fees, shall be paid and discharged by transfer receipts in the following manner, that is to say: All levies shall be paid in some warehouse in the county where such levies are laid, and all officers fees in the county where the person chargeable therewith lives, except such person shall have a plantation with slaves thereon in the county where the service is performed, and then all fees shall be paid in such county; but the said levies and fees due and payable in any county where no publick warehouse is established shall be paid at some warehouse in the next adjacent county.

Currency of
notes.

Provided always, That the receipts of the warehouses hereafter mentioned shall pass in payment of all levies and officers fees, payable in the counties following, that

is to say: In the county of Accomack, Cherrystones, Hungar's, and Nasswaddox; in the county of Albemarle, Cary's, Crutchfield's, Page's, Fredericksburg, Royston's, Meriwether's, Rocky Ridge, Shocko's, and Byrd's; Amelia, Charlotte, Halifax, Henry, Lunenburg, Mecklenburg, Pittsylvania, and Prince Edward; at Blandford, Bolling's Point, Bollingbroke, Davis's, Cedar Point, Boyd's, Cary's, Rocky Ridge, and Osborne's; Amherst, Byrd's, Shocko's, Rocky Ridge, Cary's, Crutchfield's, and Page's; Bedford, Shocko's, Byrd's, Cary's, Rocky Ridge; Brunswick, Blandford, Bolling's Point, Bollingbroke, John Bolling's, Boyd's, Davis's, Cedar Point, Cabin Point; Smithfield, Gray's Creek, Nansmond, South Quay, Cabin Point, and Noble's; Buckingham, Shocko's, Byrd's, Cary's, Rocky Ridge, Osborne's; Caroline, Todd's, Aylett's, Layton's, Micou's; Culpeper, Dixon's, Falmouth, Conway's, Fredericksburg, and Royston's; Cumberland and Powhatan, Byrd's, Shocko's, Cary's, Rocky Ridge, and Osborne's; Dinwiddie, Blandford, Boyd's, John Bolling's, Davis's, and Noble's; Elizabeth City, Roe's; Fauquier, Falmouth, Dixon's, Quantico, Dumfries, and Acquia; Goochland and Fluvanna, Shocko's, Byrd's, Crutchfield's, Page's, Cary's, and Rocky Ridge; James City, Brickhouse, Littlepage's, Kennon's, College Landing, and Capitol Landing; Isle of Wight, Swinyard's, Kennon's, Milner's, and South Quay; King William, Meriwether's, Crutchfield's, and Page's; Lancaster, Indian creek, Loudoun, at any of the warehouses in Fairfax and Prince William; Louisa and Orange, Fredericksburg, Royston's, Conway's, Crutchfield's, Page's, Meriwether's, Byrd's, and Shocko's; Norfolk, any of the warehouses in Nansmond and Elizabeth City; Northampton, Guilford's, Pitt's, and Pangoteague; New Kent, Brickhouse, Waddy's, Littlepage's, Swinyard's, and Kennon's; Northumberland, Yeocomico, and Rust's; Prince George, Bolling's Point, Bollingbroke, John Bolling's, Cedar Point, Cabin Point, and Gray's creek, Noble's, Swinyard's, and Kennon's; Prince William, Pohick and Alexandria, Acquia, and Colchester; Princess Anne, any of the warehouses in Nansmond and Elizabeth City, Southampton, Cabin Point, Noble's, Smithfield, Fulgham's, and South Quay; Spotsylvania, Conway's, Stafford, Machotack, Morton's, Gibson's, and Quantico; Surry, Swinyard's, Kennon's, Smithfield, Blandford, Boyd's,

Noble's, and Davis's; Sussex, Blandford, Bolling's Point, Bollingbroke, Boyd's, John Bolling's, Davis's, Cedar Point, Cabin Point, Gray's creek, Smithfield, Milner's, South Quay, and Noble's; Westmoreland, Leeds, and Gibson's.

Levies and officers' fees when payable.

And be it further enacted, That all publick, county, and parish levies, sheriffs, clerks, surveyors, and other officers fees, payable in tobacco, shall be paid and satisfied by the persons chargeable with and indebted for the same to the sheriffs or other collectors by transfer receipts before the tenth day of May yearly; and if any person chargeable with the levies and fees aforesaid shall neglect or refuse to pay the same, within the time aforesaid, it shall be lawful to and for the sheriffs and other collectors immediately after the said tenth day of May to distrain the goods and chattels of the person or persons so neglecting or refusing, and to sell and dispose thereof for tobacco in the same manner as is directed by law for goods taken in execution, and the overplus (if any be) after paying the several levies and fees, and the charge of distress, which is hereby declared to be the same as for serving an execution, shall be returned to the debtor; and the sheriffs or other collectors of the said levies and fees shall, before the last day of June yearly, pay and deliver to each creditor according to their respective debts or claims, all the inspectors receipts he or they shall have received in satisfaction thereof; and if any sheriff or other collector shall refuse or delay to make payment accordingly, if required, he or they so refusing or delaying shall forfeit and pay to the party grieved double the value of the tobacco so refused or delayed to be paid, to be recovered with costs in any court of record within this state.

Distress for.

When sheriffs to account for and pay.

If warehouses burnt, loss repaid by general assembly.

And be it further enacted, That if any of the warehouses herein before mentioned shall happen to be burnt, the loss sustained thereby shall be made good and repaired to the several persons injured by the general assembly at the next session after such loss, and in case of such accident, no inspector shall be sued or molested for or by reason of any receipts by them given for any tobacco burnt in any of the said warehouses, but shall be altogether acquitted and discharged of, and from the payment of the tobacco in such receipts mentioned, any thing herein before contained to the contrary notwithstanding.

Inspectors indemnified.

Provided always, That if the receipts for tobacco so burnt and destroyed shall be of an older date than twelve months, the tobacco shall not be paid for by the publick, but the owner or proprietor thereof shall bear the loss.

Provided receipts be not of older date than 12 months.

And be it farther enacted, That the inspectors shall not permit the proprietor or any other person to make use of the warehouse at which they are inspectors, and if any warehouse shall hereafter happen to be burnt, and it shall appear that such warehouse was burnt by means of the inspectors permitting the proprietor or any other person to make use thereof, such inspectors shall repay to the treasurer for the time being all such sum or sums of money as shall have been paid to the person or persons so injured.

Proprietors not to use warehouses.

And be it farther enacted, That if any person shall hereafter make any fire within any publick warehouse, or without doors within two hundred yards of such house, other than in the squares or funnels, such person, if a freeman, shall for every such offence forfeit and pay ten pounds, to be recovered with costs by action of debt or information in any court of record within this state by the informer to his own use, and if a servant or slave he or she shall by order of any justice of the peace receive on his or her bare back twenty lashes for every such offence. And it shall not be lawful for any person whatsoever to erect or build, or cause to be erected or built, any wooden chimney within two hundred yards of any publick warehouse; and where any wooden chimney or chimnies are already built within the distance aforesaid of any publick warehouse, the owner or proprietor thereof shall pull down the same, or on refusal or on neglect to do in three months after the passing of this act, it shall be lawful for the sheriff of the county, and he is hereby required to cause such chimney or chimnies to be pulled down and demolished.

Penalty for making fires near warehouses.

Or building wooden chimnies near.

And to the intent that a just quantity of tobacco exported may be more exactly known, and evil practices to defraud the publick of the duty prevented, *Be it enacted,* That all inspectors shall carefully enter in a book to be provided and kept for that purpose, the marks, numbers, gross, neat weight, and tare, of all tobacco viewed and stamped by them as aforesaid, and in what ship or vessel the same shall be laden or put on board, and shall also with every sloop or boat load of tobacco send a list of the marks, numbers, gross, neat

Books, how kept by inspectors of tobacco shipped.

Manifests

weight, and tare, of every hogshead or cask of tobacco then delivered, to be given to the master of the ship or vessel in which the same shall be put on board, and if the tobacco delivered to the same sloop or boat is intended to be put on board several ships or vessels, then they shall deliver so many distinct and several lists as aforesaid of the hogsheads or casks to be put on board such ship or vessel respectively, which lists every master of a ship or vessel is required to produce to, and lodge with the naval officer of the district where the ship or vessel whereof he is master shall ride, or by whom he shall be cleared, some time before her clearance; but whereas it may happen that the ship in which such tobacco was intended to be put may be so full as not to be able to stow all the tobacco contained in such list, in such case it shall be lawful to ship the said tobacco, or any part thereof, on board any other ship or ships where the owner thereof shall think fit, the masters of such ships endorsing on the said lists the marks and numbers of the respective hogsheads by them taken on board, and giving notice to the inspectors of the warehouse from whence the same was brought; or if there be no ship to receive the said tobacco, then it shall be lawful for the master of the first mentioned ship or vessel to put the said tobacco into any warehouse in the district where such ship shall ride, giving immediate notice thereof to the inspectors who stamped the same, and the inspectors of that warehouse where such tobacco shall be delivered, shall receive from the persons relauding such tobacco four shillings for every hogshead so relauded, and shall give a receipt for the same, which money so received by the inspectors shall be accounted for and paid to the person or persons entitled to the rent of the said warehouse.

To forge, counterfeit or alter tobacco notes, felony, without clergy.

And be it farther enacted, That if any person whatsoever shall forge, counterfeit, or alter the stamp or receipt of any inspector, or tender in payment any such forged, counterfeited, or altered receipt, knowing it to be such, or export or cause to be exported any hogshead or cask of tobacco stamped with a forged or counterfeited stamp, or demand tobacco of any inspector upon any such forged or counterfeited receipt, knowing such receipt or such stamp to be forged and counterfeited, being thereof convicted, shall be adjudged a felon, and shall suffer death as in case of felony, without the benefit of clergy: or if any person shall put or pack

into any hogshead or cask of tobacco stamped by any inspector any tobacco whatsoever, or shall draw or take out any staves, plank, or heading board, so stamped as aforesaid, of any hogshead or cask of tobacco, after such hogshead or cask of tobacco shall be delivered out from any of the publick warehouses aforesaid, every person so offending, and being thereof convicted by due course of law, shall be adjudged a felon, and shall suffer as in case of felony.

Certain other offences felony.

And be it farther enacted, That if any inspectors receipt 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 any justice of the peace of the county where the same is payable, to the number and date of every such receipt, to whom and where payable, and for what quantity 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 upon producing a certificate of such oath to the inspectors who signed such receipt, and lodging the same with them, the inspectors shall, and are hereby directed to pay and deliver to the person obtaining such certificate, the tobacco for which any such receipts were given (if the same or any part thereof shall not have been before by them paid by virtue of the said receipts) and shall be thereby discharged from all actions, suits, and demands, on account of such receipts; and if any person shall be convicted of making a false oath, or producing a forged certificate, in the case aforesaid, such person shall forfeit and pay twelve pence for every pound weight of tobacco contained in such certificate, and moreover, on conviction thereof, shall suffer as in case of wilful and corrupt perjury.

Lost notes how restored.

And be it farther enacted, That when any new inspectors shall be appointed at any of the said warehouses, such inspector or inspectors shall, and they are hereby required to give to the person or persons whom they shall succeed, a receipt with his or their hands subscribed, containing the numbers, marks, tare, gross, and neat weight, of all and every hogshead or cask of tobacco which shall be then remaining at the warehouse or warehouses at which they are appointed inspectors, with the delivery and payment of which said hogshead

New inspectors to give receipts to their predecessors.

or cask of tobacco so remaining, he or they shall from thenceforth be chargeable and liable, but he or they shall in no wise be accountable or answerable for the loss of weight, or for quality of tobacco contained in any hogshead for which receipt was by him or them so as aforesaid given. And if any hogshead or cask of tobacco shall hereafter be received by any person or persons whatsoever, and delivered out of any of the said warehouses for exportation by the inspector or inspectors attending the same, such inspector or inspectors, 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 unmerchable, or of less quantity than the receipts given for the same shall specify, any thing herein before contained to the contrary notwithstanding.

Owners of
light tobac-
co entitled
to free use of
prizes.

And when any prized tobacco shall be brought to any publick warehouse in order to be shipped on freight, and the inspectors there attending shall refuse to pass such tobacco, unless such as shall be bad and unmerchable, shall be picked and separated from the rest, or where any light crop tobacco shall hereafter be brought to any of the said warehouses, in either case the said inspectors, if required, shall permit the owner or other person bringing such tobacco to make use of one or more of their prizes for the repacking, prizing, or making heavier such tobacco, without fee or reward; and if there shall be several hogsheads of tobacco belonging to several owners to be picked, repacked, prized, or made heavier, at any publick warehouse, the owner or other person bringing the same, whose tobacco shall be first viewed and refused, or found light, shall be first permitted and allowed to make use of such prize or prizes; and the same rules shall be observed in the prizing all tobacco which shall be picked, repacked, prized, or found light as aforesaid. And for all tobacco repacked and prized by the owner thereof, or the servants and slaves to him belonging, there shall be paid to the inspectors thereof ten shillings for stamping, and for all tobacco repacked and prized by the inspectors four shillings for each hogshead, and also two shillings for nails, unless the proprietors shall find and provide nails; and no inspector shall take or convert to his own use, or otherwise dispose of, any draughts or samples of transfer or

crop tobacco, but the same (if fit to pass) shall be put into the hogshead or bulk out of which it was drawn, under the penalty of forfeiting twenty shillings for every draught so taken away contrary to the directions of this act, to be recovered by the informer, one moiety to his own use, and the other moiety to the use of the proprietor of such tobacco, before any justice of the peace of the county wherein such offence shall be committed. And all inspectors, if required, shall alter the mark and number of any hogshead of reprized tobacco for which they have before given a receipt; and for preventing confusion and mistakes, shall keep a waste book, in which shall be entered the marks and numbers of all hogsheads of tobacco received by them, and another book, in which shall be entered the marks and numbers thereof when the same shall be delivered out by them, and all inspectors, when required, shall be obliged to prize any hogshead of tobacco under one thousand pounds neat, so as to make it up the weight, but shall receive the same fee upon such hogshead as for transfer tobacco, and may make the lawful abatement for the tobacco prized in. And where any tobacco shall be brought to any warehouse by the overseer of the owner thereof, the inspectors shall give receipts in the name of the owner and not of the overseer.

Inspectors not to convert draughts to their own use.

Book of inspectors.

And be it enacted, that the inspectors of tobacco at the several warehouses within this state, shall immediately on the delivery of every hogshead of tobacco at the warehouses whereof they are inspectors, give a receipt for such tobacco, if required by the proprietor or person bringing the same to the said warehouses, expressing therein that the same is for uninspected tobacco.

Inspectors to give receipts for tobacco, when brought in.

And be it further enacted, that all the penalties and forfeitures in this act contained, and not herein before particularly appropriated, shall be one moiety to the commonwealth, to be applied towards defraying the charges of the execution of this act, and the other half for the person who shall inform and sue for the same, and shall be recovered with costs by action of debt or information in any court of record within this state where the penalty or forfeiture exceeds twenty five shillings or two hundred pounds of tobacco, and where the same does not exceed those sums before any justice of the peace for the county where the offence shall be

Penalties, how recovered and appropriated.

committed. And all penalties and forfeitures laid and imposed by any of the laws heretofore in force, and all breaches and offences against the same, shall and may be sued for and prosecuted and judgments given in such suits and prosecutions notwithstanding the said laws shall be expired at the time of the prosecutions begun, or judgments given in the same manner as such suits and prosecutions might have been commenced, and judgments given in case the said laws were not expired; any law, custom, or usage, to the contrary thereof in any wise notwithstanding.

And whereas recoveries and forfeitures, inflicted by this act, are liable to be evaded by masters or commanders, and skippers of vessels, and other persons leaving this state, before any action or suit brought for such recovery can be determined:

Special bail
required.

For remedy thereof, *Be it enacted, by the authority aforesaid,* That upon the appearance of the defendant in any action or suit brought against any master or commander, or skipper of any vessel, or any other person for a breach of this act, where the plaintiff shall move that the defendant may be held to special bail, the court may, if they see cause, rule him to give special bail accordingly, or commit him in custody of the sheriff until such bail be given; any law, custom, or usage, to the contrary notwithstanding.

Tobacco, at
inspections
discontinued
how disposed
of.

And whereas from the discontinuance of some of the publick inspections, it is necessary that provision should be made in respect to such tobacco as may remain on hand at those inspections, *Be it enacted,* That the late inspectors at any discontinued warehouse shall, and they are hereby directed to continue to take care of, and deliver such tobacco, when demanded, and make out manifests for the same in the same manner as if the said inspections had been continued, and shall receive of the persons shipping such tobacco four shillings per hogshead for warehouse rent, and three shillings per hogshead for their trouble; and the said inspectors shall sell all tobacco remaining in their respective warehouses, and account for the money in the same manner as directed to be done at the several inspections established by this act. And where any new inspections are appointed by this act, or any revived which have been discontinued, or where different warehouses are put under the same inspection, or the name of any inspection changed, whereby it shall be necessary that inspectors

should be immediately recommended, in either of the above cases the justices, at the first or second court after the passing of this act, shall recommend inspectors, who shall be commissioned by the governour, take the oath of office, and give bond and security for the performance thereof, as in other cases.

And be it further enacted, That this act shall be in force from the passing thereof, for and during the term of two years, and from thence to the end of the next session of assembly. Limitation
of this act

CHAP. XI.

An act to increase the salaries of certain officers of government.

WHEREAS the wages and salaries hitherto allowed to the officers of government hereafter mentioned, are inadequate to the necessary expenses of their offices, and it is just and reasonable that all those who dedicate their time and assiduity to the publick service should have full and ample compensation for the same: Preamble.

Be it therefore enacted by this present General Assembly, That from and after the last day of December in this present year, all former wages and salaries heretofore allowed to the said officers, shall cease, and in lieu thereof shall be paid to the governour the sum of three thousand pounds by the year; to the members of the privy council or council of state the sum of four thousand eight hundred pounds by the year, to be divided amongst such of them as attend or shall be in Williamsburg to attend, but prevented by sickness; to the treasurer of this commonwealth the sum of two thousand pounds by the year; to the judges of the high court of chancery the sum of eight hundred pounds each by the year; to the judges of the general court the sum of eight hundred pounds each by the year; to the attorney general eight hundred pounds by the year; to the auditors of publick accounts the sum of one thousand pounds each by the year; and to the commissioners of Salary of Governour;
Council who attend, or are in Williamsburg to attend, but prevented by sickness;
Treasurer;
Judges of the High Court of Chancery;
Judges of the General Court; Attorney General; Auditors; and Commissioners of the Navy, increased.

the navy the sum of forty shillings each per day, for every day they shall respectively attend; which several sums of money shall be paid by the treasurer of this commonwealth in quarterly payments, or in any manner the said officers may prefer, so that not more than their said salaries or wages are drawn within the year, out of any publick money in his hands.

So much of the act passed in October one thousand seven hundred and seventy seven, giving proper salaries to certain officers of government, as comes within the sense and meaning of this, is hereby repealed.

This act shall continue and be in force for one year after the said last day of December, and from thence to the end of the next session of assembly.

CHAP. XII.

An act for establishing a Court of Appeals.

FOR establishing a court of appeals for finally determining all suits and controversies, *Be it enacted by the General Assembly*, That at such place* as shall be appointed by act of general assembly there shall be holden a court of appeals, which, in causes removed after decision from the high court of chancery, shall consist of the judges of the general court, and three assistant judges to be chosen by joint ballot of both houses of Assembly; in those from the general court shall consist of the judges of the high court of chancery, and the said assistant judges; in those from the court of admiralty, and in those adjourned into the said court from either of the others before decision, on account of difficulty, shall consist of all the said judges, in which court of appeals the judges of the high court of chancery shall take precedence, and next to them the judges of the general court, three fourths of the members who are to be of the said court in any case shall be sufficient to proceed to business, the judges also of that court from which the cause is removed after decision, shall attend at their places in the hearing thereof, and shall there

Court of Appeals established.

Of what judges constituted.

Precedence of judges.

* Williamsburg. See post. chap. XXIII.

deliver the reasons of their judgments. Every such judge before he enters upon the duties of his office in the said court, shall, in open court, take and subscribe the oath of fidelity to the commonwealth, and take the following oath of office, to wit: "You shall swear, that you will well and truly serve this commonwealth in the office of a judge of the court of appeals, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, without respect to persons. You shall not take by yourself, or by any other, any gift, fee, or reward, of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small for any matter done or to be done by virtue of your office, except such fees or salary as shall be by law appointed. You shall not maintain by yourself, or any other, privily or openly, any plea or quarrel depending in the courts of this commonwealth. You shall not delay any person of right for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to the law, you shall nothing do for such letter or request, but you shall proceed to do the law, any such letter or request notwithstanding. And finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial justice, without fraud, favour, affection, or partiality."

There shall be two sessions of the said court in every year, to wit: One to begin on the twenty ninth day of March, if not Sunday, and then on the next day, the other to begin on the twenty ninth day of August, if not Sunday, and then on the next day, to continue each of them six days (Sundays excluded) unless the business depending before them shall be finished in less time, in which case the judges may adjourn to the next succeeding court. The said court shall have power to hear and finally determine all suits and controversies whatsoever which shall be brought before them by petition and appeal from the high court of chancery, or court of admiralty, or by writ of error sued out to correct any judgment of the general court, or which shall be adjourned thither from either of the said courts, on account of difficulty. If the said court shall at any time be equally divided in opinion on any question coming before them by appeal, or writ of error, the decree,

Oath of judges.

Terms.

Jurisdiction.

judgment, or sentence of the court below on such question shall stand confirmed. Provided that no appeal shall be allowed to the said court, or writ of error sued thereout, unless the matter in dispute, exclusive of costs, shall be of the value of fifty pounds, or some franchise or freehold be in question; and that upon all such appeals, or writs of error, the party prosecuting the same shall give bond and security in the same manner, and shall be liable to the like damages upon the affirmance of the decree, judgment, or sentence, as is provided and directed upon appeals to or writs of error sued out of the general court.

The said court of appeals shall have power to appoint a tipstaff and cryer, and also a clerk, who upon bond and security given to him shall receive and file petitions for appeal addressed to the said court, and suggesting error in the proceedings below; such petition being signed by counsel attending, some one of the superiour courts shall thereupon issue a summons against the appellee requiring him to appear and answer the said petition and appeal, and a supersedeas when it shall be necessary to surcease farther proceedings in execution of the decree or sentence; he shall also upon like bond and security issue writs of error for correcting judgments of the general court; shall receive and carefully preserve transcripts of the records upon all such writs and on appeals which shall be transmitted to him by the clerks of the high court of chancery, the general court, and court of admiralty, repectively, entering the names of the parties in a docket in the order he shall receive them, that the suits may be heard in regular course, without preference to suitors, unless the court, for good cause unto them shewn, shall order any cause to be heard out of its turn. The said clerk shall also attend the court during their several sittings, and make due entries of their proceedings, and shall certify their affirmance or reversal of the decree, judgment, or sentence, in each case, with the costs of the party prevailing, to the court where the said decree, judgment, or sentence, was given; which court shall enter up the same, and execution shall issue thereupon, as well for the costs expended in the court of appeals, as the other matters recovered by the decree, judgment, or sentence.

No appeal shall be allowed to the said court, or writ of error issued, until a final judgment be given in the court from whence the appeal is or to which the writ of

Bond and security on appeals.

Tipstaff, Cryer, Clerk.

Petitions for appeals.

Supersedeas

Writs of error.

Docketing causes.

Clerk to certify affirmance or reversal.

No appeal till final judgment or decree.

error is directed. Previous to the hearing of each cause in the said court a clear and concise state of the case of each party, with the points intended to be insisted on, shall be drawn up and signed by the party's counsel, and printed copies thereof delivered to each of the judges for their perusal and consideration, the expense whereof shall be taxed in the bill of costs.

Statements.

Any person who had entered an appeal from a decree in equity, or a judgment at common law, of the late general court, to the king of Great Britain, in his privy council, if the decree or judgment were not affirmed or reversed, or the appeal dismissed, and notification thereof in the usual forms made to the said late general court, shall have right to lodge a transcript of the record with the clerk of the said court of appeals, all the members whereof are hereby authorised to sit in the said cases at any time within one year after the first session of the said court ended; whereupon the said court shall proceed to hear and finally determine the same, six months previous notice having been given to the adverse party; and their clerk shall certify their affirmance or reversal of the decree or judgment, with the costs of the party prevailing, to the high court of chancery or general court (as the case may be) who shall enter up the same, and cause execution to be done as before directed in cases of appeals from the said high court of chancery or general court.

Appeals from the late general court to the king in council, not decided, transferred to the court of appeals.

CHAP. XIII.

An act for dissolving several vestries, and for other purposes.

[Chan. Rev. pa. 83.]

I. *BE it enacted by the General Assembly,* That the vestries of the parishes of Manchester, in the county of Chesterfield, of St. Paul, in the county of Hanover, of North Farnham, in the county of Richmond, of Elizabeth river, and Portsmouth, in the county of Norfolk, of Beckford, in the county of Shenando, of Nottoway, in the county of Southampton, of Hanover, and Washington, in the counties of King George and Westmore-

Vestries of parishes of Manchester, in county of Chesterfield; of St. Paul, in Hanover; of North Farnham, in Richmond;

of Elizabeth River, and Portsmouth in Norfolk; of Beckford in Shenando; of Nottoway in Southampton; of Hanover & Washington in King George & Westmoreland; of St. Stephen in Northumberland; and of Blisland in New Kent & James City, dissolved.

land, of St. Stephen, in the county of Northumberland, and of Blisland, in the counties of New Kent and James City, shall be, and the same are hereby respectively dissolved.

II. *And be it farther enacted*, That the inhabitants of every of the said parishes of Manchester, St. Paul's, North Farnham, Elizabeth river, Portsmouth, Beckford, Nottoway, Hanover, Washington, St. Stephen, and Blisland, respectively, shall meet at some convenient time and place to be appointed and publickly advertised by the sheriffs of each of the said counties before the first day of April next, and then and there elect twelve able and discreet persons, who shall be a vestry for the said parishes respectively.

III. And whereas it is represented to this general assembly that the situation of the said parishes of Hanover and Washington is rendered inconvenient to the inhabitants thereof by a late alteration in the boundary lines of the said counties of King George and Westmoreland:

Part of Hanover parish added to Washington, and part of Washington to Hanover.

IV. For remedy whereof, *Be it enacted*, That all that part of the said parish of Hanover, lying in the said county of Westmoreland, be added to and made part of the said parish of Washington; and that all that part of the said parish of Washington, lying in the county of King George, be added to and made part of the said parish of Hanover.

Glebe of Washington parish to be sold.

V. And whereas by the addition of the said parish of Washington to the parish of Hanover the present glebe of the said parish of Washington will be in the said parish of Hanover, and it is just and right that the inhabitants of the said parish of Washington should receive the benefit thereof, *Be it therefore enacted*, That the said glebe land, with the appurtenances, be, and the same are hereby vested in John Martin, John Washington, Thomas Turner, and Beckwith Butler, gentlemen, commissioners in trust, that they, or any three of them, shall, by deeds of bargain and sale, sell and convey the said glebe, with the appurtenances, for the best price that can be got for the same, to any person or persons who shall be willing to purchase the said lands, to hold to such purchaser or purchasers, his or their heirs, and assigns, for ever.

VI. *And be it farther enacted*, That the money arising from the sale of the said glebe shall be by the said commissioners paid to the vestry of the said parish of

Washington, to be by them laid out in the purchase of a more convenient glebe for the use and benefit of the minister of the said parish of Washington for the time being, for ever.

VII. *Provided always*, That the collectors of the parishes of Hanover and Washington respectively, shall have power to collect and distrain for any dues which shall remain unpaid by the inhabitants of the said parishes of Hanover and Washington at the time of the divisions taking place, and shall be answerable for the same in like manner as if this act had never been made.

VIII. *And be it farther enacted*, That the vestry of the upper parish, in the county of Nansemond, shall, and they are hereby empowered and required to sell the workhouse and lands thereto belonging in the town of Suffolk for the best price that can be had, and upon receipt of the consideration money to convey the same to the purchaser or purchasers in fee simple; that the money arising from such sale shall be by the said vestry applied for and towards lessening their parish levy.

Vestry of upper parish in Nansemond to sell the workhouse and lands, in Suffolk.

IX. And whereas for the want of a vestry in the parish of Botetourt, in the county of Botetourt, the poor of the said parish are likely to suffer for want of proper support and maintenance, *Be it therefore enacted*, That the commissioners of the tax in the county of Botetourt shall, and they are hereby empowered and required to make the like provision for the poor thereof, and levy the expense in the same manner as the vestries of the several parishes within this commonwealth can or may do; and the said commissioners are hereby authorised to settle and recover all debts due to the said parish of Botetourt, and liquidate all demands against the same.

Commissioners of tax in Botetourt, to provide for the poor.

X. *And be it farther enacted*, That every sheriff, when required by the churchwardens of any parish within his county, shall collect the parish levy becoming due within the same, for the performance of which he shall enter into bond with sufficient security in a sum equal to the whole collection, and payable to the churchwardens and their successours; and if such sheriff shall fail to account for and pay his said collection on or before the first day of August, reserving a commission of six per cent for his trouble in collecting, the same proceedings shall be had for the recovery thereof in the court of the county wherein the parish is situate, at the instance of the churchwardens for the time being, as is by law directed in the case of county levies.

Sheriff's when required by churchwardens to collect and account for parish levies, in the same manner as county,

CHAP. XIV.

[Chan. Rev. p. 83.] *An Act to amend an act intituled An Act for the better regulating and collecting certain officers fees, and other purposes.*

Preamble.

I. WHEREAS the act of assembly intituled "An act to open the courts of justice, and to revive and amend an act intituled An act for the better regulating and collecting certain officers fees, and other purposes therein mentioned," will, so far as the same relates to reviving and amending the said act, shortly expire, and it is necessary the same should be farther continued and amended:

Fee bill act revived.

II. *Be it therefore enacted, That the act intituled "An act for the better regulating and collecting certain officers fees, and other purposes therein mentioned" (except the fifteenth section thereof) shall continue and be in force, from and after the end of this present session of assembly, for one year, and from thence to the end of the next session of assembly.*

Tobacco fees, at what rates dischargeable in money & when and how to be accounted for.

III. *Provided always, and it is farther enacted, That it shall be lawful for any person or persons chargeable with any of the tobacco fees mentioned in the said act, to pay the same in money at the rate of thirty three shillings and four pence per hundred of gross tobacco, for services to be performed after the passing of this act; and the clerks of the respective county courts, of the Hustings court in the city of Williamsburg, and of the general court, shall annually on or before the first day of March, deliver or cause to be delivered to the sheriff of every county in this commonwealth respectively, and to the serjeant of the said city, their accounts of fees due from any person or persons residing therein, which shall be signed by the said clerks respectively; and the said sheriff and serjeant is hereby empowered and required to receive, levy, and account for the same accordingly, on or before the first day of August, pursuant to the directions of the before recited act.*

Allowances to sheriffs, jurors, and witnesses, in criminal cases, how paid in money.

IV. *And be it farther enacted, That the allowances to sheriffs, jurors, and witnesses, attending the trials of criminals, shall be settled and paid in money at the rate of forty one shillings and eight pence by the hundred.*

V. And whereas the lawyers fees allowed to be taxed in the bill of costs by an act intituled "An act for allowing the full fees to which the lawyers practising in the several courts of this commonwealth" are entitled in particular cases therein mentioned, to be taxed on recovery in the bills of costs, are found insufficient, and it is unreasonable that the party who prevails and recovers in any such action or suit should be subject to the payment of a greater fee to his lawyer than he can recover from the adverse party, *Be it therefore enacted by the General Assembly,* That from and after the passing of this act, the clerk of the high court in chancery shall, and he is hereby required to tax in the bill of costs on all decrees obtained in the said court a fee of ten pounds, and the clerk of the general court shall, and he is hereby required to tax in the bill of costs on all judgments obtained in the said court in any real, mixed, or personal action, where the title or bounds of land shall or may come in question, a fee of ten pounds, and the clerk of the said general court shall, and he is hereby required to tax in the bill of costs on all judgments obtained in the said court in any personal action (except as before excepted) or on any petition for lapsed land, a fee of five pounds, where the party obtaining such decree or judgment employed a lawyer, except against executors or administrators, or where the plaintiff may not recover more costs than damages; and the clerks of the respective county courts, or other inferior courts of this commonwealth, shall, and they are hereby required to tax in the bill of costs in all decrees, and every judgment obtained on real or mixed actions, where the title or bounds of land shall and may come in question, either where the plaintiff may recover or be nonsuited, or where his suit shall be dismissed, four pounds; and in all other actions, except by petitions, forty shillings for an attorney's fee, if the party employed one, except against executors or administrators, or where the plaintiff may not recover more costs than damages; and in all suits by petition the clerk of the said county court, or other inferior courts, shall tax in the bill of costs the sum of fifteen shillings as an attorney's fee, against the party who shall be cast, where an attorney shall be employed, except against executors or administrators.

What lawyer's fees shall be taxed in bills of costs.

VI. *And be it further enacted,* That so much of the said recited acts as is contrary to any thing contained

within the purview of this act, shall be, and the same is hereby repealed.

CHAP. XV.

An act to empower the Governour and Council to lay an Embargo for a limited time.

Preamble. WHEREAS divers persons for their own private lucre, transport out of this state into parts beyond the seas, wheat, Indian corn, and other provisions, when the same may be greatly wanted for the relief of the inhabitants of this state and support of our army and navy and those of our allies.

Governor, &c by proclamation may lay an embargo, on exportation of provisions And whereas no person or persons hath or have been hitherto invested by the legislature of this commonwealth, by whom alone it can be done, with power to lay an embargo on provisions, except wheat, Indian corn, and other grain, when necessary and expedient for the good of the same, *Be it therefore enacted by the General Assembly,* That it shall and may be lawful for the governour, with the advice of the council of state, from time to time to issue his proclamation, thereby prohibiting the exportation of beef, pork, bacon, wheat, Indian corn, pease, or other grain or flour, and meal made of the same, any or either of them, or any other provisions, for and during such time as he, with the advice aforesaid, shall judge most fit and necessary; so as such prohibition shall not extend to any vessel laden or to be laden by proper officers with all or any of the enumerated provisions for the use of the armies or navies of the United States or their allies.

Proviso.

Vessels laden, in breach of embargo, forfeited, with their cargoes. *And be it farther enacted,* That all beef, pork, bacon, wheat, Indian corn, pease, or other grain, and all flour and meal, or other provisions, which at any time during the continuance of such embargo shall be laden or put on board any vessel for exportation, except as before excepted, shall, together with the vessel, tackle, furniture, and cargo, be forfeited, and may be seized by any magistrate, naval officer, officer commanding a fort,

or officer commanding any armed vessel in the service of this state, who are hereby empowered and required at any time during the continuance of the said embargo, to search any vessel on which it shall be suspected any prohibited articles are laden for exportation; one half of which forfeiture shall be to the use of the commonwealth, and the other to any of the persons above-mentioned who shall seize, or any other person who shall inform and prosecute for the same; and the forfeitures shall and may be recovered by bill in the court of admiralty.

May be searched & seized by armed vessels.

Penalties, how appropriated.

And be it farther enacted, That none of the prohibited articles, or other provisions, during the continuance of such prohibition, shall be transported or exported out of this state by land or in boats or vessels over any of the rivers in this state, except such as shall be transported for the use of the armies or navies of the United States or their allies, under penalty of the forfeiture of the carriage and team or boats or vessels employed in such transportation, together with the prohibited articles contained therein, unless the person or persons transporting or exporting the same produce a certificate from the commissary or quartermaster general of this district, or his or their agent or agents, that such prohibited articles are ordered on by them for the service of the navies or armies of the United States or their allies; and the same may be seized by warrant of any justice of the peace upon information to him made; the forfeitures to be appropriated as aforesaid, and recovered in any court of record within this commonwealth, by bill, plaint, or information.

No prohibited articles or provisions to be transported, out of the state, by land.

How they may be seized and forfeited.

And be it farther enacted, That during the continuance of such embargo every master of any ship or vessel shall, before he be allowed to clear out the same, enter into bond with one or more sufficient security or securities in the penalty of five thousand pounds, payable to the governour for the time being for the use of the commonwealth, with condition that he will not carry out or cause to be carried out in his said ship or vessel any of the articles prohibited by the embargo, which said bond the naval officer of the district is hereby required and empowered to take; and also every master of any such ship or vessel shall, with the two persons next in command in the said ship or vessel, take the following oath (or, being a Quaker or Menonist, solemn affirmation) viz. "I A. B. do solemnly swear, or affirm,

Bond and oath, not to sail in contempt of embargo.

that there are not on board my ship or vessel any of the following articles, to wit, beef, pork, bacon, wheat, Indian corn, pease, or other grain, or flour or meal made of the same, any or either of them, or any other provisions prohibited to be exported, except such only as are necessary for the victualling such ship or vessel for her voyage. So help me God." Which oath the naval officer for the district where the said ship or vessel is laden, shall be, and he is hereby required and empowered to administer.

Proviso.

Provided always, That nothing herein contained shall be construed to restrain the taking on board any ship or vessel any of the above enumerated articles, or other provisions that may be necessary for the victualling such ship or vessel for her voyage.

Further proviso.

Provided also, That none of the articles prohibited, laden on board any ship or vessel for exportation, before notice of such embargo, shall be liable to seizure or forfeiture, if the owner or owners shall, in convenient time after proclamation of such embargo issued, reland or cause the same to be relanded and disposed of in this state.

Executive may permit provisions to be exported to inhabitants of U. States, in real distress.

Provided nevertheless, That where the inhabitants of any of the United States shall be in real distress for want of provisions, upon application of the executive power of such state to the executive power of this, it shall be lawful for the governour, with the advice of the council, to suffer provisions to be exported to such state; the naval officer taking bond with sufficient security in at least double the value of the cargo to be exported, and exacting an oath from the exporter for the faithful exportation thereof.

This act shall be in force from and after the passing thereof, unto the end of the next session of assembly, and no longer. And all other acts so far as they relate to any matter or thing herein contained, or within the purview of this act, are hereby repealed.

CHAP. XVI.

An Act to supply the inhabitants of this Commonwealth with Salt upon reasonable terms.

WHEREAS divers ill disposed persons have possessed themselves of large quantities of salt, which they have not only refused to sell at any reasonable price, but to enhance the value of their own salt, and to prevent their fellow citizens from being supplied with that necessary article of life, unless they will submit to their exorbitant demands, have purchased up large quantities from the several retailers in this state, by voluntarily offering larger prices in the wholesale way than those retailers were actually selling the same for by the single bushel, which iniquitous practice calls loudly for redress: Preamble.

Be it therefore enacted by the General Assembly, That it shall and may be lawful for the governour, with the advice of the council, and he is hereby authorised and required to lay an immediate embargo upon all salt now within this commonwealth for the space of four months; and that the holders of such salt may be deterred from attempting to export it contrary to the intent of this act, *Be it enacted, That* every vessel or carriage in which such salt shall be attempted to be exported, be, together with their lading, forfeited, one half to the informer, the other to the use of the commonwealth, to be recovered by bill or information in any court of record. Embargo laid on salt.

And that all persons who have purchased up large quantities of salt, with an intention of keeping up that commodity, may be disappointed in their wicked designs, to distress and ruin their fellow citizens, *Be it farther enacted, That* whenever any person shall be suspected of having engrossed a larger quantity of salt than is necessary for his own use, and shall refuse to sell the same at a moderate price, it shall be lawful for any justice of the peace of this commonwealth, and he is hereby required, upon the application of any freeholder within the same, to grant his warrant directed to three freeholders within his county, who being first sworn to How salt engrossed may be seized & disposed of.

act impartially, shall have liberty, accompanied with the sheriff, deputy sheriff, or constable, to break open in the day time, and search for, seize, appraise, and value all the salt found in the possession of any engrosser, over and above what is necessary for his own use, so that they shall not appraise the salt so seized at a higher price than that which salt was actually retailed at by the single bushel at the time the engrosser purchased the same; and the said freeholders shall return a certificate of their valuation, together with the number of bushels seized, to the governour and council, who are hereby authorised and required to appoint one or more commissioners in each county, city, and corporation, in this commonwealth, who having first given bond and security in the sum of five thousand pounds faithfully to discharge his duty, shall take charge of, and store all the salt so seized in his district, and deliver the same out to the order of the court of each county, city, and corporation, in this commonwealth, in such proportions as the governour, with the advice of the council, shall allot and direct; provided that the valuation money, together with the sum of one shilling and seven pence per bushel, and the charge of storage, shall be paid him at the time of delivering such salt; out of which price the said commissioner or commissioners shall retain in his own hands the necessary expense of storage, and one shilling per bushel for his trouble, and six pence per bushel to be paid by him to the freeholders who made the seizure, also one penny per bushel to the sheriff or officer who attended for their trouble, and shall pay the residue to the proprietor of the salt; and on failing to do the same in two months shall forfeit and pay the sum of one shilling per bushel, over and above what shall be due from him on account of the salt so delivered out, which money so due from him, together with the forfeiture last mentioned, shall be recovered by the proprietor on motion in any court of record within this commonwealth, provided the said commissioner or commissioners shall have ten days previous notice thereof.

PROVISO.

Provided nevertheless, That nothing herein contained shall be construed to empower the governour to lay an embargo on any salt hereafter to be imported, or to subject such salt to any seizure; and wherever any question shall arise whether the salt seized was really imported

after the commencement of this act, the *onus probandi* shall lie on the proprietor.

Provided, That nothing herein contained shall be construed to extend to any person who has really purchased or laid up salt for the use of his family, not exceeding what shall be thought by the said freeholders sufficient to serve the said persons family and stock for one year. Further proviso.

And be it farther enacted, That if any justice of the peace shall, upon application made to him by any freeholder, refuse or neglect to issue a warrant, as is herein before directed, for the space of four hours, he shall forfeit and pay the sum of five hundred pounds; and if any freeholder to whom such warrant shall be directed shall fail to execute the same, he shall forfeit and pay the sum of two hundred pounds. And all other penalties and forfeitures hereby inflicted shall be recovered in any court of record in this commonwealth, by action of debt, bill, plaint, or information; one half thereof to the informer who shall sue for the same, the other half to the use of the commonwealth. Penalties for refusing to execute this act.

And if any person or persons shall be sued for any thing by him or them done in execution of this act, it shall be lawful for him to give this act in evidence upon the general issue, and if a verdict be found for the defendant or defendants, he or they shall recover treble costs. Indemnification.

And whereas other persons who may wish to evade this, may, under the pretence of carrying the salt to the Eastern Shore, proceed with it to some other place, *Be it enacted*, That the same restrictions and prohibitions shall take place with respect to that part of the country as are directed with regard to the other states, it appearing that the inhabitants of the Eastern Shore have made salt sufficient for their own use. Provision of this act extended to exportation of Salt to Eastern Shore.

And be it farther enacted, That this act shall commence and be in force from and after the sixteenth day of November in the present year.

CHAP. XVII.

[Chan. Rev.
pa. 84.]

*An act for establishing a board of
Auditors for publick accounts.*

Auditors,
how appointed,
qualified
and removable.

I. *BE it enacted by the General Assembly, That* there shall be a standing board of auditors for publick accounts, to consist of three persons, to be chosen from time to time as vacancies shall happen, by joint ballot of both houses of assembly, and to continue in office until removed by the joint vote of both the said houses; and where any person so appointed shall refuse to act, resign, or die, during the recess of assembly, it shall be lawful for the governour, with the advice of the council of state, to appoint some other fit and able person to act in his stead until the next meeting of the general assembly. The auditors so appointed shall not be capable of acting until they shall have taken the oath of fidelity to the commonwealth, and also an oath impartially and honestly to execute the duties of their office; which oaths during the sessions of the high court of chancery shall be taken before the said court, and during their vacation shall be taken before some judge thereof, and by him shall be certified to his next succeeding court and entered of record; any two of the said auditors so qualified shall have power to proceed to business. The auditors now in office by virtue of former appointments shall continue to act and be considered to all future intents and purposes as if they had been appointed by virtue of this act.

Their power,
duty, and
subjects of
examination.

II. The said board of auditors are authorised and required to state and keep an exact account of all articles of debit or credit hereafter to arise between this commonwealth and the United States of America, or any of them, or any other state; to raise and keep accounts with all officers of civil government who are entitled to receive from the publick treasury salaries or wages fixed by law; to inquire into all legal expenditures for the army, navy, or militia, of this commonwealth (including in respect to the last those expenditures which ought to be paid by the United States, to adjust which no immediate provision shall have been made by congress) and on requisition from the governour and council to give their warrant to the treasurer

for the allowance of monies for such purposes, debiting therewith the person to whom it is confided, and calling him in due time to render account of the application thereof; to examine all demands for the hire of horses, waggons, or other things employed or impressed by authority of law for the publick service, or for the worth thereof, or injury done thereto, where the thing impressed has been consumed, lost, destroyed, or damaged, in such service; to make just allowances to expresses employed by the governour and council, the navy board, or our delegates in congress, or sent on the publick service to the governour and council, or to any Indian nation, the governour and council certifying there was good reason for sending such express, or to scouts and look-outs, or any others doing services to the publick for which they are entitled in law to receive payment, and no person particularly authorised to ascertain the *quantum* of such payment; to allow annual pensions to officers and soldiers of the army or navy raised by any act of general assembly, and disabled in the service, and to the widows of those slain or dying therein, as also sums in gross for their immediate relief, proportioning the same with impartiality and discretion to the nature of every case, such sums in gross, however, to be given but once to any one person, and not to exceed one year's pay, and such annual pension not to exceed full pay; to enter in account all draughts on the treasurer for money by the governour and council, or by the navy board, for the publick service, to certify such entry to the treasurer for payment, and to audit in due time the expenditure thereof; to give warrants on the treasurer for the payment or advance of wages to our delegates in congress, debiting each delegate respectively with the warrant given in his name, and requiring account thereof to be rendered within three months after the expiration of his appointment; to audit all accounts for wages due to the members of the general assembly for service therein or for their travelling allowances, such attendance and allowances being previously entered with the clerk of the house of which such member is, in separate books to be kept for that purpose, and to lie during session on the table of the house, and being certified by the said clerk to be so entered; and to audit accounts for salaries or wages to the officers and attendants of the two houses; to settle the expenses of sending for the mem-

Expences of members of either house by special messengers; of providing General Assembly, & Superior Courts, allowed. robes for the speakers and clerks of both houses, maces, lights, fuel, blank books, parchment, paper, and other articles necessary for the use of either house, or of the governour and council, or navy board, or the superiour courts of justice while on duty in the capitol; to audit all accounts for building or repairing houses or other articles of publick property, such buildings or repairs being authorised by act of assembly, or the previous vote of the two houses of assembly; to examine all claims for the support of prisoners where the publick is chargeable with such support, or for the removal of any such to the prison of the general court, or for the guard of criminals, or for jurors or witnesses attending their trials, or witnesses for the commonwealth attending a court of justice, or judicial officer in any other case, or for slaves executed by judgment of common law for any crime, or legally put to death under process of outlawry; to examine all claims, petitions, and applications, for money, which at the end of this present session of assembly shall be depending and undetermined before the assembly, and which are of a like nature with any of those submitted by this act to the examination of the said auditors; to call for annually and to examine the accounts of expenditures for the publick trade, the publick hospital, and for all works undertaken and carried on at the publick expense by authority from the legislature, and to enter the same in separate accounts; to inquire into all demands for bounties or premiums payable by law out of the publick treasury for the encouragement of particular manufactures, of bringing to justice publick offenders, of destroying noxious animals, or of any other matter; to examine and enter in account all other demands for money on the treasurer made under authority of any law heretofore passed, or hereafter to be passed; to settle the accounts of all publick debtors, and of all collectors of any revenue, or tax, levied by act of general assembly, and payable to the treasurer, or of any monies due to the publick, to call upon such debtors or collectors to render account at proper times, and on their failure so to do to instruct the attorney general to institute proceedings at law for compelling them to justice, and though it should appear on trial that the defendant oweth no balance to the publick, yet his having failed to render account to the auditors, and to take

from them his *quietus*, shall subject him to the payment of all costs incurred by such proceedings, as well to himself as to the commonwealth; to require information on oath from any person, party or privy, of matters relative to any account under their examination and material for their information, to administer such oath where the party is attending, and, where absent, to take out a commission from the high court of chancery. directed to any justice of the peace to take his examination on interrogatories to be stated by them; whereon any such settlement a balance shall appear due to the publick to certify the same under their own hands to the treasurer, and hold the party charged therewith till he shall produce to them the treasurer's receipt for the same, on which they shall give him a *quietus*, debit the treasurer therewith, and certify such debits to the next committee of assembly appointed to settle the treasurer's accounts, and where such balance is due from the publick to certify it in like manner to the treasurer, and debit the party with such certificate; to enter in proper accounts all loan office certificates hereafter to be given, and endorse on such certificates that they are entered in the said auditors office, without which endorsement no such certificate shall be valid; to require counsel of the attorney general on all doubts in matters of law relative to the duties of their office; to state and keep all the accounts coming under their examination specially against each person, so as to shew amount of all warrants and certificates given on the treasurer, for what service or article of publick expense they were given, or where they have been for money advanced, to whom it was advanced, and for what purpose, and to preserve the vouchers in due order; and also to raise general accounts shewing the amount of the expenditures for the army, the navy, the militia, the publick trade, the publick works, and manufactories of every kind, of pensions, claims, and all other expenses of government, each stated in a collective view under its separate and proper head, and to lay before the assembly annually the said general accounts, together with an account of all balances due to and from the publick as nearly as they shall be able.

III. *And it is further enacted*, That it shall not be lawful for the treasurer to pay or receive any money on account of the publick but on warrant or certificate from the board of auditors, unless in cases where any future

No money
to be re-
ceived and
paid at trea-
sury but by
their war-
rant.

act of assembly shall in express words, and not by inference or implication only, declare that in that particular case it is to be understood as the intention that the claim specified by such act shall not be audited in the regular course, save only that the salaries of the

Except by express act of assembly.

And except their own accounts.

Clerks, to auditors.

said auditors, together with the accounts for the expenses of their office for fuel, blank books, paper, presses for the preservation of their books and papers, and other implements necessary for the use of their office, shall be examined and certified for payment to the treasurer by the governour and council.

IV. The said auditors shall be allowed a clerk of accounts, and an assistant clerk, to be appointed by themselves from time to time at their will, who, before entering on the exercise of their offices shall take the like oath, and in like manner as is before directed for the said auditors to take, and shall receive annual salaries, to wit, the said clerk of accounts four hundred pounds, and the said assistant clerk two hundred and fifty pounds by the year.

Appeal from their decisions.

V. Where the auditors acting according to their discretion and judgment shall disallow or abate any article of demand against the commonwealth, and any person shall think himself aggrieved thereby, he shall be at liberty to petition the high court of chancery or the general court, according to the nature of his case, for redress, and such court shall proceed to do right thereon; and a like petition shall be allowed in all other cases to any other person who is entitled to demand against the commonwealth any right in law or equity.

Repeal of a former act.

VI. The act of general assembly passed in the year one thousand seven hundred and seventy six, and intituled "An act to establish auditors of publick accountts," is hereby repealed.

CHAP. XVIII.

An act for more effectually guarding against counterfeiting of the bills of credit, treasury notes, and loan office certificates.

WHEREAS many persons who have counterfeited the paper currency do frequently escape the punishment due to their crimes, and this alarming evil daily increases and is become so enormous that the most fatal consequences are justly to be apprehended. Preamble

And whereas criminal and dangerous combinations have been formed in some parts of the country, whereby the offenders may be rescued from the hands of justice if committed to the jail of the county where they reside; and whereas the unalienable privilege of trial by a jury of the vicinage, has, from the manner of summoning such juries, been abused, to the end therefore that an effectual remedy may be applied to these evils, Further pre-
amble.

Be it enacted by the General Assembly, That any person who hath forged, or counterfeited, altered, or erased, or shall forge, or counterfeit, alter, or erase, any bill or bills of credit, treasury notes, or loan office certificates of the United States, or any of them, and hath passed or tendered, or shall pass or tender such counterfeits in payment, or otherwise, knowing them to be so counterfeited, altered, or erased, or shall have in his custody or possession the presses, stamps, plates, or other instruments or materials necessary to be used in the fabrication of forged bills of credit, treasury notes, or loan office certificates, or having in his or her possession or custody such forged bills, notes, or certificates, with or without signatures, or having in his or her possession or custody such as were genuine bills of credit, treasury notes, or loan office certificates, but have been erased or altered, and wilfully concealing such presses, stamps, plates, instruments, or materials, signed or unsigned, altered, or erased bills, notes, or certificates, or shall be otherwise aiding, abetting, or assisting in such forging or counterfeiting, altering, or erasing, passing, or tendering, shall be deemed guilty of felony without benefit of clergy, and shall suffer death. To forge,
counterfeit,
alter, or e-
rase paper
money, or
bills of cre-
dit, treasury
notes, or
loan office
certificates,
or to pass
such know-
ingly; or to
have in pos-
session
plates, pres-
ses, &c. for
making them
death with-
out clergy.

Offenders, if
danger of
rescue, how
apprehend-
ed, and con-
veyed to
jail of any
county, or to
public jail.

How to be
tried.

And be it further enacted, That where any justice of the peace shall receive information upon oath charging any person or persons with any of the said crimes, and he shall have reason to believe that such person or persons (if he, she, or they, have his, her, or their examination in the court of the county where such offence was committed) would be rescued out of the jail of the said county, the said justice shall, with despatch and secrecy certify to the governour the truth of the case, or where the governour shall receive any information upon oath of any such offender or offenders, in either case it shall and may be lawful for the governour, with the advice of the council, to order out a body of armed horsemen, or to use such other means as may be judged best, to seize upon any such criminal or criminals, and to convey him, her, or them to the jail of any county in the commonwealth or to the publick jail, as he shall, with the advice aforesaid, think proper to direct in order to the examination of such offender; and the governour by his warrant shall order the sheriff of the county where such offender shall be committed, to summon the justices of the peace of the said county to meet at the courthouse thereof within twenty days after such commitment at farthest, who shall proceed to the examination of such prisoner or prisoners in the same manner as if the offence had been committed within the jurisdiction of such court. And where the offender shall be examined by the court of the county where the offence was committed, and shall by them be remanded for farther trial, the high sheriff of the county, or, in case of his being sick or absent from the county, the coroner shall in person before the rising of the court deliver in to them a list of thirty six respectable freeholders who are unconnected with the prisoner, from which list the court and the prisoner shall alternately strike out a name until it shall be reduced to twelve; and if the prisoner shall refuse to strike out as is here directed, the court shall strike twenty four from the list. And the clerk of the said county shall issue a writ of *venire facias* to the sheriff directing him to summon the twelve men so remaining on the list to appear at the place where the general court shall sit on the day to which criminal process for the ensuing session of the general court is returnable, under the penalty of one hundred pounds each, to be levied at the discretion of the said court. And where the offender shall be ex-

amined in any other county, and ordered for farther trial, the clerk of the court shall, under the penalty of one hundred pounds, within twenty days after such examination give notice thereof to the sheriff, or, in case of his being sick or absent from the county, to the coroner of the county where the criminal was apprehended, who shall within ten days at farthest summon the justices of the said county to meet at the courthouse, when the high sheriff shall deliver in a list as above directed, and any friend to the prisoner may strike off from the list twelve names; and if no person will on behalf of the prisoner strike off from the list then the court shall strike out twenty four, and a *venire facias* shall issue to summon the remaining twelve, who shall be obliged to appear at the day of trial under the penalty above specified.

And whereas the offering rewards adequate to the risk that may attend the taking up any such person or persons charged as aforesaid, who may have escaped from justice, or who when charged and before examination have fled from their trial, may be a means of bringing such offenders to justice, *Be it enacted*, That the governour may, and he is hereby required by and with the advice of the council, to offer any sum or sums of money as a reward for apprehending and taking up any such person or persons as may be thought proper; for which said sums the governour by his warrant may draw on the treasurer of this commonwealth, who is hereby authorised and directed to pay the same out of any publick monies in his hand.

Rewards for apprehending counterfeiters.

And whereas many persons travel through this state under pretence of purchasing slaves and other commodities, and carry with them large sums of money, with design of throwing the same into circulation, *Be it enacted*, That when any justice of the peace shall have cause to suspect that any person has in his possession such counterfeit or forged money, it shall and may be lawful to and for the said justice, and he is hereby required to issue his warrant for apprehending and searching every such suspected person; and upon search being made if he shall be found to have wilfully concealed any counterfeit or forged bills of credit he shall be committed, and the same proceedings shall be had against him as is by this act directed to be had against any offenders described therein, but if no discovery can be made he shall be discharged and be at liberty

Duty of justice to cause persons, suspected of having counterfeit money, to be apprehended.

to proceed on his journey; and if any such justice shall be sued for any thing done in consequence of this act, he may plead the general issue, and give this act in evidence.

Treasurer constituted judge of counterfeit bills, and authorised to deface counterfeit bills offered in payment.

And whereas it is absolutely necessary that some speedy and effectual method be taken to prevent the farther circulation of counterfeit money, *Be it enacted*, That the treasurer of this commonwealth for the time being, (having first taken an oath before some justice of the peace to do impartial justice therein according to the best of his judgment, and obtained certificate thereof) be, and he is hereby constituted and appointed the judge of all such counterfeit paper money as shall be tendered or offered in payment at the publick treasury; and he is hereby empowered and directed to deface each and every paper money bill so tendered or offered in payment which in his judgment shall have been counterfeited, erased, or altered, by writing the word "counterfeit" in large letters in the face thereof, where the owner or tenderer of the same shall not object to it; and in case of such objection he shall call to his assistance two of the auditors of the publick accounts, who having first taken the like oath, shall together with the treasurer determine by a majority of voices whether any such suspected bill hath been counterfeited, erased, or altered, or be genuine, according to which determination such bill shall or shall not be defaced as aforesaid.

County courts to appoint judges of counterfeit bills, who are also authorised to deface counterfeit bills.

And be it farther enacted, That the justices of every county of this commonwealth shall, at the first court to be held for their respective counties after the passing of this act, or so soon thereafter as it can conveniently be done, appoint two or more persons, not exceeding five, residing in the most convenient parts of the county, as examiners, who having taken the oath herein before prescribed, as well as the oath of fidelity to the commonwealth, and procured from the treasury, or otherwise, the best checks and marks of distinction in their power to obtain, are hereby constituted and declared judges within their respective counties of all such counterfeited paper money bills as shall be brought before them, or either of them; and they are hereby respectively required and directed to deface every bill so brought before them, or either of them, which shall in the judgment of the examiner or examiners before whom it shall be brought have been counterfeited, erased, or

altered, by writing the word "forged" in large letters upon the face of such bill; and where the owner of the same shall think himself aggrieved by such defacing he may transmit or produce the same to the treasurer for his opinion, who together with two of the auditors shall judge thereof and determine thereon in the same manner as is directed for such bills tendered in payment at the treasury, and if it shall appear to the treasurer and auditors that such bill hath been counterfeited, erased, or altered, the treasurer shall write thereon the word "counterfeit" as before directed; but if they shall determine that the same is genuine, and not counterfeit, it shall and may be lawful for the said treasurer, and he is hereby required to receive the same into the treasury, and pay to the owner thereof other money equal in value to the said bill.

And if any person tendering any bill or bills in payment which shall be objected to as counterfeit, erased, or altered, shall refuse at the request of the person to whom it shall be tendered to submit the same to the judgment and determination of such examiners, or any one or more of them, or when before such examiners or examiner shall refuse to produce such bill or bills, every person so refusing shall forfeit and pay treble the value of the same, to be recovered before any justice of the county where the refusal shall be so made if the penalty shall not exceed five pounds, and in any court of record in this commonwealth where it exceeds that sum, by bill, plaint, or information; one half to the use of the person who shall sue for the same, and the other half to the use of the parish where the offence shall be committed.

Penalty for refusing to submit bills to examination of judges.

All and every other law or laws within the purview of this act shall be, and they are hereby repealed.

This act shall continue and be in force for one year, and from thence to the end of the next session of assembly, and no longer.

CHAP. XIX.

[Chan. Rev. p. 86.] *An act for establishing several new ferries, and other purposes.*

New ferries established.

Rates.

I. WHEREAS it is represented to this present general assembly, that publick ferries at the places hereafter mentioned will be of great advantage to travellers and others, *Be it therefore enacted by the General Assembly,* That publick ferries be constantly kept at the following places, and the rates for passing the same shall be as follows, that is to say: From the land of Abraham Shepherd, in the county of Berkeley, over Potowmack river, to the land of Thomas Swearingen in the state of Maryland, the price for a man six pence, and the price for a horse the same; from the land of James Devore, in the county of Yohogania, over Monongalia river, to the land of Joseph Parkerson, the price for a man six pence, and for a horse the same; and for the transportation of wheel carriages, tobacco, cattle, and other beasts, at any of the ferries aforesaid, the ferry-keepers may demand and take the following rates, that is to say: For every coach, chariot, or waggon, and the driver thereof, the same as for six horses, for every cart, or four wheeled chaise or chair, the same as for two horses, for every hogshead of tobacco as for one horse, for every head of neat cattle as for one horse, for every sheep, goat, or lamb, one fifth part of the ferriage of one horse, and for every hog one fourth part of the ferriage of one horse, according to the prices herein before settled at such ferries respectively. And if any of the said ferry-keepers shall presume to demand or receive from any person whatsoever any greater rates than is hereby allowed, he, she, or they, for such offence, shall forfeit and pay to the party grieved the ferriage demanded or received, and ten shillings, to be recovered with costs before any justice of the peace where the offence shall be committed.

County courts authorised to fix the rates, at ferries, annually.

II. And whereas the rates for passing the several publick ferries, as by law established, are found insufficient to enable the ferry-keepers to provide proper boats and hands for the immediate passage of publick expresses and others, *Be it therefore enacted by the General Assembly,* That the court of every county wherein any

ferries have been either established by law or appointed by the court, shall, and they are hereby directed and empowered, at their respective courts to be held in the month of March annually, or at their next succeeding court, to set and fix the rates for passing such ferries, and moreover to order and direct what boat or boats, and the number of hands, which shall be kept at each ferry. And the keeper thereof shall within one month after the rates shall be fixed as aforesaid, give bond with one security in the court of the county in such penalty as the court shall direct, with condition that he will duly keep such ferry, or cause the same to be kept, and will give immediate passage to all publick messengers and expresses when required. Every ferry-keeper neglecting or refusing to give such bond, or to cause the same to be given in his behalf, shall forfeit and pay ten pounds for every months refusal or neglect, to the use of the commonwealth, recoverable with costs by action of debt or information in any court of record.

III. *And be it farther enacted,* That so much of an act intituled "An act for the settlement and regulation of ferries, and for despatch of publick expresses," and all and every other act or acts as come within the meaning of this act, shall be, and the same are hereby repealed.



CHAP. XX.

An act to amend an act intituled An act for raising a supply of money for publick exigencies.

WHEREAS the taxes collected by virtue of the act intituled "An act for raising a supply of money for publick exigencies," are not sufficient to answer the purposes of the said act, and whereas great inequality and injustice have arisen from the various opinions of assessors in the same county in the valuation of taxable property:

Additional
taxes, and
subjects of
taxation.

For remedy whereof, *Be it enacted by the General Assembly*, That in aid of the taxes imposed by the above recited act an additional rate or tax of twenty shillings for every hundred pounds value shall be paid for all manors, messuages, lands, and tenements, slaves, mulatto servants to thirty one years of age, horses, mules, and plate, on the first day of August one thousand seven hundred and seventy nine, and the like additional tax or rate shall be paid on the said first day of August, in each of the five next succeeding years, by the owner or proprietor of such estates respectively; that a rate or tax of thirty shillings, including the former tax upon money, for every hundred pounds, shall be paid for all money exceeding five pounds which shall be in the possession of one person on the first day of May in each of the five next succeeding years; that an additional rate or tax of four shillings for every pound of the amount of all annuities, including the quitrents payable to the proprietor of the Northern Neck, except those in lieu of dower, and such as have been or shall be settled by the general congress, or the assembly or convention of this commonwealth, as a provision for wounded soldiers or their families, be paid by the annuitant respectively on the said first day of August in each of the said six years; that an additional tax or duty of twenty shillings per wheel upon all riding carriages, one shilling per head on all neat cattle, and ten shillings per poll upon all tithables above the age of twenty one years (except soldiers, sailors, parish poor, and such as receive an annual allowance in consideration of wounds or injuries received in the publick service) except also slaves, and mulatto servants to thirty one years of age, who, being property, are rated *ad valorem* as aforesaid, shall be paid by the owner or person enlisting such carriages and tithables respectively, on the said first day of August in each of the said six years; that an additional tax of six pounds for every ordinary license shall be paid down to the clerk of the county or corporation court at the time of granting such license, from the time of passing this act until the first day of December one thousand seven hundred and eighty four; that an additional tax or rate of twenty shillings for every hundred pounds of the neat income of all offices of profit be paid on the said first day of August one thousand seven hundred and seventy nine, and each of the five next succeeding years; that

an additional tax or duty of one shilling per gallon be paid for all spirituous liquors hereafter to be distilled in this commonwealth, to be paid by the distiller, or distilled in any other of the United American States, and imported into this, by land or water, at any time before the said first of December one thousand seven hundred and eighty four, to be paid by the importer; and that every person who hath not taken the oath or affirmation of allegiance to this state, required to be taken by an act intituled "An act to oblige the free male inhabitants of this state above a certain age to give assurance of allegiance to the same, and for other purposes," and shall not take the same before the first day of May next, and who shall fail to produce to the assessors in his hundred a certificate of his having taken such oath or affirmation, shall pay treble the several rates and taxes imposed by this and the above recited act, for such property and tithables hereby subject to taxation as he shall be owner of, or shall be in his family; which several rates and taxes hereby imposed shall be assessed, collected, accounted for, and applied in the same manner as the rates and taxes imposed by the aforesaid recited act is directed.

And for forming some rule for the direction of the commissioners and assessors, *It is farther enacted*, That the several commissioners in each county shall, before the day to be appointed for the assessors to enter on their office, call together, at some convenient place within their respective counties, the several assessors of the same, who shall consult together and form some general mode which they shall pursue in rating the several articles of taxation.

Commissioners & assessors to meet and confer together, & adopt some general mode of valuation.

Provided always, That there shall not be more than sixteen assessors appointed in any one county.

Number of assessors limited.

And whereas, by the restraint of the number of assessors in this act, their business may be greatly increased, and the provision made by the before recited act for their trouble be inadequate to their services, *Be it enacted*, That it may and shall be lawful for the commissioners in each county to settle what satisfaction shall be made to each assessor for his extraordinary trouble, so as such allowance shall not be more than five pounds above what is allowed by the said recited act.

Commissioners to fix compensation for extraordinary trouble of assessors.

And be it farther enacted, That where a recovery shall be had against any sheriff or collector for failure

Damages against sheriffs for failing to pay.

in the payment of the monies arising from the rates or taxes imposed by this or the above recited act, he shall be accountable in damages at the rate of twenty per centum per annum for all monies which he shall so fail to pay.

Treasurer authorised to pay this state's quota to congress when demanded.

And whereas by the above recited act the treasurer is restrained from paying the quota of this commonwealth required by the general congress till the accounts of this state against the United States are settled, which may be attended with bad consequences, *Be it enacted*, That the said treasurer is hereby empowered and required to pay the said full quota when it shall be demanded, any thing in the said act to the contrary notwithstanding.

Bonds to be given by sheriffs.

And be it farther enacted, That the court of each county shall, at their court to be held in the month of April or May one thousand seven hundred and seventy nine, and each of the five following years, take bond with sufficient security of the sheriff or collector, in a penalty equal at the least to what may be the whole amount of the taxes imposed by this and the above recited act, in the judgment of the court of the county, using the best means in their power to inform themselves of such amount.

Members of assembly accepting office of commissioner or assessor, vacate their seats.

And be it farther enacted, That no person hereafter elected or appointed a commissioner or assessor, being a member of either house of assembly, shall be subject to the penalty imposed on those who refuse to act; but the acceptance of the office of a commissioner or assessor shall vacate the seat of any person so accepting in either house of assembly.

How books of commissioners and assessors to be made out.

And whereas by the said act, intituled "An act for raising a supply of money for publick exigencies," it was enacted, that the commissioners for the several counties, after examining, adjusting, and certifying the accounts of the collection with their respective sheriffs, and making the proper deductions for allowances to themselves, the clerks, and the assessors, should enter the same in their book, and transmit to the treasurer a copy of such entry, and it may be necessary, for the future information of the general assembly, that the said entries, and copies thereof transmitted, be made in a more special and distinct form, that so the amount of the assessment on the several species of taxable property may be separately and distinctly known, and also the amount of the additional taxes paid by nonjurors,

Be it farther enacted, That the said entry, and copy transmitted, shall in future, during the continuance of the said act, be formed into seven different columns, in one of which shall be stated the amount of the assessment of landed property, in another that on slaves, in another that on plate, in another that on coin, in another that on paper currency, exclusive of loan office certificates, in another that on stocks, and in another that on the residuum of taxable articles, which sums stated in the said columns shall include a single taxation only on nonjurors; and that, separate and apart from this, shall be stated in like manner the amount of the additional taxes paid by such nonjurors; and at the foot of the whole shall be stated, in separate articles also, the deductions for allowances to themselves, to the clerks, and to the whole assessors: Which copy, so made out, they shall transmit immediately to the board of auditors, instead of that by the said act directed to be transmitted to the treasurer, for enabling them to call upon the sheriff for the balance due, and to state to the succeeding assembly a general account, in like distinct manner, of the amount of the assessment on the said taxable articles respectively in the several counties.

Whereas by the treaty of commerce entered into between His Most Christian Majesty the King of France and the United States of America, it is amongst other things stipulated, that every commodity to be exported from any of the said states for the use of the French West India islands shall be free from any duty or impost, and whereas, by the before recited act, a tax or duty of ten shillings is laid on every hogshead of tobacco to be exported from this commonwealth, *Be it therefore enacted*, That all tobacco cleared out at any of the naval offices of this commonwealth, to be exported for the use of any of the West India islands belonging to His Most Christian Majesty, shall be, and they are hereby exempted from any duty or tax imposed thereon by the said act, any thing therein contained to the contrary thereof notwithstanding.

And whereas many good people of this commonwealth, who are well affected to the cause of their country, were prevented taking the oath of allegiance by the negligence of the magistrates, whereby they have been subjected to the penalty of a double tax, as prescribed by an act requiring all the free male inhabitants

Tobacco exported to French West India islands, exempted from duty.

Persons friendly to the cause of liberty, who have been prevented from taking the oath of allegiance,

and thus sub- of this state to give assurance of fidelity and allegiance
 jected to a to the same, *Be it therefore enacted*, That all and every
 double tax, person or persons who hath or have been so subjected
 how relieved to the payment of a double rate or tax as aforesaid, by
 means aforesaid, and shall make it appear to the com-
 missioners of their respective counties that they have
 since taken the oath prescribed by law, and that they
 now are and always have been true and faithful friends
 to the cause of liberty and their country, shall be re-
 imbursed all such sums of money by them paid over
 and above their just tax, and the same shall be deduct-
 ed out of their taxes for the succeeding year by the col-
 lectors of their respective counties, upon certificate
 being had from the commissioners of their said coun-
 ties for that purpose. And the said commissioners are
 hereby directed to hold a court or courts for the pur-
 pose above mentioned, and shall give notice of the same
 within their said counties as often as they shall think
 fit and necessary, so that the said court or courts are
 held between the time of passing this act and the first
 day of July next.

And it is farther enacted, That so much of the afore-
 said recited act as is contrary to the meaning of this
 act, be, and the same is hereby repealed.

CHAP. XXI.

An act for establishing the county of Illinois, and for the more effectual protection and defence thereof.

Preamble, WHEREAS by a successful expedition carried on
 reciting the by the Virginia militia, on the western side of the Ohio
 reduction of river, several of the British posts within the territory
 of the British of this commonwealth, in the country adjacent to the
 posts, on the river Mississippi, have been reduced, and the inhabit-
 western side of the river Mississippi, have been reduced, and the inhabit-
 of the Ohio ants have acknowledged themselves citizens thereof,
 river, adja- and taken the oath of fidelity to the same, and the good
 cent to the faith and safety of the commonwealth require that the
 Mississippi: said citizens should be supported and protected by
 speedy and effectual reinforcements, which will be the

best means of preventing the inroads and depredations of the Indians upon the inhabitants to the westward of the Allegheny mountains; and whereas, from their remote situation, it may at this time be difficult, if not impracticable, to govern them by the present laws of this commonwealth, until proper information, by intercourse with their fellow citizens, on the east side of the Ohio, shall have familiarised them to the same, and it is therefore expedient that some temporary form of government, adapted to their circumstances, should in the mean time be established:

Be it enacted by the General Assembly, That all the citizens of this commonwealth who are already settled, or shall hereafter settle, on the western side of the Ohio aforesaid, shall be included in a distinct county, which shall be called Illinois county; and that the governour of this commonwealth, with the advice of the council, may appoint a county lieutenant or commandant in chief in that county, during pleasure, who shall appoint and commission so many deputy commandants, militia officers, and commissaries, as he shall think proper in the different districts, during pleasure, all of whom, before they enter into office, shall take the oath of fidelity to this commonwealth and the oath of office, according to the form of their own religion, which the inhabitants shall fully, and to all intents and purposes enjoy, together with all their civil rights and property. And all civil officers to which the said inhabitants have been accustomed, necessary for the preservation of peace and the administration of justice, shall be chosen by a majority of the citizens in their respective districts, to be convened for that purpose by the county lieutenant or commandant, or his deputy, and shall be commissioned by the said county lieutenant or commandant in chief, and be paid for their services in the same manner as such expenses have been heretofore borne, levied, and paid in that county; which said civil officers, after taking the oaths as before prescribed, shall exercise their several jurisdictions, and conduct themselves agreeable to the laws which the present settlers are now accustomed to. And on any criminal prosecution, where the offender shall be adjudged guilty, it shall and may be lawful for the county lieutenant or commandant in chief to pardon his or her offence, except in cases of murder and treason; and in such cases, he may respite

County of Illinois established.

Temporary government established.

Religion of inhabitants respected.

Also their civil institutions.

execution from time to time, until the sense of the governour in the first instance, and of the general assembly in the case of treason, is obtained. But where any officers, directed to be appointed by this act, are such as the inhabitants have been unused to, it shall and may be lawful for the governour, with the advice of the council, to draw a warrant or warrants on the treasury of this commonwealth for the payment of the salaries of such officers, so as the sum or sums drawn for do not exceed the sum of five hundred pounds, any thing herein to the contrary notwithstanding.

Military
force, for
their protec-
tion.

And for the protection and defence of the said county and its inhabitants, *Be it enacted*, That it shall and may be lawful for the governour, with the advice of the council, forthwith to order, raise, and levy, either by voluntary enlistments, or detachments from the militia, five hundred men, with proper officers, to march immediately into the said county of Illinois, to garrison such forts or stations already taken, or which it may be proper to take there or elsewhere, for protecting the said county, and for keeping up our communication with them, and also with the Spanish settlements, as he, with the advice aforesaid, shall direct. And the said governour, with the advice of the council, shall from time to time, until farther provision shall be made for the same by the general assembly, continue to relieve the said volunteers, or militia, by other enlistments or detachments, as herein before directed, and to issue warrants on the treasurer of this commonwealth for all charges and expenses accruing thereon, which the said treasurer is hereby required to pay accordingly.

Goods, how
supplied to
inhabitants,
and friendly
Indians.

And be it farther enacted, That it shall and may be lawful for the governour, with the advice of the council, to take such measures as they shall judge most expedient or the necessity of the case requires, for supplying the said inhabitants as well as our friendly Indians in those parts, with goods and other necessaries, either by opening a communication and trade with New Orleans, or otherwise, and to appoint proper persons for managing and conducting the same on behalf of this commonwealth.

Provided, That any of the said inhabitants may likewise carry on such trade, on their own accounts, notwithstanding.

This act shall continue and be in force, from and after the passing of the same, for and during the term of twelve months, and from thence to the end of the next session of assembly, and no longer.

Limitation of
act.

CHAP. XXII.

An Act for establishing a Town at the Courthouse in the county of Washington.

WHEREAS it hath been represented to this present general assembly, that Thomas Walker, esq; Joseph Black, and Samuel Briggs, have engaged to give one hundred and twenty acres of land in the county of Washington, where the courthouse of the said county now stands, agreeable to a survey thereof made by Robert Doach for the purpose of establishing a town thereon, and for raising a sum of money towards defraying the expenses of building a courthouse and prison, agreeable to which part of the said land has been laid off, and several lots sold, and buildings erected thereon; and whereas it would tend to the more speedy improvement and settling the same, if the freeholders and inhabitants thereof could be entitled to the same privileges enjoyed by the freeholders and inhabitants of other towns in this state, *Be it enacted by this present General Assembly,* That the said one hundred and twenty acres of land, agreeable to a survey thereof made, relation thereto being had may more fully appear, be, and the same is hereby vested in fee simple in Evan Shelby, William Campbell, Daniel Smith, William Edmondson, Robert Craig, and Andrew Wiloughby, gentlemen, trustees and shall be established a town by the name of Abingdon.

Town of Abingdon, in Washington county established.

And be it farther enacted, That the said trustees, or any three of them, shall, and they are hereby empowered to make conveyances to the purchasers of any lots already sold, or to be sold, agreeable to the condition of the contracts; and may also proceed to lay off such

Lots, how disposed of.

other part of the said land as is not yet laid off and sold, into lots and streets, and such lots shall be sold by the said trustees at publick auction for the best price that can be had, the time and place of sale being previously advertised at least three months before, on some court day at the courthouse of that and the adjacent county, the purchasers respectively to hold the said lots subject to the condition of building on such lots a dwelling house at least twenty feet long and sixteen feet wide, with a brick or stone chimney, to be finished within four years from the day of sale; and the said trustees, or any three of them, shall, and they are hereby empowered to convey the said lots to the purchasers thereof in fee simple, subject to the condition aforesaid, and receive the monies arising from such sale, and pay the same to the order of the court of Washington county, towards defraying the expenses of their publick buildings, and the overplus, if any, to be applied in repairing the streets of the aforesaid town.

Conditions.

Power of trustees, as to boundaries, &c.

And be it farther enacted, That the said trustees, or the major part of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to settle such rules and orders for the regular and orderly building of houses thereon as to them shall seem best and most convenient. And in case of the death, removal out of the country, or other legal disability of any of the said trustees, it shall and may be lawful for the freeholders of the said town to elect and choose so many other persons in the room of those dead, removed, or disabled, as shall make up the number; which trustees so chosen shall be to all intents and purposes individually vested with the same power and authority as any one in this act particularly mentioned.

Privileges of inhabitants.

And be it farther enacted, That the purchasers of the lots in the said town, so soon as they shall have built upon and saved the same according to the conditions of their respective deeds and conveyances, shall be entitled to and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated by charter, have, hold, and enjoy.

Lots forfeited, by failure to improve.

And be it farther enacted, That if the purchasers of any lots sold by the said trustees shall fail to build thereon within the time before limited, the said trustees, or the major part of them, may thereupon enter into

such lot, and may either sell the same again, and apply the money towards repairing the streets, or in any other way for the benefit of the said town, or they may appropriate the said lot, or part of it, to any publick use for the benefit of the inhabitants of the said town.

And be it farther enacted, by the authority aforesaid, That the trustees of the said town, and their successors for the time being, shall, and they are hereby authorised and empowered by that name, to sue and implead either in the court of the said county or the general court, any person or persons who shall commit a trespass on the streets of the said town, or lands which may have been appropriated for the use of the inhabitants thereof. All sums of money to be recovered by virtue hereof shall be applied by the said trustees towards repairing the streets of the said town.

Power of trustees, to prevent trespasses.

Provided always, That nothing herein contained shall be construed to affect the legal rights of any person holding lands adjoining the said town.

CHAP. XXIII.

An act appointing the place for holding the Court of Appeals.

WHEREAS by the act constituting the court of appeals, the said court is to be held at such place as the legislature shall direct, and no place hath as yet been appointed for that purpose, *Be it therefore enacted by the General Assembly,* That for the term of one year after the end of this present session of assembly, and from thence to the end of the session then next ensuing, the said court shall be held at the capitol in the city of Williamsburg.

Court of appeals to be held at Williamsburg.

CHAP. XXIV.

An act to increase the allowance of the Delegates of this commonwealth in Congress.

Wages of members of congress increased.

WHEREAS from the great increase in the prices of all the necessaries of life, the allowance heretofore made to the delegates of this commonwealth in congress, is inadequate to the purpose of supporting them in a manner equal to their high station, *Be it enacted by the General Assembly,* That each delegate for every day he shall attend shall receive five dollars, and also one sixth of a dollar per mile going and the same returning, in addition to the allowance settled by law, to be paid wherever congress shall be sitting, by the treasurer of this commonwealth out of any publick money which shall be in his hands.

 CHAP. XXV.
An act for altering the place of holding courts in the county of Spotsylvania.

Court house of Spotsylvania removed.

WHEREAS it is represented to this general assembly, that the present situation of the courthouse in the county of Spotsylvania is inconvenient to the inhabitants thereof, and ought to be removed to some other place near the centre, *Be it therefore enacted by the General Assembly,* That the justices of the said county of Spotsylvania shall, on or before the first day of March next, provide for building a courthouse, prison, pillory, and stocks, at or as near the centre of the said county as convenience will admit; and that, after such buildings shall be completed, a court for the said county shall be constantly held at such place.

Provided, That the appointment of a place to erect such buildings shall not be made unless a majority of the justices be present.

CHAP. XXVI.

An act for adding part of the county of Buckingham to the county of Cumberland, and other purposes.

FOR adding part of the county of Buckingham and parish of Tillotson to the county of Cumberland and parish of Littleton, *Be it enacted by the General Assembly*, That all that part of the said county of Buckingham and parish of Tillotson that lies on the east side of the road leading from Cannon's ferry on James river to the line of Cumberland county, shall be added to and made part of the said county of Cumberland and parish of Littleton. Part of county of Buckingham added to county of Cumberland.

Provided always, That nothing herein contained shall be construed to hinder the sheriff or collector of the said county of Buckingham and parish of Tillotson from collecting and making distress for any levies, taxes, or officers fees, which may be due and unpaid by the inhabitants thereof, but such sheriff or collector may collect and distrain for the same, and be answerable for them in like manner as if this act had never been made.

Provided also, That nothing herein contained shall be construed to hinder the court of the said county of Buckingham, and vestry of the parish of Tillotson, from laying their respective levies for this present year upon that part of the inhabitants of the said county and parish hereby added to the said county of Cumberland and parish of Littleton; and that the sheriff of the said county of Buckingham, and collector of the said parish of Tillotson, shall collect and account for the same in like manner as if this act had not been made.

CHAP. XXVII.

An act to prevent swine going at large in the town of Mecklenburg, in the county of Berkeley.

Hogs not to run at large in town of Mecklenburg (called Shepherd's town) in county of Berkeley.

TO prevent hogs going at large in the town of Mecklenburg, in the county of Berkeley, *Be it enacted by the General Assembly*, That if any swine belonging to any inhabitant of the said town shall be found running or going at large within the limits thereof, it shall and may be lawful for any person whatever to kill and destroy every such swine so running at large.

Provided always, That such person shall not convert any such swine to his or her own use, but shall leave the same where it shall be so killed, and give immediate notice to the owner thereof, if known, if not, then such person shall immediately inform the next justice of the peace thereof, who may order the same to the use of any poor person or persons he shall think fit.

Provided also, That nothing herein contained shall be deemed or taken to hinder any person or persons from driving any swine to or through the said town or limits thereof in order to sell the same, or in their removal from one plantation to another.

CHAP. XXVIII.

[Chan. Rev. pa. 87.]

An act to empower the freeholders of the several towns not incorporated to supply the vacancies of the trustees and directors thereof.

Vacancies in Trustees in unincorporated towns, how supplied.

I. *BE it enacted by the General Assembly*, That upon the death, removal out of the country, or other legal disability of any one or more of the trustees and directors of the several towns within this state not incorporated, such vacancy, so often as the same shall happen, shall hereafter be supplied in manner following,

that is to say: The surviving trustees and directors, or one of them, shall give immediate notice of such vacancy to the sheriff of the county wherein such town may be, who within twenty days thereafter shall notify the same to the freeholders of the said town in such manner as he may think best, requiring them to appear at a certain place therein, and on a certain day, not less than ten days thence next following, then and there to elect a trustee in the room of the one so dying, removing, or disabled. The sheriff shall attend and take the poll at such election, entering the names of the persons voted for in a distinct column, and the name of every freeholder giving his vote under the name of the person he votes for; and when no freeholders appear to vote the sheriff shall close the poll, and return the same to the next court to be held for his county upon oath, certifying the name of the person elected, to be by the clerk recorded.

II. Every person elected in manner directed by this act, shall, to all intents and purposes, be a trustee of the town for which he was chosen.

III. So much or all acts of assembly as are contrary to the purview and meaning of this act, are hereby repealed.

CHAP. XXIX.

*An act for extending the boundary line between Virginia and North Carolina.**

WHEREAS the inhabitants of this commonwealth, and those of the state of North Carolina, have settled themselves farther westward than the boundary between the said two states hath hitherto been extended, and it becomes expedient, in order to prevent disputes among

Commissioners to extend the boundary line between Virginia and North Carolina.

* In pursuance of this act Thomas Walker and Daniel Smith were appointed commissioners, whose report, preserved among the governor's communications to the general assembly, of 1780, is in the following words:

such settlers that the same should be now farther extended and marked, *Be it therefore enacted by the General Assembly,* That two commissioners shall be ap-

Report of
Commission-
ers.

To the Honourable the Speaker, and Gentlemen of the House of Delegates,

In obedience to an Act of Assembly entitled "An Act for extending the boundary line between *Virginia* and *North Carolina,*"

We the subscribers proceeded to run the said Line.—The Gentlemen from *North Carolina* did not meet us so soon as had been agreed; and after they came, many accidents happened which protracted the Business. The place where Messrs. *Fry* and *Jefferson* ended their line, on *Steep Rock Creek* could not be found, owing, we suppose, to so much of the Timber thereabout being since dead. We proceeded to observation in order to fix upon the spot on *Steep Rock Creek* where we should begin. On *Monday 6th September 1779* having agreed with the *Carolina* Gentlemen in Observation, the following Memorandums were entered on their Journal as well as ours, as proper preliminaries agreed upon, necessary for fixing this line, viz. "That the Sun's Meridian Altitude was this day Fifty nine degrees fifty two minutes—that this place of Observation was one Minute and twenty five seconds North of the proper latitude, or one Mile two hundred and one poles and an half—that at *Steep Rock* we were in superficial measure 329 Miles West of *Currituck Inlet*; That there should be an Abatement of twelve Miles for mountainous and uneven ground, or that we were 317 Miles or five degrees forty two Minutes West of *Currituck Inlet*, that a degree of Longitude in this Latitude was 48 23 geographic Miles or of Statute Miles 55 and 1083 yards. That *Currituck Inlet* was in 75° 30' West Longitude, this being the average of three different accounts, and of course that the Longitude we were then in was 81° 12' West of London." We measured off the one Mile and 20 ½ poles and a due South course, and the beginning of the line was thus fixed to the satisfaction of all. We should not have troubled you with these particulars, but for some subsequent events which make us think it our duty. After running the line as far as *Carter's valley* 45 Miles West of *Steep Rock Creek* the *Carolina* Gentleman conceived the Line was farther South than it ought to be, and on trial, it was found that the Variation of the Needle had altered a little, which must have happened very lately, and was owing, we believe, to our being just then near some Iron Ore; because on observing the sun's Meridian Altitude the line was not too far south. As the *Carolina* Gentlemen, by their Observations, made out otherways, they proposed that the Surveyors, on each side, should observe and fix the Latitude. This was agreed to by one of us, influenced by a knowledge of a small Change of the variation, and was not dissented to by the other, as most of the Observations on the part of *Virginia* had been made by him. But quite contrary to our expectations, they agreed we were more than two Miles too far South of the proper Latitude, which distance was measured off directly North, and the line ran Eastward from that place superintended by two of the *Carolina* Gentlemen, and one of us; while from the same place it was continued Westwardly, superintended by the others for the sake of expediting the business. The Instruments proper for ascertaining the Latitude, were mostly taken back on the eastern

pointed by joint ballot of both houses of assembly, who shall have authority to meet with others to be appointed on the part of the said state of North Carolina, and

part of the line, in order that those who superintended it, might be farther satisfied; but after going back more than twenty miles, and observing every day on this line, his judgment was unalterably fixed that this line was wrong, although the *Carolina* Gentlemen could not seem to be of this opinion, and he returned and overtook his Colleague on the Western part of the Line on *Black Water Creek* or thereabouts, to whom he imparted his sentiments, proposing that he also should observe for some days—which he did.—The result was that we concluded our first line right, and we brought it up accordingly from *Carter's Valley* where it had been left and continued on with it to the Westward

It was once after this proposed by us, and agreed to by the *Carolina* Gentlemen, that as we differed so much in Observation we would each run his own line, encamp as near together as we could and let future observers, hereafter to be appointed, determine which was right; which might be done at a small expence. But this they afterwards declined, altho' they carried their line as far as *Cumberland Mountains* protesting against our line.—This protest was received in a letter after we had crossed *Cumberland Mountain*. We continued however as far as the *Clear fork*, being 123½ Miles from *Steep Rock Creek*, marking a Poplar and two Hackberry trees with Initials of our names and with *November 22d 1779* and had serious thoughts of going no further. But when we considered that, perhaps, three fourths of the whole expence was already incurred, that a number of People were settling to the Westward, who imagined they were in *North Carolina*, while we thought they were on the Lands reserved for our Officers and Soldiers;—These, and some more of the like considerations, made us think it more conducive to the good of the State in general that we should keep on, than that we should return. But as the Season was far advanced, and the Country before us, as far as it was known, was very Mountainous and barren, not yielding a sufficient quantity of Cane for our pack Horses, which for some time had been the principal support; these, among other reasons, made us judge it best to leave off running the line here, and go farther to the Westward, into a better Country, where by reason of many People being about to settle, it might be of importance to run the line speedily. The Map will shew our rout to a place on *Cumberland River*, where we built Canoes to carry our Luggage and rest the Pack Horses, which were too much reduced to do service that way. And here, to add to the number of our difficulties and misfortunes, we were froze up more than forty days in a River never known to be frozen before. We went by Water from this place until we got into the proper Latitude (as we judge one hundred and nine miles West of the *Clear fork*.) and began the line on two Beech trees marked with our Names and *Feb'y 25. 1780*, on the West Bank of *Cumberland River*, a Creek coming in about a Mile above us on the West side, and another one some what smaller about half a Mile below us on the East side. From this place we extended the line across the Heads of *Green River* and *Red River*, through a Country called the *Bawns* from there being little or no timber in it, in many places; crossed the *Cumberland* again at 131 Miles, where there is a chift on the North East side, and a bottom about three quarters of a mile broad on the other side, and at the end of one hundred and forty

proceed to extend and mark the line between this commonwealth and the state of North Carolina, beginning where Joshua Fry and Peter Jefferson, commissioners from Virginia, together with others from North Carolina, formerly appointed to run the said line, ended their work, and if that be found to be truly in the latitude of thirty six degrees thirty minutes north, then to run from thence due west to Tenasee river, or if it be found not truly in the said latitude, then to run from the said place due north or south into the said latitude, and thence due west to the said Tenasee river, correcting the said course at due intervals by astronomical observations. If either of the commissioners so to be appointed shall decline or be unable to go through the duties of his appointment, the governour and council shall appoint some other to act in his stead: The said commissioners shall nominate such skilful surveyor to execute their directions, and such other attendants, as shall be necessary, and shall endeavour to procure the most accurate instruments, which, if injured in the said service, shall be made good at the publick expense, or wholly paid for, at the election of the proprietor; if borrowed from an individual, or of such other person or persons, as shall have authority to make such election, if borrowed from any seminary of learning. Each commissioner shall be allowed for his trouble herein fifty shillings per day, for every day he shall attend, each surveyor, with the chain carriers and other attendants, shall be allowed such sums as the commissioners

miles, one quarter and eight poles from the two Beech trees, on the twenty third day of *March* found ourselves on the Bank of the *Tennessee River*, and of course had run the line as far Westward as we were authorized to do, notwithstanding the Hardships and difficulties we had to contend with.—One of us kept through the woods with the Surveyor, while the other went down by water, by which means a tolerable Map of the *Cumberland River* is taken; a fine River being navigable at least 700 Miles from the mouth upwards. When we had returned homewards about 160 Miles we met with orders from his Excellency the Governor to do another piece of service, which we suppose he has made you acquainted with.

We have also since seen *Col. Henderson* one of the *North Carolina* Commissioners, who with another of his Colleagues has been examining our Line, and he has repeatedly given us much reason to believe their State will establish the Line as we ran it.

THOMAS WALKER,
DANIEL SMITH.

[From a paper, filed in the clerk's office of the House of Delegates, among the *Governor's Communications*, 1780.]

shall certify they respectively ought to receive, and be paid by the treasurer of this commonwealth out of any publick money in his hands, together with the allowance to the commissioners as aforesaid; and the said commissioners are hereby directed to make report of their proceedings to the general assembly.

And whereas, from the hostile disposition of the Indian nations, it may be unsafe for the commissioners and their attendants to proceed on the business hereby directed, without a sufficient guard to protect them, *Be it farther enacted*, That the governour, with the advice of the council, shall, on application of the commissioners so to be appointed, direct and order a sufficient number of officers and men to be raised for that purpose, by voluntary enlistment, or if that cannot be done, then to be furnished from the militias of such counties as shall be convenient, to attend the said commissioners as a guard and for their safe conduct in the prosecution of the business by this act directed, shall order them a sufficient number of tents and camp utensils, and shall appoint a commissary to furnish necessary provisions during the time they shall be employed for the purposes aforesaid; which commissary shall, previous to his entering on the execution of his office, give bond with sufficient security for the faithful performance of his duty, and shall receive for his services such allowance as is given to other commissaries of this commonwealth.

Guard to
protect them
from the In-
dians.

Camp equi-
page and
commissary.

CHAP. XXX.

An act to enable the officers of the Virginia line, and to encourage the soldiers of the same line, to continue in the continental service.

WHEREAS, from the present high prices of all commodities, it is certain that the pay allowed the officers and soldiers in the service of the United States of America will by no means enable them to procure the comforts or even the necessaries of life; and whereas it

Preamble.

is also certain that both officers and soldiers have, by devoting themselves entirely to the cause of the liberties of mankind, not only neglected the opportunity of increasing, but have much injured the fortunes they were possessed of at the time they entered into the service, in order therefore to show the grateful sense the people of this state have for these brave officers and soldiers, as well as to enable and encourage them to persevere in such laudable exertions, *Be it enacted by the General Assembly*, That each officer and soldier belonging to this state, and now in the service of the United States, shall be presented with six months pay out of the publick treasury, to be remitted to them in such manner as the governour, with the advice of the council, shall think proper. And whereas there are a variety of articles, which by custom and habit are become almost the necessaries of life, for want of which our troops in the field have suffered very great inconveniencies:

Officers and soldiers presented with six months pay.

Groceries to be furnished them at stipulated prices.

For remedy whereof, and to render the situation of the officers and soldiers as comfortable as possible, *Be it farther enacted*, That they shall, during their continuance in the service, be furnished by the agent or commissary of stores in behalf of this state with the following necessaries, in addition to those particularly specified by a former act, which the governour, with the advice of the council, is hereby empowered and required to procure and send forward, with the utmost expedition, that is to say, wine at five dollars per gallon, green tea at four dollars per pound; bohea at two dollars per pound, coffee at two shillings and six pence per pound, chocolate at half a dollar per pound, loaf sugar at two shillings and eight pence per pound, brown sugar at one shilling per pound.

Pensions to widows of officers and soldiers slain or who die in the service.

And whereas there are many officers and soldiers, who, though bound by the tenderest connections, have freely relinquished the blessings of domestick felicity to preserve the liberties of their country, and many such officers and soldiers have been, and may be, by the chance of war, slain or die, to the great distress of their families, for providing therefore for the family of such officers and soldiers, *Be it farther enacted*, That the widow of every such officer and soldier shall, during her natural life, be entitled to and receive half the pay that her husband was entitled to when in the service.

Provided, That so much of this act as relates to the present to be hereby made to the soldiers, shall not extend to those whose times of service will expire in January next, unless such soldiers will enlist for three years or during the war.

CHAP. XXXI.

An Act for dividing the parishes of Camden and Amherst, and for other purposes.

WHEREAS it is represented to this present general assembly, by the inhabitants of the parish of Camden, in the counties of Pittsylvania and Henry, and the inhabitants of the parish of Amherst, in the county of Amherst, that they labour, under many inconveniencies by reason of the great extent thereof:

Be it therefore enacted by the General Assembly, That from and after the first day of February next ensuing, the said parish of Camden shall be divided into two distinct parishes by the line which divides the said counties of Pittsylvania and Henry, and that all that part of the said parish which lies in the county of Pittsylvania shall be one distinct parish, and retain the name of Camden, and that all the other part thereof shall be one other distinct parish, and be called and known by the name of Patrick; that the parish of Amherst shall be divided into two distinct parishes, in the following manner, that is to say: By a line to be run from Meggenson's warehouse, on the Fluvanna river, to Rose's mill on Piney river, thence up Piney river to the fork thereof above Lucas Powell's plantation, and thence up the north fork to the Blue Ridge, and that all that part of the said parish which lies on the lower side of the said line shall be one distinct parish, and retain the name of Amherst, and that all that part of the said parish which lies on the upper side of the said line shall be one other distinct parish, and be called and known by the name of Lexington.

Camden parish divided, and Patrick formed.

Amherst parish divided, and Lexington formed.

And be it farther enacted, That the present vestries of the said parishes of Camden and Amherst, be, and the same are hereby dissolved; and that the inhabitants of each of the said parishes of Camden, Amherst, Patrick, and Lexington, respectively, shall meet at some convenient time and place to be appointed and publickly advertised by the sheriffs of the said counties before the first day of March next, and then and there elect twelve able and discreet persons, who shall be a vestry for the said parishes respectively; but the collectors of the parishes of Camden and Amherst shall have power to collect and distrain for any dues which shall remain unpaid by the inhabitants of the said parishes of Camden and Amherst at the time of the divisions taking place, and shall be answerable for the same in like manner as if this act had never been made.

And whereas, on the division of the said parishes of
 Glebes of Camden and Amherst parishes to be sold, and the money divided between those parishes and Patrick and Lexington.
 Camden and Amherst, the present glebes and the buildings thereon will be inconveniently situated, *Be it therefore enacted,* That the said glebes, with the appurtenances, be, and the same are hereby vested, that is to say, the glebe of Camden parish in William Todd, Abraham Penn, Archelaus Hughes, and William Witcher, or any three of them, and the glebe of Amherst parish in James Nevill, Hugh Rose, and Daniel Gaines, gentlemen, commissioners, or any two of them in trust, that they shall sell and convey the same for a valuable consideration, to be *bona fide* received to any person or persons willing to become purchasers thereof, to hold to such purchaser or purchasers in fee simple; that the money arising from the sale of the said glebe of Camden shall be equally divided between the said parishes of Camden and Patrick, and the money arising from the sale of the said glebe of Amherst between the said parishes of Amherst and Lexington respectively, in proportion to the number of tithables in each parish; and the vestries of the said parishes respectively shall apply the money when received in the purchase of other lands for a glebe, for the use of their respective ministers for the time being for ever.

Be it further enacted, That whatsoever sums of money are now in the hands of the respective vestries of the said parishes of Camden and Amherst, belonging to the same, shall be divided among each new parish now to be made, and that from which it is taken, in proportion to their number of tithables.

CHAP. XXXII.

An act for establishing the town of Martinsburg, in the County of Berkeley, and for other purposes.

WHEREAS it hath been represented to this present general assembly, that Adam Stephen, esq; hath lately laid off one hundred and thirty acres of land in the county of Berkely, where the courthouse of the said county now stands, in lots and streets for a town, and hath made sale of several of the said lots to divers persons, some of whom have since settled and built thereon, and whereas it would tend to the more speedy improvement and settling the same if the freeholders and inhabitants thereof should be entitled to the like privileges enjoyed by the freeholders and inhabitants of other towns in this state:

Town of
Martinsburg
in Berkeley
county esta-
blished.

Be it enacted by this present General Assembly, That the said one hundred and thirty acres of land laid out in lots and streets, agreeable to a plan and survey thereof made, containing the number of two hundred and sixty nine lots as by the said plan and survey, relation thereunto being had, may more fully appear, be, and the same is hereby vested in James M'Alister, Anthony Noble, Joseph Mitchell, James Strode, Robert Carter Willis, William Patterson, and Philip Pendleton, gentlemen, trustees, and shall be established a town by the name of Martinsburg.

And be it farther enacted, That the said trustees, or any four of them, shall proceed to sell such of the said lots as have not been already sold by the said Adam Stephen, at publick auction, for the best price that can be had, the time and place of sale being previously advertised for three months in the Virginia Gazette, the purchasers respectively to hold the said lots subject to the condition of building on each a dwelling-house at least twenty feet long and sixteen feet wide, with a brick or stone chimney, to be finished within two years from the day of sale; and the said trustees, or any four of them, shall, and they are hereby empowered to convey the said lots to the purchasers thereof in fee simple, subject to the condition aforesaid, and pay the money

Lots, how
disposed of.

Conditions.

arising from such sale to the said Adam Stephen, his executors, administrators, or assigns.

Power of trustees, as to boundaries, &c.

And be it farther enacted, That the said trustees, or the major part of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the said lots, and to settle such rules and orders for the regular and orderly building of houses thereon as to them shall seem best and most convenient. And in case of the death, removal out of the country, or other legal disability of any of the said trustees, it shall and may be lawful for the freeholders of the said town to elect and choose so many other persons in the room of those dead, removed, or disabled, as shall make the number; which trustees so chosen shall be to all intents and purposes individually vested with the same power and authority as any one in this act particularly mentioned.

Privileges of purchasers.

And be it farther enacted, That the purchasers of the lots in the said town, so soon as they shall have built upon and saved the same according to the condition of their respective deeds of conveyance, shall be entitled to and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated by charter, have, hold, and enjoy.

Forfeited for not improving.

And be it farther enacted, That if the purchaser of any lot sold either by the said Adam Stephen or the said trustees shall fail to build thereon within the time before limited, the said trustees, or the major part of them, may thereupon enter into such lot, and may either sell the same again, and apply the money towards repairing the streets, or in any other way for the benefit of the said town, or they may appropriate the said lot, or part of it, to any publick use for the benefit of the inhabitants of the said town.

Survey and plat to be recorded

And be it farther enacted, That the said trustees shall cause the survey and plot of the said town to be recorded in the court of the said county of Berkeley.

Hogs not to run at large.

And for preventing hogs going at large in the said town of Martinsburg, *Be it enacted,* That if any swine belonging to the inhabitants of the said town shall be found running or going at large within the limits thereof, it shall and may be lawful for any person whatever to kill or destroy every such swine so running at large.

Proviso.

Provided always, That such person shall not convert any such swine to his or her use, but shall leave the

same where it shall be so killed, and give immediate notice to the owner thereof, if known, if not, then such person shall immediately inform the next justice of the peace thereof, who may order the same to the use of any poor person or persons he shall think fit.

Provided also, That nothing herein contained shall be deemed or taken to hinder any person or persons from driving any swine to or through the said town or limits thereof in order to sell the same, or in their removal from one plantation to another. Further proviso.

And be it farther enacted, by the authority aforesaid, That the trustees for the said town, and their successors for the time being, shall, and they are hereby authorised and empowered by that name, to sue and implead either in the court of the said county or the general court, any person or persons who shall commit a trespass on the streets of the said town or lands which may have been appropriated for the use of the inhabitants thereof. All sums of money to be recovered by virtue hereof shall be applied by the said trustees towards repairing the streets of the said town. Power of trustees to prevent trespasses, on the streets, &c.

Provided always, That nothing herein contained shall be construed to affect the legal right of any person holding lands adjoining the said town.

CHAP. XXXIII.

An act to vest certain lands on the Ohio and Green rivers, in fee simple in Richard Henderson, and company, and their heirs.

WHEREAS it has appeared to this assembly, that Richard Henderson and company have been at very great expense in making a purchase of the Cherokee Indians, and although the same has been declared void, yet as this commonwealth is likely to receive great advantage therefrom, by increasing its inhabitants, and establishing a barrier against the Indians, it is there- Preamble.

fore just and reasonable the said Richard Henderson and company be made a compensation for their trouble and expense:

Certain lands on the Ohio, and Green rivers, vested in Richard Henderson and company, in consideration of their expense and trouble in making a purchase from the Cherokee Indians, which has been declared void.

Be it enacted by the General Assembly, That all that tract of land situate lying and being on the waters of the Ohio and Green rivers, bounded as follows, to wit, beginning at the mouth of Green river, thence running up the same twelve and a half miles, when reduced to a straight line, thence running at right angles with the said reduced lines twelve and a half miles on each side the said river, thence running lines from the termination of the line extended on each side the said Green river at right angles with the same, till the said lines intersect the Ohio, which said river Ohio shall be the western boundary of the said tract, be, and the same is hereby granted the said Richard Henderson and company, and their heirs, as tenants in common, subject to the payment of the same taxes as other lands within this commonwealth are, but under such limitation of time as to the settling the said lands as shall be hereafter directed by the general assembly; but this grant shall, and it is hereby declared to be in full compensation to the said Richard Henderson and company, and their heirs, for their charge and trouble, and for all advantage accruing therefrom to this commonwealth, and they are hereby excluded from any farther claim to lands on account of any settlement or improvements heretofore made by them, or any of them, on the lands so as aforesaid purchased from the Cherokee Indians.

CHAP. XXXIV.

An act to direct the sale of certain lands late the property of John Thornton, esq. deceased, and for purchasing other lands in lieu thereof, and for other purposes.

WHEREAS John Thornton, late of the county of Caroline, esq; died intestate seized and interested in fee simple of and in the following tracts of land lying in that county and Spotsylvania, to wit: His manor plantation on Rappahannock river, containing three hundred and fifty acres, a tract called Moorfield, containing four hundred and eighty acres, a tract of two hundred and ninety acres purchased of Daniel Duval, a tract called Long Branch, containing eight hundred acres, a tract of about one thousand seven hundred acres lying on Mattapony river, purchased of Griffin Jones and the executors of Reuben Thornton, gentlemen, but not conveyed, and of the reversion in fee expectant on the death of Mrs. Betty Thornton, widow of the said Reuben Thornton, of and in another tract of five hundred and thirty acres lying on Mattapony river, in the said county of Caroline, purchased of Francis Thornton, but not conveyed, and was also possessed of sundry slaves and a considerable personal estate, which land and slaves descended to, and the personal estate was to be distributed between Thornton Washington, an infant, only son and representative of Mildred, late wife of Samuel Washington, esq. one of the daughters of the said John Thornton, Mary, now the wife of brigadier general Woodford, another daughter, Betty, now the wife of John Taliaferro, jun. of Dissington, in the county of King George, esq. another daughter, and Mildred Lewis, an infant, only daughter and heir of Lucy Lewis, deceased, late wife of John Lewis of Spotsylvania county, esq. another daughter of the said John Thornton.

Certain lands of the estate of John Thornton and Judith Banks, vested in trustees to be sold, and the monies laid out in purchase of other lands.

And whereas it is represented to this assembly that the making partition of each tract of the said land between the parceners will render the same of little value, and a division thereof by tracts would be illegal and

unjust from the great inequality in the value thereof, and the infancy of two of the parceners, and the said Samuel Washington, in behalf of his said son Thornton, the said John Lewis, in behalf of his said daughter Mildred, together with the said William Woodford and Mary his wife, and John Taliaferro and Betty his wife, have made application for an act to vest the said several tracts of land in trustees, to be sold, and the money for each purpart to be severally laid out in the purchase of other lands, and vested in each respective parcener: *Be it therefore enacted by the General Assembly,* That all the said lands of which the said John Thornton died seized in possession, together with the several parcels so contracted for and not conveyed, and for which deeds shall be made to the trustees herein after named, and also the reversion in fee simple of and in the said tract of five hundred and thirty acres expectant on the death of the said Betty Thornton, widow, to be conveyed to the trustees as aforesaid, shall be, and the same are hereby vested in the hon. Joseph Jones, esq. Fielding Lewis, James Taylor, jun. and George Taylor, esquires, or the survivors of them, in trust, that they, or any three of them, shall fairly sell and dispose of the same to the best bidder, and convey the lands to the purchaser or purchasers in fee simple, who shall from thenceforth hold and enjoy the same free from the claim of the said Thornton Washington, William Woodford, and Mary his wife, John Taliaferro, and Betty his wife, and Mildred Lewis, or either of them, or their heirs, for ever.

And whereas Judith Banks, late of Caroline county, deceased, by her last will and testament amongst other things directed, that her houses and four lots which she lived on should be rented or sold as her executors should think most for the advantage of Walker Randolph Carter and Charles Landon Carter, and of her said will appointed Charles Carter of Ludlow, Charles Carter of Corotoman, Joseph Jones of King George, John Hill Carter, and George Carter, esquires, executors of the said will, the two last of which executors are infants under age, and all the other executors have refused to qualify, except Charles Carter of Ludlow, esq; father of the said Walker Randolph Carter and Charles Landon Carter, who proved the will, took upon him the burthen of the execution thereof, and sold the said houses and lots for the benefit of his said children the devisees, but

as two of the executors are infants under age, and the others have refused to qualify, no deeds can be legally made to the purchaser, it is necessary to appoint trustees to convey a legal title to the purchaser, *Be it therefore enacted by the General Ass. mbl^y,* That the said lots and houses of which the said Judith Banks died seized in possession, shall be, and are hereby vested in the hon. Joseph Jones, esq; John Taliaferro, John Skinner, and Francis Taliaferro, esquires, survivor or survivors of them, in trust, that they, or any three of them, shall convey the said lots and houses to John Victor, who shall thenceforth hold the said lots and houses in fee simple, and enjoy the said lots and houses free from the claim of the said Walker Randolph Carter and Charles Landon Carter, or either of them, or their heirs, for ever.

The said trustees for the said Thornton's lands, or three of them, and the said trustees for the said Banks's lots, or the survivor or survivors of them, shall render an account of such sales to the county court of Caroline, and shall fairly lay out the money, that is to say, the said trustees for the said Thornton's lands, or any three of them, shall lay out the money which shall come to their hands by equal fourth parts in the purchase of lands for each parcener, the purchases for the purparts of the said Thornton Washington and Mildred Lewis to be made with the approbation of their respective fathers, and conveyed to the said Thornton and Mildred and their several heirs on the part of their mothers, and the purparts of the said Mary Woodford and Betty Taliaferro to be severally conveyed to them and their heirs, and the said trustees for the said Banks's lots and houses, or the survivor or survivors of them, shall lay out the money which shall come to their hands by two equal parts in the purchase of lands for them the said Walker Randolph Carter and Charles Landon Carter, to be by them held as tenants in common fee, which last mentioned purchases shall be made with the approbation of their father the said Charles Carter of Ludlow; an account of which purchases shall also be stated and returned to the county court of Caroline. Saving to all persons and bodies, politick or corporate, their heirs or successours, other than the said Thornton Washington, William Woodford, and Mary his wife, John Taliaferro, and Betty his wife, and Mildred Lewis, or those claiming under them, and other than the said Walker

Randolph Carter and Charles Landon Carter, or those claiming under them, all such right or title as they or any of them would have had in or to the said lands if this act had never been made.

CHAP. XXXV.

An act for vesting certain escheatable lands in trustees, and for other purposes.

Lands of Bryan Obanion, escheated to the commonwealth, to be sold.

WHEREAS it hath been represented to this present general assembly, that Bryan Obanion, late of the county of Fauquier, died seized in fee of two hundred and fifty seven acres of land lying and being in the county of Berkeley, adjoining the lands of Tully M'Kenney and major general Charles Lee, and that the said Bryan Obanion did by his last will and testament devise the same in taille to Aaron and Frances Johnston, or the survivor of them, they being natural children of the said Bryan Obanion, and that the said Frances died an infant, whereby the said Aaron Johnston became possessed of an estate taille in the whole of the said lands; and whereas by the operation of an act of assembly intituled "An act declaring tenants of lands or slaves in taille to hold the same in fee simple," the said Aaron became tenant in fee simple thereof, and died without issue intestate, whereby the said lands became escheated, and it is just and reasonable that the heirs of the said Bryan Obanion should be benefitted thereby, *Be it therefore enacted*, That from and after the passing of this act the said two hundred and fifty seven acres of land, with the appurtenances, be, and the same is hereby vested in James Nourse, Thomas Rutherford, and Thomas Hite, gentlemen, or any two or more of them, in fee simple in trust, who shall sell the same to any person or persons who shall be willing to purchase for the best price that can be got, all and singular the premises with the appurtenances hereby vested in them, and every part and parcel thereof, and

shall and may execute all deeds and conveyances necessary in the law for assuring unto such purchaser or purchasers a good estate in fee simple in the lands above mentioned; and such purchaser or purchasers shall for ever thereafter peaceably enjoy the lands and appurtenances so purchased to them, their heirs, and assigns, for ever. And the said trustees shall pay the money arising from such sale, after deducting the necessary charges they shall be at about the same, in the following manner, to wit: One fifth part thereof to William Obanion, sen. one fifth part to Samuel Obanion, one fifth part to the legal representative of John Obanion, deceased, they being sons of the said Bryan Obanion, deceased, one fifth part thereof to the legal representative of Catharine Hite, late the wife of Jacob Hite, deceased, she being a daughter of the said Bryan Obanion, deceased, and the remaining fifth part thereof to Elias Edmonds and Elizabeth his wife, she being only daughter of Mary Miller, who was also daughter of the said Bryan Obanion.

Proceeds of
sale, how
distributed.

Provided nevertheless, Nothing herein contained shall be construed so affect the right of any person to traverse the escheat of said land.

CHAP. XXXVI.

An act for altering the place of holding courts in the county of Princess Anne.

FOR altering the place of holding courts in the county of Princess Anne, *Be it enacted,* That the justices of the said county shall, as soon as may be, cause to be built a courthouse, prison, pillory, and stocks, at some convenient place at Kemp's Landing; and, after such buildings shall be completed, a court of the said county shall be constantly held at such place. But the justices shall and may in the meantime hold their sessions in such house at the said Kemp's Landing as they, or a majority of them, shall appoint.

Court house
of Princess
Anne removed.

CHAP. XXXVII.

An act to enlarge the powers of the trustees of the town of Manchester.

Powers of trustees of town of Manchester enlarged, so as to prevent trespasses on streets, &c.

BE it enacted by the General Assembly, That the trustees for the town of Manchester, in the county of Chesterfield, and their successours for the time being, shall, and they are hereby authorised and empowered by that name, to sue and implead either in the court of the said county or the general court, any person or persons who shall commit a trespass on the streets of the said town or lands which may have been appropriated for the use of the inhabitants thereof.

All sums of money to be recovered by virtue of this act shall be applied by the said trustees towards repairing the streets of the said town, or erecting wharfs, and improving the publick landings within the same:

Provided always, That nothing herein contained shall be construed to affect the legal right of any person holding lands adjoining the said town.

 CHAP. XXXVIII.
An act for farther suspending the payment of the salaries heretofore given to the clergy of the Church of England.

Salaries of clergy of Church of England, further suspended.

WHEREAS by an act of general assembly passed in the year one thousand seven hundred and seventy six, intituled "An act for exempting the different societies of dissenters, and for other purposes therein mentioned," reciting, that by the exemptions allowed dissenters it might be too burthensome in some parishes to the members of the established church if they should still be compelled to support the clergy by certain fixed salaries, and that it was judged best that this should be done for the present by voluntary contributions, it

was enacted, that so much of an act of general assembly made in the twenty second year of the reign of king George the second, intituled "An act for the support of the clergy, and for the regular collecting and paying the parish levies," or any other act as provided salaries for the ministers, and authorised the vestries to levy the same, except in the cases in the same act of one thousand seven hundred and seventy six before directed, should be suspended until the end of the then next session of assembly, which said act was farther suspended by several other acts until the end of this present session of assembly, and it is reasonable that the same suspension should be farther continued:

Be it therefore enacted by the General Assembly, That so much of the said acts as was so suspended by the above recited act of one thousand seven hundred and seventy six, shall be farther suspended until the end of the next session of assembly.

CHAP. XXXIX.

An act to repeal the act intituled An act to oblige the owners of Mills on the river Rappidan to make openings or slopes in their mill dams for the passage of fish.

WHEREAS it is represented to this general assembly, that the act intituled "An act to oblige the owners of mills on the river Rappidan to make openings or slopes in their mill dams for the passage of fish," hath been found not to answer the purposes for which it was intended, *Be it therefore enacted by the General Assembly, That the said act shall be, and the same is hereby repealed.*

Act compelling owners of mills on Rappidan to make slopes, for passage of fish, repealed.

CHAP. XL.

An act for altering the court days of the counties of Pittsylvania, Botetourt, and Henry.

Court days
of Pittsylvania,
Botetourt, and
Henry altered.

WHEREAS it hath been represented to this present general assembly, that the days appointed for holding courts in the counties of Pittsylvania, Botetourt, and Henry, are inconvenient to the justices and others who are obliged to attend the said courts:

Be it therefore enacted by the General Assembly, That from and after the last day of February next the court of the said county of Pittsylvania shall be held on the third Tuesday in every month, the court of the said county of Botetourt shall be held on the second Thursday in every month, and the court of the said county of Henry shall be held on the fourth Thursday in every month, any law, custom, or usage, to the contrary in any wise notwithstanding.

CHAP. XLI.

[See ante ch. XXX.] *An act to amend an act intituled An act to enable the officers of the Virginia line, and to encourage the soldiers of the same line, to continue in the continental service.*

Act of this session, for presenting six months pay to officers and soldiers, and furnishing them with groceries at stipulated

WHEREAS it is justly to be apprehended, from the scarcity and dearness of the several articles directed to be furnished to the officers and soldiers of the Virginia troops on continental establishment, or in continental service, by the act passed in this present session of assembly, intituled "An act to enable the officers of the Virginia line, and to encourage the soldiers of the same line, to continue in the continental service," that the said recited act cannot be carried fully into execution

without greatly distressing the publick treasury, *Be it therefore enacted by the General Assembly,* That until the meeting of the next session of assembly, the governour and council shall carry the said act into execution, so far only as in their discretion it shall appear practicable to be done, without too great distress and injury to the commonwealth.

prices, to be carried into effect so far only as the state of the treasury will permit.

CHAP. XLII.

An act to amend the act for preventing forestalling, regrating, engrossing, and publick vendues.

WHEREAS by an act of general assembly passed in the year one thousand seven hundred and seventy seven, intituled "An act to prevent forestalling, regrating, engrossing, and publick vendues," it was enacted, that if any person should buy within this commonwealth to sell again in this or any of the United States, any victual raised within this state, except such purchase was from the original owner or maker thereof, he should be declared an engrosser; under cover of which exception a practice hath prevailed of buying up great quantities of victual from those who make and raise the same, and withholding it from the poor and from the publick, until they have agreed to give a very advanced price for the same, which practice is found to be mischievous and oppressive:

Preamble.

Be it therefore enacted by the General Assembly, That if any person shall buy within this commonwealth to sell again in this or any of the United States, any victual raised within this state, he is hereby declared an engrosser, and as such shall be subject to the pains and penalties inflicted by the said act on engrossers; but this act shall not extend to the managers of any iron works purchasing victual necessary for the use of those employed about such iron works, and selling them to such persons, nor to ordinary keepers purchasing victual to be retailed in their ordinaries, or persons keeping

Engrosser,
further de-
fined.

Exceptions.

private houses for lodging or entertainment, who may buy any kind of victual and retail the same in their respective houses after it is prepared and dressed for the table, nor to persons purchasing wheat to grind into flour, nor to bakers purchasing flour and selling the same in bread, nor to butchers purchasing live stock and retailing the same after slaughter, nor to brewers purchasing barley and converting the same into beer.

Further ex-
ceptions.

And it is also enacted, That so much of the same act as prohibits the sale of any articles, except such as are therein excepted at publick vendue, shall not be construed to extend to the sale of any vessel whether for sea or inland navigation.

Acts to pre-
vent fore-
stalling, &c.
to be given
in charge to
grand juries.

And the more effectually to enforce the said act to prevent forestalling, regrating, engrossing, and publick vendues, and also so much of this act as is herein before contained, the same shall be particularly given in charge to all grand juries, and it shall be made a part of their oath specially that they will present all offences against the same coming to their knowledge; which presentments shall be tried in a summary way by a jury to be empannelled and charged at the next court, unless the said court, for very good cause to them shewn, shall continue the same.

Provisions
bought to
sell again
liable to sei-
zure.

And where any person hath heretofore bought within this commonwealth, to sell again in this or any of the United States, any victual raised within this state, the same shall be subject in his hands to seizure in the same manner, for the same time and purposes, and under the same conditions and directions as victual in the hands of forestallers, regraters, and engrossers, is directed to be seized by an act of general assembly passed at this present session, intituled "An act to enable the governour and council to supply the armies and navies of the United States and of their allies with grain and flour."

Punishment
of those pre-
tending to
be agents
for this state,
or the Uni-
ted States,
in order to
evade the
law.

And whereas by an exception in the said act for preventing forestalling, regrating, engrossing, and publick vendues, it was provided that the said act should not extend to any agent of this commonwealth, or of the United States, or any of them purchasing necessities really and bona fide for the use of the army or navy, and not dealing in such articles on account of himself or any other private persons; and moreover many good people of this commonwealth are disposed to sell their victual cheaper when for the use of the armies or navy

of these states than when for the use of private individuals, certain persons thereupon intending to pervert to their own gain the purposes of the said exception, and the disposition of the good people of this commonwealth have feigned themselves to be agents for the United States, or some one of them, when in truth they were not, and in that character have engrossed great quantities of victual at low prices, and sold the same high to their own great and unrighteous profit, and to the oppression of the people of these states, *Be it therefore enacted*, That if any person pretending to be an agent of this commonwealth, or of the United States, or any of them, for the purchase of victual, shall buy within this commonwealth any victual raised therein, and shall refuse or omit to produce to any citizen of the same sufficient proof whenever called for by such citizen of his acting under authority from the United States, or some one of them, it shall be lawful for such citizen, and all others, forthwith to apprehend and carry him before any justice of the peace, or for any justice of the peace to apprehend or cause him to be apprehended in the first instance, whereupon if he still refuse or omit to produce such proof, he shall by the said justice be committed to jail without bail or mainprise, there to remain until the next court to be held for the county, when a jury shall be empannelled and charged to try whether he pretended himself to be such publick agent, and whether in truth he was so, and if they find that he did so pretend, and it shall not appear to them that he was in truth such an agent, he shall be adjudged to forfeit all the victual he shall have bought under such feigned character, and to be imprisoned one month, counting as a part thereof the time he shall have remained in close jail before judgment rendered; such forfeiture to enare, the one moiety to him who shall have apprehended the offender, the other to the vestry of the parish for the use of the poor thereof.

This act shall continue in force until the first day of November next.

An Act to enable the Governour and Council to supply the armies and navies of the United States, and of their allies, with grain and flour.

Preamble.

SOUND policy requiring, and the necessities of the fleets and armies of the United States, and the squadrons of our faithful allies, demanding the utmost exertions of this commonwealth for the supplying them with provisions, and there being but little prospect of procuring a competency for this purpose unless they can be wrested out of the hands of the forestallers and engrossers, who have purchased up great quantities of flour and grain in this state:

Agents appointed, to seize a sufficiency of grain and flour, for the American army & navy and the French squadron.

Be it therefore enacted by the General Assembly, That it shall be lawful for the governour, by and with the advice of the council, and he is hereby authorised and empowered, to commission such and so many persons as he shall judge proper to seize upon and take for the use of the United States all grain and flour that shall be deemed necessary for the support of the American armies and navies, and the French squadron, that may have been or shall hereafter be purchased up by any forestaller, engrosser, or monopoliser, paying for the same such prices as shall be allowed therefor by three reputable freeholders within the county wherein the same shall be seized, they being first sworn by some magistrate in the said county to value and appraise the same according to their best skill and judgment.

In what cases, & how doots may be broken.

And to enable such persons, commissioned as aforesaid, to carry this act fully into execution, *Be it farther enacted, That* where any forestaller, engrosser, or monopoliser, shall refuse to deliver up his grain or flour, on complaint thereof made to any justice of the peace in the county where such grain or flour is or shall be purchased up, it shall be lawful for the said justice, and he is hereby required, to issue his warrant, directed to the sheriff or any constable in the said county, empowering either of them to break open in the day time any house or houses where such grain or flour shall be stored.

Indemnification.

And be it further enacted, That any person against whom an action may be commenced, for what he shall

lawfully do in the execution of this act, may plead the general issue, and give this act in evidence; and if a verdict be found, or a judgment be given for him, he shall recover double costs.

This act shall continue and be in force until the end of the next session of assembly, unless the governour, with the advice of the council, shall, by proclamation, declare that the publick wants are sufficiently provided for, and no longer.

CHAP. XLIV.

An act for establishing several new ferries, discontinuing a former one, and for other purposes. [Chan. Rev. pa. 88.]

I. WHEREAS it is represented to this present general assembly, that publick ferries at the places hereafter mentioned will be of advantage to travellers and others, *Be it therefore enacted by the General Assembly,* That publick ferries be constantly kept at the following places, and the rates for passing the same shall be as follows, that is to say: From the land of the earl of Tankerville, in the county of Loudoun, (at present in the tenure of Christian Slinner) across Potowmack river to the opposite shore in the state of Maryland, the price for a man eight pence, and for a horse the same; from the land of Thomas Noland, in the county of Loudoun, across Potowmack river to the land of Arthur Nelson in the state of Maryland, the price for a man eight pence, and for a horse the same; from the land of John Ward, in the county of Bedford, over Staunton river to the land of the said Ward on the opposite shore, the price for a man sixpence, and for a horse the same; from the land of Nicholas Davis, near the mouth of Battery creek, in the county of Bedford, over the Fluvanna river to the land of the said Davis on the opposite shore, the price for a man sixpence, and for a horse the same; from the land of John Owens, in the county of Pittsylvania, over Dan river

New ferries established.

Rates.

to the land of Silvester Adams on the opposite shore, the price for a man sixpence, and for a horse the same; and for the transportation of wheel carriages, tobacco, cattle, and other beasts, at any of the places aforesaid, the ferry-keeper may demand and take the following rates, that is to say: For every coach, chariot, or waggon, and the driver thereof, the same as for six horses, for every cart or four wheeled chaise, and the driver thereof, the same as for four horses, for every two wheeled chaise or chair the same as for two horses, for every hogshead of tobacco, as for one horse, for every head of neat cattle as for one horse, for every sheep, goat, or lamb, one fifth part of the ferriage for one horse, and for every hog one fourth part of the ferriage for one horse, according to the prices herein before settled at such ferries respectively, and no more. And if any ferry-keeper shall presume to demand or receive from any person or persons whatsoever, any greater rates than is hereby allowed for the carriage or ferriage of any thing whatsoever, he or they for every such offence shall forfeit and pay to the party grieved the ferriages demanded or received, and ten shillings, to be recovered with costs before any justice of the peace of the county where such offence shall be committed.

Penalty for exceeding legal rates.

A ferry discontinued.

II. And whereas the publick ferry from the land of Josias Clapham, in the county of Loudoun, across Potowmack river to the opposite shore in the state of Maryland, hath been found inconvenient, *Be it therefore enacted*, That the said ferry shall henceforth be discontinued.

Justices of Southampton, authorised to erect toll bridges over Nottoway river.

III. And whereas it is represented to this present general assembly, that from the many rivers and creeks making into and running through the county of Southampton, the inhabitants thereof are obliged to erect and support such a great number of bridges, and the expense thereof is become so burthensome that they cannot longer support and keep the same in repair by the ordinary course provided by the laws, unless some provision be made for raising money to be applied for that purpose, and the said inhabitants have petitioned this assembly that a turnpike or toll gate may be erected on the bridge (so soon as the same shall be finished) now building over Nottoway river near the courthouse of the said county, *Be it therefore enacted by the General Assembly*, That the justices of the court of the said county of Southampton, and their successors for ever, shall

be, and they are hereby nominated and appointed trustees for the purposes following, that is to say: That they and their successours, or any four or more of them, or such person or persons as they or any four or more of them shall authorise and appoint for that purpose, shall and may build, erect, or cause to be built or erected, a turnpike or gate across any part of the bridge so to be built over the said river Nottoway, and also a toll house at or as near the same as may be, and shall and may demand and take the following tolls or duties before any person or persons shall be admitted to pass through the said gate, that is to say, for a man six pence, and for a horse the same, and for the passage of wheel carriages, tobacco, cattie, and other beasts, through the said gate, there shall be paid the following tolls or duties, that is to say, for every coach, chariot, or waggon, and the driver thereof, the same as for six horses, for every cart or four wheeled chaise the same as for four horses, for every two wheeled chaise or chair the same as for two horses, for every hogshead of tobacco as for one horse, for every head of neat cattle as for one horse, for every sheep, goat, or lamb, one fifth part of the toll for one horse, and for every hog one fourth part of the toll of one horse, and no more. If any person or persons appointed to receive the said tolls or duties shall presume to demand or receive from any person whatsoever, any greater tolls or duties than is hereby allowed for the passage of any thing whatsoever, he or they for every such offence shall forfeit and pay to the party grieved the tolls demanded or received, and twenty shillings, to be recovered with costs before any justice of the peace of the county of Southampton.

Tolls.

Penalty for exceeding legal rates.

IV. *And be it further enacted*, That the money arising from the said tolls or duties shall be applied by the said trustees, or any four of them, towards paying the expense of erecting, building, amending, and keeping in repair, a bridge over the said river, a turnpike, toll house, paying the wages of such person as they or any four of them shall from time to time under their hands and seals nominate and appoint to receive the said tolls or duties, and the residue thereof shall be applied towards lessening their county levy. And the said trustees, or any four or more of them, at their first or any succeeding court after the said bridge shall be built, shall choose and appoint a fit person to be receiver of

Tolls, how appropriated.

Receiver of tolls, how appointed.

the tolls and duties aforesaid, who shall, before he undertakes the execution thereof, enter into bond and security, payable to the said trustees, or any four or more of them, in the penalty of one hundred pounds with condition that he will duly attend at such turnpike, and faithfully account for and pay half yearly all tolls or duties which he may have received. And if any receiver shall neglect or refuse to render such account upon oath, and pay the money, it shall and may be lawful for the court of the said county of Southampton to give judgment against him for the penalty of his bond, provided such receiver have ten days previous notice thereof; which judgment may be discharged by the receiver's accounting for and paying all the money arising from the tolls and duties to the time of entering such judgment. The said trustees, or any four or more of them, shall have power from time to time to remove any receiver of the tolls and appoint others in their stead.

Remedy against receiver for failing to pay.

CHAP. XLV.

An act for speedily recruiting the Virginia regiments on continental establishment.

Preamble.

WHEREAS the different modes heretofore adopted for the making up the deficiencies in the quota of continental troops to be furnished by this state have been found inadequate to the purpose, and it is indispensably necessary that the regiments of infantry be speedily recruited, to render the operations of the ensuing campaign more decisive and honourable to the American arms:

Additional forces to be raised.

Be it enacted, That two thousand two hundred and sixteen men rank and file be forthwith raised within this commonwealth, and that each person who will enlist to serve eighteen months, to commence from the day of their general rendezvous, shall be entitled to three hundred dollars, and that each person who will enlist for three years, or during the war, shall be entitled to

Bounty, for 18 months men.

four hundred dollars, together with the continental bounty of lands, and shall be entitled to receive the pay and rations which are allowed to soldiers in the continental army from the day of their enlistment, and shall be furnished annually, at the publick expense, with the following articles, a coat, waistcoat, and breeches, two shirts, one hat, two pair of stockings, one pair of shoes, and a blanket, to be delivered for the first year at the place of general rendezvous, before the delivery of which necessaries they shall not be obliged to march out of this commonwealth.

For three years or during the war, together with continental land bounty.

Clothing.

And be it farther enacted, That all soldiers who may be disabled in the service shall be entitled to receive full pay during life, to commence at the time of their discharge, and if any of them lose their lives in the service, either by sickness or in the field, the same provision shall be made for their widows and indigent parents as has heretofore been made for others in similar situations.

Pensions, full pay for life.

Pensions to widows.

And be it farther enacted, That the several counties within this commonwealth, and the city of Williamsburg, except the county of Ilmois, shall each of them furnish, on or before the first day of May next, one twenty fifth man of their militia respectively.

Each county except Ilmois, to furnish one twenty fifth of their militia.

And for the more speedy and certain mode of raising the said men. *Be it enacted,* That the county lieutenant or commanding officer of each county within this commonwealth, so soon as he is certified of this act, shall summon the four senior justices, not being field officers, and the field officers of his county, to meet at such convenient time and place in the said county as he shall appoint, within not less than five nor more than twenty days after due notice thereof to them given, which said justices and field officers, or in the absence of any of them any two or more of the said justices, and any two or more of the said field officers, having first taken an oath to be administered by the senior justice to the other members, and by some one of the other justices to him, to do equal and impartial justice to the best of their judgment therein, shall with the assistance of the captains or commanding officers of the several militia companies (who are hereby required to attend such meeting with the muster roll of their respective companies) proceed to lay off and divide the county and militia into as many separate districts and divisions as the number of men required from the county by this

Counties to be laid off into districts and each district to furnish a man.

act, each of which districts shall be required to furnish and deliver to the county lieutenant or commanding officer of the county one able bodied man to serve for one of the aforesaid periods of time.

Encourage-
ment for vo-
luntary en-
listments.

And be it further enacted, That if any county or district, or districts within a county, shall, by voluntary enlistment, raise the number of men as directed by this act, such county or district shall not be liable to be called out of their respective counties, except in case of invasion or insurrection, until the counties or districts that have not raised their men have first performed a tour of duty. Provided, that every person enlisted as aforesaid shall have his election to serve in any company of the Virginia regiments in continental service, in which there may be room for their admission. And every soldier enlisted to serve eighteen months, who shall afterwards enlist to serve for three years, or during the war, in any of the said regiments, shall receive such a sum as, with the bounty before paid him, shall be equal to the bounty granted for the period he may so enlist.

For eighteen
months men
to enlist for
three years,
or the war.

How men re-
strained for
service.

And that the commanding officer of the militia may be enabled to have the men forthcoming when called for, it shall be lawful for him to restrain them, by furlough, to such limits as he shall think reasonable; and if any of them shall depart from such limits, or shall fail to appear at any rendezvous by him appointed, they shall be deemed deserters, and treated accordingly. And the commanding officer of the militia shall transmit one list of the names of such soldiers enlisted in his county to the governour, and one other list to the commanding officer of the continental troops in this commonwealth, without delay, to whose order they shall be delivered by the commanding officer of the militia at the courthouse of his county.

General ren-
dezvous,
how appoint-
ed.

And that the men so raised may be more speedily collected and marched to camp, *Be it enacted,* That the governour or chief magistrate do request the commander in chief of the American army to order into this state one general or field officer, who may appoint a place of general rendezvous, and give such order or orders as he may see cause in collecting the men as they are raised, and marching them to the grand army; and that he also may be requested to order so many other officers to transact this necessary business as he may think fit, to the end there may be a sufficient num-

ber to receive the men raised from the county lieutenant or commanding officer at the courthouse of each county.

Every county lieutenant or commanding officer of a county, failing to summon the field officers and magistrates, as is herein before directed, shall forfeit and pay the sum of five hundred pounds, and every field officer and magistrate being summoned and failing to attend, except prevented by sickness or other disability, shall forfeit and pay the sum of two hundred pounds, to be recovered with costs in the court of the county where such delinquent resides, by action of debt or information, one half to the informer, and the other to the use of the commonwealth.

Penalties for failing to execute this act.

And in order that the bounties intended to be given to the men raised by this act, may be in due time paid, and the expense incurred for their maintenance within the several counties in which they are raised may be immediately defrayed, the governour shall be, and he is hereby empowered, to grant warrants on the treasurer of this commonwealth for such sums as he shall judge necessary for those purposes, to be forwarded by such responsible persons as the governour, with the advice of the council, shall approve of, payable to the county lieutenant or commanding officer of each county respectively, who shall give bond with sufficient security to the commonwealth, to be taken by the person so forwarding the same, and render to the auditors of publick accounts a full and true state of all disbursements made in pursuance of this act, which being by them passed, the treasurer is hereby directed to grant an acquittance for the sums contained therein; and the said auditors shall charge in the account of this commonwealth against the United States of America so much thereof as shall have been expended, in the maintenance of the men while remaining in the respective counties in which they were raised, and the continental bounty.

Bounties & expenses how paid.

And whereas many counties in this commonwealth, from various causes, failed to furnish their quota of men as directed by an act of assembly passed in the year 1777, intituled "An act for more speedily recruiting the Virginia regiments on continental establishment, and for raising additional troops of volunteers," either by failing to draught their militia pursuant to the said recited act, or neglecting to secure their draughts and forward them to the service, *Be it enacted*, That every

Counties heretofore failing to furnish their quotas, to make good the deficiency.

Penalty for neglect.

county which hath failed to draught their militia pursuant to the said act shall raise and make good such deficiency, over and above the number of men to be raised by virtue of this act, by pursuing the mode directed by the said recited act. Every county lieutenant, or the commanding officer of each county, at the time the said draught was made, shall, on or before the tenth day of May next, transmit to the governour a return of all the men draughted, or substitutes, by virtue of the said recited act, specifying to what continental officer they were delivered, how many and which of them had previously deserted, with the proper proofs of such delivery or desertion respectively, that the same may be laid before the next session of the general assembly for their farther order therein, under the penalty of two hundred pounds, to be recovered for the use of the commonwealth, by action of debt or information in any court of record.

Who may not be enlisted.

Provided nevertheless, That no apprentice, hired servants under written contracts, at the time of passing this act, at any iron works, who have twelve months to serve, or persons solely employed in manufacturing fire arms, not having leave in writing from his master or mistress, or the owner or manager of such works, imported servants, or such servants as are obliged to serve to thirty one years of age, shall be taken or received as a soldier under this act.

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ERRATA

In Volume Ninth of Statutes at Large.

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- Page 23 line 13 from top, for "palces" read "places."
 40 23 from top, for "necessary" read "necessity."
 47 2 from top, for "ommitted" read "omitted."
 54 3 from top, for "the constitutional" read "a constitutional."
 56 13 from bottom, for "convention" read "conventions."
 72 3 from top, last word, for "of" read "for."
 77 13 from top, for "brigadiers-generals" read "brigadiers-general."
 94 7 from top, after "convention" insert "assembled."
 96 4 from top, between "with" and "consent" insert "the."
 6 for "An officer" read "Any officer."
 97 9 & 10 from bottom, for "coltor" read "collector."
 101 5 from top, first word, for "of" read "for."
 113 11 & 12 from bottom, for "civilized" read "civilized."
 120 20 from top, before the word "that" strike out "and."
 130 11 from top, for "the" convention, read "this."
 162 12 from top, insert "before" between "been" and "paid."
 172 14 from bottom, for "name" read "named."
 199 17 & 18 from bottom, for "ordinance" read "ordinances."
 200 5 from bottom, for "an act" read "any act."
 240 13 from bottom, strike out the word "the" before "authority."
 242 11 from bottom, for "in" the counties, read "for" the counties.
 254 12 from top, for "clear" read "clean."
 264 17 from bottom, for in "the right" read "in right."
 266 2 from top, for "person" read "persons."
 273 14 from bottom, for "where" read "were"
 279 20 from top, for "proportion" read "proportions."
 282 top line, strike out the three first words, being a repetition.
 310 first line of act, for "situations" read "situation."
 323 12 from top, for "places" read "place."
 354 11 from bottom, for "as the taxes" read "as of the taxes."
 369 2 from bottom, for "tithable" read "tithables."
 373 8 from top, for "inflicted" read "inflicted."
 379 4 from top, for "in" read "into."
 382 10 from top, insert "the" between "or" and "pre-emption."
 16 from top, for "enchancing" read "enhancing."
 394 18 from top, for "unvoidable" read "unavoidable."
 8 from bottom, for "sign" read "signed."
 418 17 from top, for "discharge" read "discharged."
 436 2 from top, in the title, for "Nattaway" read "Nottaway."
 446 14 from top, insert "the" between "of" and "brigade."
 474 14 from top, insert "said" between "the" and "king."
 477 3 from bottom, insert "may" between "many" & "refuse."
 495 17 from top, for "and" read "or" between "August" and "September."
 496 Top line, for "neither" read "either."
 3 from top, for "offices" read "office"
 555 In the title, for "in" the county, read "of" the county.
 577 22 from top, for "so affect" read "to affect."

2609.2



