8th. The power given to the executive by the constitution, the duty I owe the community, and the sacredness of my oath of office, will, I flatter myself, justify this dissent in the minds of the members of the legislature, and of my other fellow citizens.

And whereas, the said usurped act passed on the seventh day of January, one thousand seven hundred and ninety-five, is also repugnant to the afore recited sixteenth section, in as much as it is repugnant to the seventeenth or subsequent section of the said first article, which declares, "They (the legislature) shall have power to alter the boundaries of the present counties, and to lay off new ones, as well out of the counties already laid off, as out of the other territory belonging to the State. When a new county or counties shall be laid off out of any present county or counties, such new county or counties shall have their representation apportioned out of the number of representatives of the county or counties out of which it or they shall be laid out; and when any new county shall be laid off in the vacant territory belonging to the State, such county shall have a number of representatives not exceeding three, to be regulated and determined by the general assembly." And the territory disposed of not laying within the limits of any county already laid off, and a sale and grant thereof, should the said usurped law be deemed valid, having been made, it could not be defined the vacant territory belonging to the State, whereby the constitutional powers vested in the general assembly by the said seventeenth section, would be barred and prevented, and consequently the settlers on the territory fold, be deprived of the constitutional right of representation, and is not only thus repugnant to the said sixteenth and seventeenth sections, but thereby and by the relinquishment of the right of taxation, until the settlers were represented, which they cannot constitutionally be, is also repugnant to the whole letter and spirit of the constitution, it operating as a dereliction of jurisdicltional rights, and a virtual dismemberment of the State.

And whereas, in and by the articles of confederation entered into and finally ratified on the first day of March, one thousand seven hundred and eighty-one, by the then thirteen States of America, the territory within the limits of each of the said States is to each of them respectively confirmed and guaranteed, first by the second article, to wit: "Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction and right, which is not by the confederation expressly delegated to the United States in congress assembled." And secondly, by the last clause in the second section of the ninth article, "No State shall be deprived of territory for the benefit of the United States." And in and by the first clause of the sixth article of the federal constitution of the United States, "All engagements entered into before the adoption of the said constitution, shall be as valid against the United States under the said constitution as under the confederation." And by the twelfth article of the amendments to the said constitution, ratified and adopted, "The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."
LAWS OF GEORGIA.

United States were established, and the said United States fully recognized and acknowledged by the first article thereof, in the words following: "His Britannic majesty acknowledges the said United States, viz. New-Hampshire, Massachusetts Bay, Rhode-Island, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia, to be free, sovereign and independent States, that he treats with them as such, and for himself, his heirs and successors, relinquieths all claims to the government, proprietary and territorial rights of the same;" and by the second article it is declared, "And that all disputes which might arise in future on the subject of the boundaries of the said United States, may be prevented, it is hereby agreed that the following are, and shall be their boundaries." And those boundaries thereby declared, which limit the westwardly and southwardly parts of this State, are thus defined: "Along the middle of the Mississippi until it shall intersect the northernmost part of the thirty-first degree of north latitude; south by a line drawn due east from the termination of the line last mentioned in the latitude of thirty-one degrees north of the Equator, to the middle of the river Appalachian or Chatahouchee; thence along the middle thereof to its junction with Flint river; thence straight to the head of St. Mary's river; and thence along the middle of St. Mary's river to the Atlantic ocean;" and the king of Great Britain did, by proclamation dated the seventh day of October, in the year one thousand seven hundred and sixty-three, annex to the then province of Georgia, all the lands lying between the said river St. Mary's and the Alatamaha, its former boundary claimed by South Carolina under her charters; and the State of South Carolina, in and by a convention held and concluded between the commissioners of the said States, at Beaufort, under the authority and articles of the confederation, on the twenty-eighth of April, in the year one thousand seven hundred and eighty-seven, did confirm to the State of Georgia, the southward and westwardly boundaries described in the said treaty of Paris, by cession and relinquishment of all right, title and claim which the said State possessed from the original charter thereof, to the government, sovereignty and jurisdiction in and over the same, and also the right of pre-emption of the soil from the native Indians, and all other the estate, property and claim, in or to the said land; and the boundaries so described, also coincide with the boundaries of this State, as described by the last act of this State now in force, passed at Savannah the seventeenth of September, one thousand seven hundred and eighty-three, (except as to the northern boundary of the State) which by the said convention is thus established and ratified by the first article thereof, "The most northern branch or stream of the river Savannah from the sea or mouth of such stream, to the fork or confluence of the rivers now called Tugaloo or Keowee, and from thence to the most northern branch or stream of the said river Tugaloo, till it intersects the north boundary line of South Carolina, if the said branch or stream of Tugaloo extends so far north, reserving all the islands in the said rivers Savannah and Tugaloo to Georgia; but if the head spring or source of any branch or stream of the said river Tugaloo does not extend to the north boundary of South Carolina, then a west line to the Mississippi."
And whereas, until the formation of the confederation, there could possibly belong no territorial rights to the United States, nor after such formation within the chartered limits of any State, but such as were specially ceded and relinquished by the respective States; and the people of the State of Georgia have by no act of theirs, or in any manner or shape, whatever, transferred or aliened or delegated a power to transfer or alien the territory attempted to be disposed of by the said usurped act, passed on the seventh of January, one thousand seven hundred and ninety-five, and the same and every part thereof is hereby declared to be vested in the State and people thereof, and inalienable, but by a convention called by the people for that express purpose, or by some clause of power expressed by the people delegating such express power, to the legislature in the constitution.

And whereas, divested of all fundamental and constitutional authority which the said usurped act might be declared by its advocates, and those who claim under it, to be founded on, fraud has been practised to obtain it and the grants under it. And it is a fundamental principle both of law and equity, that there cannot be an injury without a remedy, and the State and the citizens thereof have suffered a more grievous injury in the barter of their rights by the said usurped act and grants, and there is no court existing if the dignity of the State would permit her entering one for the trial of fraud and collusion of individuals, or to contest her sovereignty with them, whereby the remedy for so notorious an injury could be obtained; and it cannot be where better lay than with the representatives of the people chosen by them, after due promulgation by the grand juries of most of the counties of the State, of the means practised, and by the remonstrances of the people to the convention, held on the tenth day of May, in the year one thousand seven hundred and ninety-five, setting forth the atrocious speculation, corruption and collusion, by which the said usurped act and grants were obtained.

And whereas, the said petitions and remonstrances of the good people composing the State, to the said late convention held at Louisville on the said tenth day of May, one thousand seven hundred and ninety-five, produced a resolution of that body in the following words: "Resolved, That it is the opinion of this convention, that from the numbers, respectability, and ground of complaint stated in the sundry petitions laid before them, that this is a subject of importance meriting legislative deliberations. Ordered therefore, That such petitions be preferred by the secretary, and laid before the next legislature at their ensuing session." Which resolution invests this legislature with conventional powers, quo ad hoc, or in common terms, for the purpose of investigating the same, and which gives additional validity to legislative authority, were the powers of one legislature over the acts of another to be attempted to be questioned.

And whereas, it does appear from sundry affidavits and a variety of proofs satisfactory to this legislature, as well as from the presentments of the grand juries and oath, of a considerable majority of the counties of the State, and by the afore recited petitions and remonstrances of the good people thereof to the convention, and by numerous petitions to this present legislature to the same purport, as also from the self-evident proof of fraud, arising from the rejection of eight hundred thousand dollars,
dollars, and the acceptance of five hundred thousand dollars, as the consideration
money for which the said territory was sold; that fraud and corruption were prac-
tised to obtain the said act and grants, and that a majority of those members of the
legislature who voted in favor of the aforesaid act, were engaged in the purchase; and
a majority of one vote only appeared in favor of the said usurped act in the senate,
and on which majority in that branch the same was passed, and corruption appears
against more than one member of that body; which, exclusive of the many deceptions
used, and the inadequacy of price for such an immense and valuable tract of country,
would be sufficient in equity, reason, and law, to invalidate the contract, even sup-
posing it to be constitutional, which this legislature declares it is not.

I. Be it therefore enacted, That the said usurped act, passed on the seventh day of
January, in the year one thousand seven hundred and ninety-five, entitled "An act
supplementary to an act, entitled an act for appropriating a part of the unlocated
territory of this State, for the payment of the late State troops, and for other pur-
poses therein mentioned, declaring the right of this State to the unappropriated
territory thereof; for the protection of the frontiers, and for other purposes," be
and the same is hereby declared null and void, and the grants or grants, right or
rights, claim or claims, issuing, deduced or derived therefrom; or from any clause,
letter or spirit of the same or any part of the same, is hereby also annulled, rendered
void, and of no effect; and as the same was made without constitutional authority,
and fraudulently obtained, it is hereby declared of no binding force or effect on this
State or the people thereof; but is and are to be considered both law and grants as
they ought to be ipso facto of themselves void, and the territory therein mentioned
is hereby declared to be the sole property of the State, subject only to the right of
treaty of the United States to enable the State to purchase under its pre-emption
right the Indian title to the same.

II. And be it further enacted, That within three days after the passing of this act
the different branches of the legislature shall assemble together; at which meeting
the officers shall attend with the several records, documents and deeds in the secre-
tary's, surveyor general's, and other public offices, and which records and documents,
shall then and there be expunged from the face and indexes of the books of record of
the State; and the enrolled law or usurped act shall then be publicly burnt; in order
that no trace of so unconstitutional, vile and fraudulent a transaction, other than the
infamy attached to it by this law, shall remain in the public offices thereof; and it
is hereby declared the duty of the county officers of record, where any conveyance,
bond or other deed whatever, shall have been recorded, relating to the sale of the
said territory under the said usurped act, to produce the book wherein the said deed,
bond or conveyance may be so recorded, to the superior court at the next session of
the court after the passing this law, and which court is hereby directed to cause such
clerk or keeper of the public records of the court to expunge the same in their pre-
sence; and if such clerk or keeper of records, neglect or refuse so to do, he shall be
and is hereby declared incapable of holding any office of trust or confidence in this
State, and the superior court shall suspend him: And from and after the passing of
this law, the act for disposing of part of the western territory, and the grants &c. foun-
ded therein, declared to be ipso facto null & void.

The act for disposing of part of the western territory, and the grants &c. foun-
ded therein, declared to be ipso facto null & void.

The law to be expunged from the public records.
DIGEST OF THE

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This act, if any clerk or a county, notary public, or other officer keeping record, shall enter any transaction, agreement, conveyance, grant, law or contract relative to the said purchase, under the said usurped act, on their books of record, whereby claim can be derived of authority of record, he or they shall be rendered incapable of holding any office of trust or profit within this State, and be liable to a penalty of one thousand dollars, to be recovered in any court within and under the jurisdiction of this State; one half thereof to be given for the benefit of the informer, and the other half to be lodged in the treasury for the use of the commonwealth.

III. And be it further enacted, That the said usurped law passed on the seventh of January, in the year one thousand seven hundred and ninety-five, shall not, nor shall any grant or grants issued by virtue thereof, or any deed or conveyance, agreement or contract, for or paper relative thereto, be received as evidence in any court of law or equity of this State, so far as to establish a right to the said territory or to any part thereof: Provided, That nothing herein contained shall be construed to prevent such deed or conveyance, agreement or contract, between individuals, to be deposited by the pretended purchasers, or other paper, from being received as evidence in private actions, for the recovery of any monies given, paid or exchanged, as the consideration for pretended sales by the original pretended purchasers or persons claiming and selling by and under them.

IV. And be it further enacted, That his excellency the governor be, and he is hereby empowered and required to issue warrants on the treasurer after the expiration of sixty days in favor of such persons as may have bona fide deposited monies, bank bills or stock in the funds of the United States or warrants, in part or in whole payment of pretended shares of the said pretended purchased territory; Provided, That nothing herein contained shall be construed to prevent the keeping the same or sums so paid in, be deemed and is hereby declared to lay entirely with the persons who deposited them, and that any charge of guards or other expenses for the safe keeping thereof, be deducted therefrom, and in case of neglect of application to his excellency therefor, within eight months after the passing this act, the same shall be and is hereby deemed property derelict, and escheated to and for the use of this State.

V. And be it further enacted, That any pretended power assumed, usurped, or intended by the said act, or any clause, or letter of the same, or which may or can be continued to that purpose by the said usurped act, grant or grants under it, or from the journals of the house of Senate or representatives, to apply to the government of the United States for the extinguishment of the Indian claims to the lands within the boundaries in the said usurped act mentioned, and the holding any treaty by the said general government in consequence of any application therefore by the company of purchasers under the said usurped act, so far as may affect the rights of this State to the lands therein described, is, and are hereby also declared null and void, and the right of applying for, and the extinguishment of Indian claims to any lands within the boundaries of this State, as herein described, being a sovereign right, is hereby further declared to be vested in the people and government of this State, to
whom the right of pre-emption to the same belongs, subject only to the controlling power of the United States to authorize any treaty or treaties for and to superintend the same.

VI. And be it further enacted, That in order to prevent future frauds on individuals as far as the nature of the case will admit, his excellency the governor is hereby required, as soon as may be, after the passing of this law, to promulgate the same throughout the United States.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 13, 1796.

JARED IRWIN, Governor.

An Act to enable the executors of the last will and testament of Daniel Grant, deceased, to carry the same into effect, and for other purposes therein mentioned.

WHEREAS, by the last will and testament of Daniel Grant, deceased, late of the county of Wilkes, the executors therein named, are directed to apply as early as may be to the legislature of this State for an act enabling them to carry the said will into effect: And whereas, the said Daniel Grant, deceased, hath by his last will and testament declared certain negro slaves therein named free at certain times, and under certain conditions and restrictions therein contained: And whereas, the executors, to wit: Thomas Grant, John Crutchfield and David Meriwether, have petitioned the present legislature, in terms of and agreeably to the said will;

I. Be it therefore enacted by the joint and several representatives of the State of Georgia in general assembly met, and by the authority of the same, That the aforesaid Thomas Grant, John Crutchfield and David Meriwether, executors as aforesaid, survivor or survivors of them, are hereby authorized to carry the said will, with every item and paragraph thereof, fully into effect; and the several negro slaves therein mentioned, are hereby declared to be freed and liberated, at the times and on the terms and conditions therein expressed; any law usage or custom to the contrary notwithstanding.

II. And whereas, Anthony Hayns, late of the county of Columbia, was in his life time possessor of certain negro slaves, to wit: Chany and her nine children, Billy, Sylvia, Francis, John, Polly, Richard, Betsy, Anthony and Peggy; And whereas, the said Anthony Hayns died, on the tenth day of June, in the year of our Lord one thousand seven hundred and ninety-five, make a certain instrument in writing, duly executed, and now entered of record in the clerk's office of the said county, purporting his renunciation of all right, title, interest and claim of, in, and to the said negro woman, Chany and her aforesaid children, and did thereby publish and declare the aforesaid negro woman, Chany and her nine children, Billy, Sylvia, Francis, John, Polly, Richard, Betsy, Anthony and Peggy, to be for ever manumitted, emancipated and freed, and capable of enjoying all the rights and privileges of citizenship; and the
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No. 544.
said Anthony Hayns did also, on the fifteenth day of June; one thousand seven hundred and ninety-five, by his last will and testament duly executed, give and bequeath unto the said negro woman, Chany and her children, Billy, Sylvia, Francis, John, Polly, Richard, Betty, Anthony and Peggy, certain lands and other property therein specified;

And whereas, Thomas Hayns and David Maxwell, executors of the said last will and testament, have applied by petition to the legislature, to confirm the emancipation and freedom of the said negro slaves.

Be it therefore enacted by the authority aforesaid, That the said negro woman, Chany and her nine children, to wit: Billy, Sylvia, Francis, John, Polly, Richard, Betty, Anthony and Peggy, they, and each of them be, and they are hereby emancipated, freed, and enabled to take, hold, and enjoy property of every kind, in like manner as if they were free citizens of this State.

III. And be it further enacted by the authority aforesaid, That the property given and bequeathed in the last will and testament of the said Anthony Hayns to the said negro woman, Chany and her children, Sylvia, Francis, John, Polly, Richard, Betty, Anthony and Peggy, is hereby declared to be vested and confirmed in them and their heirs and assigns for ever, agreeably to the true intent and meaning of the said will.

IV. And be it further enacted, That Reubin Going and John Going, of Greene county be, and they are hereby authorized and enabled to take, hold and enjoy property both real and personal.

Provided nevertheless, That nothing herein contained shall extend, nor be construed to extend, to entitle the said free mulattoes and negro slaves, when liberated as aforesaid, to serve as jurors in any case whatsoever, nor to render them or either of them a witness in any cause or case where the personal right or property of any white person or persons is or are concerned, nor to entitle them or any of them, to have or hold, directly or indirectly, any office of trust or profit, civil or military, within this State.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 13, 1796.

JARED IRWIN, Governor.

An Act to authorize the trustees of the town of Augusta, to make uniform the Broad-street of the same, and to give relief to certain lot-holders therein; and also to empower the said trustees to appropriate one of the public lots for the use of a meeting house or house of worship in the said town; and for other purposes.

WHEREAS, it is represented to this general assembly, that the lot holders on the north side of Broad street, in the aforesaid town of Augusta, situate in that part of the town lying between Washington and Lincoln streets, suffer great inconvenience...
inconvenience from the extraordinary width of the said Broad street; the same being sixty-four feet wider there than above and below them; for remedy whereof, 

I. Be it enacted by the senate and house of representatives of the State of Georgia in general assembly met, That the trustees of the said town of Augusta, be, and they are hereby authorized and required to make uniform the aforesaid Broad street, by reducing the same to equal width, and to convey by proper deeds of conveyance to the persons holding lots between Washington and Lincoln streets, and on the north side of Broad street as aforesaid, the ground lying and being between the said lots respectively, and a parallel line to be drawn from the corner at the intersection of Broad and Washington streets, to the corner where the said Broad street is intersected by Lincoln street on the north side thereof, and to their heirs and assigns forever, in fee simple, in as full and ample a manner as the other lots in the said town have been conveyed; the aforesaid lot holders respectively, their heirs or assigns, first giving bond with good security to the said trustees, payable on or before the first day of March, in the year of our Lord one thousand seven hundred and ninety-seven, with interest from the date thereof, for a sum of money which shall be equal to the average amount of the commissioners' sales of the two squares of lots, the one lying immediately above, and the other below the aforesaid corners, in proportion to the quantity of ground to be conveyed to each lot holder; and the money arising therefrom shall be, and the same is hereby appropriated to the use of the court house and gaol in the said town.

Whereas, by an act of the general assembly, entitled "An act for the more speedy and effectual settling and strengthening this State," it is enacted among other things, that the commissioners of the town of Augusta or any three of them, shall referve two of the best lots in the center line of the said town, and distant from each other, for houses of public worship: And whereas, the same hath not been fully carried into effect, and inasmuch as the free and uncontrolled exercise of religious worship is among one of the greatest blessings which a free people can enjoy;

II. Be it therefore further enacted by the authority aforesaid, That the trustees of the aforesaid town of Augusta be, and they are hereby authorized and required to appropriate one of the public lots within the said town, to contain at least one acre of ground, and to be situated as conveniently as may be to the inhabitants thereof, for a house of public worship to the Divine Being, by whose blessing the independence of the United States has been established; and that the said trustees do, by proper deed of conveyance, convey unto Cornelius Dyfart, Samuel Jack, Dennis Smelt, Isaac Herbert, James Pearre, John Springer and Mofes Waddel, and their successors for ever, the aforesaid lot of ground for the sole use of the aforesaid institution.

III. And be it further enacted, That the said Cornelius Dyfart, Samuel Jack, Dennis Smelt, Isaac Herbert, James Pearre, John Springer and Mofes Waddel shall be, and they are hereby declared to be a body corporate, by the name and style of "The Trustees of the Augusta Meeting House;" to have and to use a common seal, with power to sue or be sued, plead or be impleaded, and may acquire, have, hold, and enjoy real and personal property for the use and benefit of the aforesaid corporation.

IV.
A. D. 1796.
No. 545.

Vacancies, how to be filled.

IV. And be it further enacted, That all vacancies which may happen in the said corporation by death, resignation or otherwise, in the recess of the legislature, shall, and may be filled by their own body, until the meeting of the next legislature thereafter.

V. Whereas, the aforesaid town of Augusta hath lately sustained considerable injury by the inundation of an extraordinary flood of water in the Savannah river, and which was considerably heightened on account of the direction of the current immediately against the town; for remedy whereof, Be it enacted by the authority aforesaid, That it shall and may be lawful for the trustees of the aforesaid town of Augusta, to establish a lottery, within eight months from and after the passing of this act, under such scheme, regulations and restrictions as the said trustees may deem most expedient, fully to effect the end of erecting and completing one or more sufficient pier or piers, in such part or parts of the river as will, in their judgment, most effectually divert the current of the same from off the said town; Provided, That such piers shall not obstruct the navigation of the said river.

VI. And be it further enacted, That the executive appointment of Thomas Cumming, Esq. as one of the trustees of the town of Augusta, in the room of John Milton, Esq. resigned, be, and the same is hereby ratified and confirmed; and that Abraham Jones, Samuel Jack and Augustus Baldwin, Esqrs. be, and they are hereby added to the list of trustees for the said town of Augusta:

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERO, President of the Senate.

Concurred, February 18, 1796.

JARED IRWIN, Governor.

No. 546.

An Act to repeal an act for inflicting penalties on, and confiscating the estates of such persons as are therein declared guilty of treason, and for other purposes therein mentioned, so far as relates to the banishment of John Mulryne Tattnall.

February 18, 1796.

No. 547.

An Act to secure to Stephen Powell for the term of ten years, the sole and exclusive right of building a bridge over the river Ogeechee, near the town of Louisville.

I. Be it enacted by the Senate and House of Representatives in General Assembly met and by the authority of the same, That the said Stephen Powell, his heirs and assigns, shall have the sole and exclusive right of erecting a good, complete and substantial bridge, capable of supporting all carriages in common use, on or before the first day of August, in the year of our Lord one thousand seven hundred and ninety-six, and rebuild when necessary, or keep the said bridge in good and sufficient repair; Provided, That the said bridge shall not be so constructed as to impede the navigation of the said river.
II. And be it further enacted by the authority aforesaid, That in case the said bridge shall not be erected within the time herein before mentioned, or being so erected and completed, shall not be kept up in good repair, (allowing a reasonable time, not exceeding three months at any one time, for repairing and re-building) the privilege of right of the said Stephen Powell, his heirs and assigns, on failure of either the foregoing provisos and conditions, shall cease and be wholly void.

III. And whereas, for promoting and encouraging so laudable an undertaking, it is necessary to afford every security in the power of the legislature to grant;

Be it further enacted, That the said Stephen Powell, his heirs and assigns shall, and may legally demand and receive, during the said term of ten years, a toll in the following manner, that is to say: For every loaded waggon and other four wheeled carriage, fifty cents; for every empty waggon, twenty-five cents; for every loaded cart or other two wheeled carriage, twenty-five cents; for every empty cart or dray, twelve and an half cents; for every man and horse, fix and one-fourth cents; for a foot passenger, three cents; for every rolling hoghead drawn with two horses, twenty-five cents; for every rolling hoghead drawn with one horse, eighteen and three-fourths cents; for all black cattle per head, one cent; for hogs, sheep and goats, one cent and no more.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 18, 1796.

JARED IRWIN, Governor.

An Act to extend the authority of the mayor and aldermen of Savannah to have jurisdiction of civil causes to a certain amount.

WHEREAS, it would greatly promote the welfare and advantage of the city of Savannah and the inhabitants, to grant to the corporation thereof, the power of holding courts for the trial of causes to a certain fixed amount:

I. Be it therefore enacted by the senate and house of representatives of the State of Georgia in general assembly met, That it shall be lawful for the mayor and aldermen of the city of Savannah, and they are empowered at any time after the passing of this act, to hold courts once in every month throughout the year, to appoint such officers as they may deem necessary, and to settle and allow reasonable fees not exceeding one half the fees allowed for like services in the inferior courts in suits cognizable therein; and to have jurisdiction of, and to hear and determine all civil causes not involving the right or title to any land or real estate arising within the jurisdiction of the corporation, so as the demand in such suit or action do not exceed fifty dollars; and to give judgment, and award execution therein, according to law. Provided, That if any party to a suit shall feel him, her or themselves aggrieved, by the decision of the said courts, it shall be lawful for such party to enter an appeal within three days after such trial; first paying all costs which may have accrued on the said trial, and giving sufficient security to abide and perform the sentence of the court at the trial of the appeal;
A. D. 1796.
No. 548.

The manner of drawing & impanneling jurors

appeal; and all appeals from the decision of the said courts shall be tried on the next
court day succeeding such trial by a jury of seven men, whose verdict shall be final.

II. And be it further enacted, That the said mayor and aldermen shall have power
to draw, and impanel jurors for the trial of appeals, who shall be resident within
their jurisdiction, and shall be qualified and liable to serve on petit jurors, to cause
them to be summoned, and to fine them for non-attendance or other misconduct, in
such manner as they may think proper, not exceeding ten dollars; and shall have
power to award execution for such fines, and cause the goods of the person incurring
such fines to be sold by virtue thereof.

III. And be it further enacted, That the said mayor and aldermen or any of them,
may, on complaint made by any seaman or seamen for non-payment of their wages, or
by any other person for the non-payment of any debt or sum of money, or for any
damage not exceeding fifty dollars, as aforesaid, to issue a warrant directed to any,
constable of the city to summon or arrest the defendant, (if required agreeably to
law) and to summon all witnesses required by either party, to appear at the court of
aldermen on such a day as shall be therein appointed; which summons, with a true
copy of the petition annexed, shall be served on the defendant ten days before the
fitting of the court.

IV. And be it further enacted, That the court of aldermen, or either of them,
may issue warrants to apprehend persons guilty or charged with any crime or breach
of the peace, and after examination may, if necessary, commit such person to gaol,
or bind him over to appear at the next superior court for trial, at which time the
proceedings of the said court of aldermen, with respect to such culprit, shall be laid
before the said court.

V. And be it further enacted, That the said mayor and aldermen shall, in all judi-
cicial proceedings, have reference to, and be governed by the laws of force in this
State for regulating the judiciary proceedings thereof: And the said court of alder-
men is declared to be a court of record, and any person necessarily going to, being
at, or returning therefrom, shall be free of arrest or any civil suit.

THOMAS STEVENS, Speaker of the House of Representatives.
BENJAMIN TALLAFERRO, President of the Senate.

Coucurred, February 18, 1796.
JARED IRWIN, Governor.

No. 549. An Act to pardon William Lejeune, under sentence of death in the county of Chatham, and for other purposes therein mentioned.

February 18, 1796.
Private.

No. 550. An Act to enable the trustees of the White Bluff congregation, in the county of Chatham, to sell and convey a certain tract of land.

February 18, 1796.
Private.
An Act to appropriate the vacant lots in the town of Ebenezer, for the
purposes of erecting a court house and gaol, and for the support of an
academy in the said town, and to appoint commissioners for the same.

I. Be it enacted by the Senate and House of Representatives of the State of Georgia in general
assembly met, and by the authority thereof, That Jeremiah Cuyler, John G.
Neidlinger, Jonathan Rawlin, Elias Hodges and John Martin Daister, shall be, and
they are hereby appointed commissioners for the town and common of Ebenezer, in
the county of Effingham; and that the said commissioners or a majority of them
shall have full power and authority (after having given three months public notice thereof
in the gazette of Savannah, and at three or more public places in the county aforesaid) to survey, or cause to be surveyed and laid out, the said town of Ebenezer, as
nearly as possible in conformity to the original plan thereof; which survey shall be
recorded in the surveyor's office of the said county, and likewise in the surveyor,
general's office.

II. And be it further enacted, That the said commissioners or a majority of them
shall have full power and authority to sell at public vendue to the highest bidder, at
such time or times, place or places, as they may direct, all or any of the lots in the
said town which are vacant, or have by any other manner become vested in the State,
(except such as have been reserved, or as the commissioners may think proper to re-
serve) for public or county uses; Provided, That the said commissioners shall first
give thirty days public notice of such sale or sales in the Georgia gazette, and in three
or more public places in the said county; and the monies arising from the sale of
such lots shall be applied to the building a court house and gaol in the said county of
Effingham; and if a balance should remain, it shall be applied to the support of an
academy within the said county, under the direction of the commissioners of the academy in said county. And the commissioners herein before named, are required to pay over to the commissioners of the academy whatever balance may remain in their
hands after building the court house and gaol as aforesaid.

III. And be it further enacted, That the commissioners appointed by this law shall,
within three months after each sale, make return to the treasury of the number of
lots sold, and the prices of each, and shall make yearly returns to the treasurer of
the monies expended by them about the buildings aforesaid.

IV. And be it further enacted, That the commissioners herein before appointed shall,
before they enter on the duties of their appointment, give bond with security to the
justices of the inferior court of the said county, in the sum of thirty pounds each,
and shall likewise take and subscribe the following oath, to wit:

"I, A. B, do solemnly swear or affirm as the case may be, that I will faithfully
discharge the trust reprost in me to the best of my abilities and understanding. So
help me God."

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 18, 1796.

JARED IRWIN, Governor.
A. D. 1796. An Act to divorce or separate Ichabod Bulkeley and Margaret his wife, and for protest ing each of them in their respective estates.

February 18, 1796. Private.

No. 553. An Act to relieve the heirs of Francis Maria Loys Dumoufay de la Vave, the heirs of Hyacinth de Chapadelane and Christopher Poulain Dubignon.

Preamble.

WHEREAS, it hath been represented to this general assembly, that Nicholas Francis Mazon de la Ville Houchet, a Frenchman, late of the county of Glynn, in this State, pur chased at tax collectors sales the island called Jekyl, on the sea coast; in the county and State aforesaid, that he afterwards sold and conveyed one-fourth part of the said island to Francis Maria Loys Dumoufay de la Vave; one-fourth part to Hyacinth de Chapadelane, and one other fourth part to Christopher Poulain Dubignon, in fee simple; reserving the remainder to himself; that the deeds of conveyance for the said property were sent in a vessel to France for the purpose of obtaining a renunciation of dower, from the wife of the said Ville Houchet; that the said vessel being chased by an enemy, the deeds before mentioned with the other papers of the ship, were thrown overboard and entirely lost; and that there is no method prescribed in the laws of this State, whereby the said deeds may be established:

I. Be it therefore enacted by the senate and house of representatives of the State of Georgia in general assembly met, That it shall and may be lawful for the superior court of the said county of Glynn, at the second term of the said court, or at any term thereafter, after the passing of this act, to summon, hear and examine all witnesses, at the instance of either or any of the parties, touching and concerning the premises, and to take their depositions in writing, and to certify the same under his hand of the judge presiding; Provided, That the party applicant shall publish in the Georgia gazette the intended application to the superior court, under and by virtue of this act, at least three months before such examination shall take place; And provided, all examinations of witnesses, in relation to the deeds before recited, shall be taken in open court, in presence of the grand jury of the county, and be also certified under the hand of the foreman thereof; and if the testimony adduced shall appear to the court and to the grand jury, unequivocal and satisfactory, that such deeds did exist, and were lost in manner herein before recited, then the judge shall direct the clerk, by an order under his hand, to record the depositions so taken and certified as aforesaid, in his office; which depositions so recorded, shall and may be given in evidence in any court of law or equity, and shall avail for the benefit of the persons herein before recited, or their heirs or assigns, or of all persons claiming under them, as much as the same can or ought to avail; and it shall be lawful for the clerk of the said
Said court to record the copies of the said deeds if they should be produced and proved, to be true copies, before the said court and grand jury in manner aforesaid.

Provided, That nothing in this act contained, shall be construed to extend to affect any right the State may have to any part or the whole of the property in the said deeds in this law mentioned, or the right of any other person or persons whatsoever.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 19, 1796.

JARED IRWIN, Governor.

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An Act to lay off a new county out of part of the counties of Burke and Warren, for dividing the county of Wilkes, and for other purposes therein mentioned.

BE IT ENACTED by the Senate and House of Representatives of the State of Georgia in general assembly met, and it is hereby enacted, That a new county shall be laid off out of part of the counties of Burke and Warren, in manner and form following, to wit: Beginning at Hargrave’s bridge, on the river Ogechee; from thence running in a direct line to Pigg’s old field; thence in a direct line to Ballard’s mill; thence in a direct line to the Chickafaw bridge or ford on Brier creek; thence up the stream of the said creek to Harris’s bridge; thence in a direct line to the mouth of Big creek, where it makes a confluence with the river Ogechee, aforesaid; thence down Ogechee to the western line of the Big survey; thence across Ogechee river a direct line to run to the mouth of the first branch above Vivion’s bridge, on Williamson’s swamp; thence across said swamp in a direct line to where the Sunbury road strikes the Montgomery line; thence down the said road to the Hurricane; thence along the said Hurricane eastwardly to Williamson’s swamp; thence down the said swamp to Reuben Hargrove’s bridge, the place of beginning; which county shall be called and known by the name of Jefferson.

II. And be it further enacted, That Richard Grey, of Warren county, be, and he is hereby appointed, authorized and required to run and plainly mark out the lines herein before designated; and that the justices of the inferior court to be appointed for the said county of Jefferson, be, and they are hereby authorized to levy a tax on the people of the said county for defraying the expense thereof, as well as for the building a court house and gaol in the said county; which tax shall not exceed one sixth part of the general tax of the said county.

III. And be it further enacted, That Michael Shelman, John M. Sterret, Cheffey Boatwicke, junior, John Barron and John Parsons, shall be, and they are hereby appointed commissioners for erecting a court house and gaol as aforesaid; which said commissioners or a majority of them, shall have full power to contract for the building and completing the same.

IV. And be it further enacted, That the permanent seat of public buildings in the county of Washington shall be in the town of Sandersville, it being the place where the court house and gaol of said county do at present stand.

V. And be it further enacted, That the place of holding courts and elections for the county of Jefferson, shall be in the town of Louisville, in the house of Joseph Cheers, until a court house shall be erected as aforesaid.

VI. And be it further enacted, That the said county of Jefferson, shall be allowed one member to represent it in the general assembly, to be taken from the county of Warren.

VII. And be it further enacted by the authority aforesaid, That so much of the act passed the last session of the general assembly, to far as respects the appointing of commissioners for fixing on a spot for a court house and gaol in the county of Warren, be, and the same is hereby repealed; and that Stephen Mitchel, John Walton, Solomon Slatter, Jefic Bunkley and Adam Jones, are hereby nominated and appointed commissioners in their room for the purpose aforesaid, and to execute all and every power which the law hath vested in those herebefore named; and that a determination of the said commissioners or a majority, shall be binding in all cases respecting the powers granted to them for fixing on a spot for erecting a court house and gaol within the said county of Warren; and that the courts and elections of said county be at the house of Sterling Gardner, until the public buildings be completed as aforesaid; any law to the contrary notwithstanding.

VIII. And be it further enacted by the authority aforesaid, That one other new county shall be laid out of the county of Wilkes, in the following manner and form, to wit: Beginning at Rae's mill, on Little river, running a direct line; from thence to Zimmerman's, on the road leading from the town of Washington to Barkdale's ferry, on Savannah; from said Zimmerman's a direct line to Drury Cade's mill, on Broad river; from thence down Broad river to its mouth; thence down Savannah river to the mouth of Little river; thence up Little river to the beginning; which said county shall be called and known by the name of Lincoln.

IX. And be it further enacted, That Henry Ware, Thomas Commander Russel, John Walton and Thomas Murray, and other commissioners appointed by act of 1798, No. 620, be, and they are hereby appointed commissioners for fixing on a proper place for building a court house and gaol for said county of Lincoln, which shall be as nearly in the center thereof as possible; and until such public buildings are completed, the courts for said county shall be held at the house of Joseph Stovali, on Soap creek.

X. And be it further enacted, That the justices of the inferior court of the said county, to be hereafter appointed, shall be, and they are hereby authorized and empowered to levy a tax on said county of Lincoln; which tax shall not exceed one half the general tax; and the said justices are hereby further authorized and empowered to contract with some person or persons, to build and completely finish the aforesaid public buildings, on such plan, and in such manner as they may direct; taking care to take bond, and sufficient security of such undertakers, in double the amount to be paid for such public buildings, for the faithful performance of their duty.

* Representation to be according to enumeration. See constitution of 1798.
† Other commissioners appointed by act of 1798, No. 620.
‡ See act of 1796, No. 555, respecting county tax.
XI. And be it further enacted, That all suits that have been commenced in the county of Wilkes, where the defendant shall be an inhabitant of said county of Lincoln, shall be removed to said county of Lincoln, without any additional costs, so soon as the courts for said county shall be properly organized.

XII. And be it further enacted, That the said county of Lincoln shall be allowed one* member to represent them, out of the number allowed by the constitution to the county of Wilkes.

XIII. And be it further enacted, That the surveyor of the county of Wilkes is hereby directed and required to run and plainly mark the lines describing the aforesaid county of Lincoln from Wilkes county, for which service he shall be allowed the sum of twenty-one dollars, to be levied on, and collected from the county of Lincoln, under the direction of the county court thereof.

THOMAS STEVENS, Speaker of the House of Representatives.

JARED IRWIN, Governor.

* Representation to be according to enumeration. See constitution of 1798.

An Act for building and keeping in repair the court houses and gaols in the respective counties within this State, and for the support of the poor.

BE it enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same, That from and after the passing of this act, the justices of the inferior courts of every county within this State, in their respective counties shall cause to be erected and kept in good repair, (or where the same shall be already built) shall maintain and keep in good repair, at the charge of such county, one good and convenient court house, of stone, brick or timber; and one sufficient gaol, with the necessary apartments for the safe keeping of criminals and debtors, well secured with iron bars, bolts and locks, and shall cause to be erected contiguous thereto, one pillory, whipping-post and stocks.

II. And be it further enacted by the authority aforesaid, That the inferior courts in each county shall have full power and authority at all times to enquire into the conduct of gaolers and the state of gaols in their respective counties, and on neglect of duty to cause such gaolers to be removed by an order to the sheriff for that purpose; and the said courts shall also have full power and authority to call on all persons, their heirs, executors or administrators in their respective counties, who have had or may have county monies in their hands, collected for the express purpose of building court houses and gaols or for any other county purposes whatever; and in case of neglect or refusal to pay the same, the said court shall, and are hereby required to cause executions to be issued for the full amount appearing to be due, in the same manner as.

A. D. 1796.

No. 554.

Suits against persons therein, how to be disposed of.

Entitled to one representative.

The lines—how to be run.

No. 555.

Court houses, gaols &c.—the building and keeping them in repair, under the direction of the inferior courts.

They have also the superintendence of the state of the gaols, conduct of gaolers, and the recovery of all county monies.
A. D. 1796.
No. 555.

The inferior courts empowered to levy a county tax for the use of court houses & gaols, the poor, and building bridges.

III. And to enable the justices of the inferior courts to carry the intention of this act fully into effect, Be it further enacted, That the said county courts be, and they are hereby authorized and empowered to levy a tax on their respective counties; which tax, it shall be the duty of the collector of the general tax to collect, and pay into the hands of the clerks of such courts, he first giving bond with approved security to such court for the faithful collection and payment of the said tax, at any time he shall or may be required by the said courts so to do: Provided always, That the tax to be levied by such courts as aforesaid, shall not exceed one fourth part of the general tax; which said monies so aforesaid and collected as aforesaid, shall be subject to the order of the county courts, one half to be applied to the uses and purposes aforesaid, and the other to the support of the poor and building bridges; and the collectors shall be allowed the same commissions and fees for such collection as is allowed by law for the collection of the general tax, and shall be liable to the same fines and forfeitures for any default, neglect or improper conduct; which said fines and forfeitures may be imposed by the county court of each county at their discretion.

IV. And be it further enacted, That all monies that now are or may hereafter come into the hands of the clerks of the superior or inferior courts, by fines or forfeitures, and all monies arising from the sale of eitrays, are hereby made liable and subject to the draught or order of the several county courts, to be appropriated and applied as aforesaid, either in the building or repairing court houses and gaols, or to the support of the poor and building bridges, at the discretion of such courts.

V. And be it further enacted, That from and after the passing of this act, the place for erecting a court house and gaol in the county of Bryan, shall be at the cross roads about two miles from the Ogechee bridge, and until the same can be completed, the courts shall be held at the White oak plantation.

VI. And be it further enacted, That all laws, or parts of laws, clause or clauses, heretofore made, or such parts thereof as authorize the county courts of this State to levy a tax for county purposes, be, and the same are hereby repealed. Provided, That nothing in this act contained shall extend or be construed to extend to have operation in the county of Chatham, so as to repeal or effect any law appointing the mayor or aldermen of the city of Savannah, commissioners of the court house and gaol in the said county.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 21, 1796.

JARED IRWIN, Governor.

An Act for the inspection of cotton.

February 21, 1796.

Repealed by an act of 1796, No. 576.
An Act for licensing and regulating pedlars in this State.

WHEREAS, great injury hath accured to the citizens and fair dealers of this State by unlicensed itinerant traders called pedlars, going about from county to county, and draining this State of its circulating coin; for remedy whereof,

I. Be it enacted by the Senate and House of Representatives of the State of Georgia in general assembly met, That it shall not be lawful for any itinerant trader or pedlar as aforesaid, to sell or otherwise dispose of any goods, wares or merchandize, except such itinerant trader or pedlar shall first produce a license so to do, from the treasurer of this State, who is hereby authorized to issue a license to any person or persons who shall apply for the same, to be an itinerant trader or pedlar as aforesaid, on their severally paying into the treasury, annually, the sum of seven hundred dollars.

II. Be it further enacted, That if any person or persons whatever shall, contrary to the true intent and meaning of this act, sell or dispose of any goods, wares or merchandize, such person or persons shall, for every such offence, forfeit and pay to any person who shall sue for the same, the sum of five hundred dollars; or who shall, when thereunto required by any civil officer, neglect or refuse to produce such license as aforesaid for their inspection, shall for every such offence, forfeit and pay, in manner and form aforesaid, the sum of seventy dollars.

III. And be it further enacted, That in every case where such shall or may be commenced for the recovery of any fine or forfeiture imposed by this act, it shall be the duty of the sheriff to hold the party complained of as aforesaid, to bail, for his appearance at the next court to which such writ is returnable.

IV. And be it further enacted, That this act shall not take effect until the first day of June next.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 21, 1796.

JARED IRWIN, Governor.

An Act to raise money for the purpose of opening and extending the navigation of Savannah river, from the town of Augusta to Light-wood Log creek, and Broad river, from its mouth to the South fork.

WHEREAS, the extention of the navigation of Savannah river will greatly increase the value of landed and other property lying on or contiguous thereto, and is a business well meriting legislative aid;

I. Be it enacted by the Senate and House of Representatives of the State of Georgia in general assembly met, and by the authority of the same, That a lottery be, and is hereby allowed and authorized, to consist of two classes, to be known as first and second class, which said lottery shall be managed and drawn under the direction of Benjamin Taliaferro, Robert Watkins, of Petersburg, Oliver White, William Barnet and Memory Walker, who are hereby appointed commissioners for that purpose.

II.
II. And be it further enacted, That all the money arising from the said lottery, after deducting the expences attending the drawing thereof, amounting to the sum of four thousand dollars, be, and the same is hereby appropriated to, and for the use of opening and clearing the river Savannah, and extending the navigation thereof from the town of Augusta to the mouth of Lightwood Log creek, and Broad river, from its mouth to the South fork.

III. Be it further enacted, That the commissioners aforesaid shall, within sixty days after the drawing of the said lottery is completed, deposit the aforesaid sum of four thousand dollars, after deducting expences, in the office of the treasurer, from whence the same shall be drawn from time to time by the commissioners herein after appointed (or a majority of them) for the purpose of superintending and managing the opening and clearing the aforesaid rivers, by an order from his excellency the governor.

IV. And be it further enacted, That Elijah Owens, Thomas C. Ruffell, Robert Thompson, Thomas Gilmer, Reubin Jordan and Jesse Saunders be, and they are hereby appointed commissioners for the purpose of superintending the opening and clearing the aforesaid rivers Savannah and Broad river; who shall, previous to their entering on the duties of their appointment, enter into bond with sufficient security, each in the sum of two thousand dollars, conditioned for the faithful performance of their duty, and a due and proper application of all monies that may come into their hands for the purposes aforesaid.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 21, 1796.

JARED IRWIN, Governor.

An Act for appointing commissioners for ascertaining the boundaries of the towns and commons of Brunswick and Frederica, in the county of Glynn.

I. Be it enacted by the senate and house of representatives of the State of Georgia in general assembly met; and by the authority of the same, That George Purvis, Richard Pritchard, Moses Burnett, John Piles and John Burnett, be, and they are hereby appointed commissioners for the town of Brunswick, and they or a majority of them, shall have power to lay out, or cause to be laid out, the town of Brunswick aforesaid, as nearly as possible to the original plan thereof, and cause the streets of the same to be opened, and the lots plainly marked or staked off; and shall also cause the commons of the said town to be re-surveyed, and an accurate map thereof, together with a plan of the said town, returned to the surveyor general's office within two months after the passing of this act, there to be put upon record.

II. And be it further enacted, That the said commissioners shall, immediately after the said town and commons shall be so laid off, advertise the same in some one of the
LAWS OF GEORGIA.

A. D. 1796.
No. 359.

The public gazettes of this State, for nine months, giving notice to all holders or owners of lots, in the said town of Brunswick, to make a return thereof to the said commissioners, specifying the number or numbers of lots so held or claimed; which said owners shall pay for each lot so held or claimed by him, her or them, the sum of one dollar, which shall be applied towards paying off the expences that may accrue in laying out and ascertaining the same.

III. And be it further enacted, That all lots that shall not be returned to the said commissioners, within the term of nine months as aforesaid, shall be by the said commissioners advertised for sale, giving six weeks notice thereof in the public gazettes of the said State, one half of the purchase money to be paid down, and the remainder in twelve months thereafter, the purchaser or purchasers giving bond with mortgage on the said lot or lots so purchased, for the payment thereof; and the monies arising from such sale shall be applied to the support of an academy or seminary of learning in the county of Glynn, except so much thereof as may be necessary to defray a part of the expences in laying off the said town and common.

IV. And be it further enacted, That the commissioners shall have power to rent or lease the whole or any part of the said commons* of Brunswick, as to them may be deemed best for the speedy settlement of the said town of Brunswick.

V. And be it further enacted, That John Cooper, William McKinzie, James Harrison, James Moore and William Clubbs be, and they are hereby appointed commissioners for the town and commons of Frederica, who shall have the same power, and be under the same regulations as the commissioners appointed by this act for the town and commons of Brunswick.

VI. And whereas, several persons have at sundry times made attempts to run up the commons of the said towns, but have been as often defeated, in the caveat courts of the said county, by the exertions of some of the proprietors of the said towns of Brunswick and Frederica: Be it enacted, That any person or persons who may attempt to run any part of the said commons or towns of Brunswick or Frederica, under any pretence whatsoever, shall be liable to a fine of five hundred dollars, to be recovered in the superior court of the said county, by the commissioners or any other person or proprietor of any lot or lots in the said towns, which said money shall be applied one half to the use of the academy, and the other to the person or persons suing for the same, and all surveys heretofore made and grants surreptitiously obtained, are hereby declared null and void, and any person or persons taking possession by virtue of any survey or grant as aforesaid, shall be liable to the aforesaid fine, to be recovered in manner aforesaid.

VII. And be it further enacted, That all laws, heretofore passed, appointing commissi- oners for the towns and commons of Brunswick and Frederica, be, and the same are hereby repealed.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 21, 1796.

JARED IRWIN, Governor.

* The commissioners authorized to sell a part of the town common by act of 1797, No. 606.
A. D. 1796.  
No. 560.  

An Act to regulate the manner of keeping public accounts within this State.

Public accounts—when to be expressed in dollars &c.

I. BE it enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same, That from and after the first day of March, one thousand seven hundred and ninety-six, all accounts in the public offices, and all the accounts of the tax collectors of this State, shall be expressed in dollars or units, dimes or teuths, cents or hundredths, and milles or thousandths; a disme being the tenth part of a dollar, a cent the hundredth part of a dollar; a mille the thousandth part of a dollar.

II. And be it further enacted, That the verdicts of all juries on all contracts which shall be made after the first day of March next, shall be expressed conformable to this regulation.

THOMAS STEVENS, Speaker of the House of Representatives.
BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 22, 1796.

JARED IRWIN, Governor.

No. 561.  

An Act to repeal a clause of an act, entitled “An act appropriating money for the year one thousand seven hundred and ninety-five.”

That clause of the act of 1796, empowering foreigners residing in this State to hold land, repealed.

I. BE it enacted by the senate and house of representatives of the State of Georgia in general assembly met, That so much of the act entitled “An act appropriating monies for the year one thousand seven hundred and ninety-five,” as is contained in a clause thereof, in the words following, to wit: “Be it enacted, That any foreigner first becoming a resident of this State, may by deed or will hereafter to be made, take and hold lands within this State in the same manner as if he was a citizen of this State, and the same lands may be conveyed by him, and transmitted to, and be inherited by his heirs and relations as if he and they were citizens of this State; Provided, That no foreigner shall, in virtue hereof, be entitled to any further or other privileges of a citizen; And provided, That nothing herein contained shall extend or be construed to extend to authorize the governor to grant lands to any other than citizens of this or the United States;” be, and the same is hereby repealed.

II. And be it further enacted, That the laws heretofore of force, prohibiting foreigners from holding real estate, shall be considered and are hereby declared to be of full force, power and effect.

THOMAS STEVENS, Speaker of the House of Representatives.
BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 22, 1796.

JARED IRWIN, Governor.
LAWS OF GEORGIA.

An Act to organize the militia in the several new counties of this State.

I. BE it enacted by the senate and house of representatives in general assembly met, and by the authority of the same, That the commissions of all officers in the new counties, shall be, and they are hereby declared to be null and void, from and immediately after new elections shall have taken place therein; and his excellency the governor is hereby authorized and required, within two months, to organize the militia in the new counties of Bullock, Jackson, Jefferson and Lincoln, into regiments, battalions and companies, agreeably to an act passed at Augusta, to revise and amend the militia law of this State, and adapt the same to the act of the congress of the United States, passed the eighth day of May, one thousand seven hundred and ninety-two.

II. And be it further enacted, That for the general convenience of the citizens, and more equal arrangements of the divisions and brigades, that the counties of Bullock and Jefferson be, and they are hereby added to the second brigade of the first division; and the county of Lincoln, to the first brigade of the third division; and the county of Jackson to the second brigade of the third division.

III. And be it further enacted, That the officers of the militia in the first brigade in the first division, shall be authorized and empowered, in their respective patrol districts to apprehend any negro, mulatto or mulatto, freeman or freemen, slave or slaves, who shall hereafter arrive in any port of this State from any of the West India or Bahama Islands, and to keep such mustees, negroes or mulattoes in close and safe custody until they can be examined before the corporation of Savannah, or any three justices of the peace for any of the counties lying in the said division; who are hereby authorized to cause such freeman or freemen, slave or slaves, to be exported at the expense of the importer or owner, which such importer or owner is hereby made liable for, as well as for the expense of apprehending and keeping such persons.

THOMAS STEVENS, Speaker of the House of Representatives.
BENJAMIN TALLAFERRO, President of the Senate.

Coucurred, February 22, 1796.

JARED IRWIN, Governor.

An Act to raise a tax for the support of government for the year one thousand seven hundred and ninety-six.

February 22, 1796:

An Act to vest further power in the inferior courts of this State, respecting the fees of sheriffs and gaolers.

WHEREAS, fundry applications are yearly made to the legislature of this State, by sheriffs and gaolers, for fees which are unpaid, and which greatly impede the progress of legislative deliberations,
A.D. 1796.

No. 564.
The inferior courts, required to levy county tax to defray gaolers fees and other expenses attending prisoners.

I. Be it enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same, That the inferior courts of the several counties in this State, are authorized and required to levy annually, a county tax equal to the amount of all fees which are due, or that may become due and unpaid the respective sheriffs and gaolers within the several counties in this State, from the insolvency of prisoners or criminals; or where an expense accrues from the guarding of prisoners or criminals where there shall be no gaol in any county in this State.

THOMAS STEVENS, Speaker of the House of Representatives. BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 22, 1796.

JARED IRWIN, Governor.

No. 565.

The right of a bridge across Little river—voted in Nath. Durkee, for ten years.

Rates of toll.

The right of erecting other toll bridges—voted in several persons.

Rates of toll.

I. WHEREAS, it hath been represented that a permanent establishment of bridges over the following water courses, to wit: Little river, Little Ogeechee, Buckhead, Brier creek and the Beaverdam creek, is absolutely necessary; Be it therefore enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same, That Nathaniel Durkee be, and he is hereby authorized to erect a bridge across Little river, at Ray's mill, and to keep the same in repair for the term of ten years: And for the better securing to the said Nathaniel Durkee the exclusive privilege of erecting and keeping in repair the said bridge for the before mentioned term of ten years, Be it further enacted, That the said Nathaniel Durkee be, and he is hereby authorized to receive toll at the following rates, to wit: For a loaded waggon and team, thirty-seven and an half cents; for an empty waggon, twenty-five cents; for a rolled hoghead of tobacco, eighteen and three quarter cents; and for carriages, man and horse, and single passengers, at and after the same rate and proportion.

II. And be it further enacted by the authority aforesaid, That the several persons herein after named be, and they are hereby authorized to build bridges over the following water courses, and to keep the same in repair for and during the term of ten years, to wit: Ralph Hicks, across the Beaverdam creek, on the road leading from Savannah to Augusta; William Pope, across Buckhead creek, on the road leading from Savannah to Louisville; Robert Donaldson, across Little Ogeechee, on the road leading from Savannah to Louisville; and Henry Joyce, across Brier creek, at his own house; and James Rawles, across Brier creek, at Walker's bridge.

III. For the better securing to the said Ralph Hicks, William Pope, Robert Donaldson, Henry Joyce and James Rawles, the exclusive privilege of erecting and keeping

* Repealed by an act of 1797, No. 601, except as to the bridge over Beaverdam, and Little river.
LAWS OF GEORGIA.

keeping in repair the said bridges for the aforesaid term of ten years, Be it further enacted, That they the said Ralph Hicks, William Pope, Robert Donaldson, Henry Joyce and James Rawles be, and they are hereby authorized to receive toll at the following rates, to wit: For a man and horse, six and an half cents; for a cart and team, twelve and an half cents; for a waggon and team, twenty-five cents; for a chair and horse, twelve and an half cents; for a phaeton or coach and team, twenty-five cents; for each hog and sheep, one cent; and for black cattle, each two cents.

IV. And be it further enacted, That John Raford be empowered to build a toll bridge over Big Ogechee, at Fletcher's island, where the road leading from Greenboro to Savannah crosse the said river, under the same rules and regulations as the bridge across Little river.

V. And be it further enacted by the authority aforesaid, That the justices of the inferior court of the county of Effingham and their successors in office be, and they are hereby empowered to erect and keep a toll bridge on Big Ebenezer creek, where the road leading from Savannah to Augusta crosse the same, for the term of ten years, and to take, demand and receive of passengers or travellers, the following rates, to wit: For every single horse chair with one person, twenty-five cents; for every phaeton and two horses, with two persons, fifty cents; for every close carriage with two horses and two persons, fifty cents; for every horse exceeding two in any carriage, six and a quarter cents; for every single person exceeding two in such carriage, six and a quarter cents; for every man and horse twelve and an half cents; for every foot passenger, six and a quarter cents; for every loaded waggon and team, thirty-seven and an half cents; for every empty waggon twenty-five cents; for every loaded cart and team, eighteen cents; for every empty cart and team, twelve and a half cents; and the moneys arising from such rates shall be applied by, and under the direction of the justices of the inferior court aforesaid, towards building and keeping in good repair the said bridge and caufeway, as far as necessary; and the overplus, if any, shall from time to time be applied towards the support of the poor for the said county; which justices shall make yearly returns to the treasurer, of the receipts and expenditures at the said bridge and caufeway. Provided, That the persons named in the aforesaid act shall give bond, with approved security, to the justices of the inferior court in their respective counties, in a sum not exceeding five hundred dollars, to complete the same within twelve months after the passing of this act, and keep the same in good repair for the term specified in the said act.

VI. And be it further enacted, That the citizens who may pass any of the aforesaid bridges on public occasions, or going to or from divine service, shall not be bound to pay any toll for passing or repassing any of the said bridges.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 22, 1796.

JARED IRWIN, Governor.
A.D. 1796. An Act for repealing an act, entitled "An act for regulating and keeping in repair the public roads and bridges in the several counties in this State," passed at Augusta the ninth day of December, one thousand seven hundred and ninety-three, so far as respects the counties of Oglethorpe, Elbert, Hancock, Burke, Effingham, Greene, Wilkes, Washington, Warren, Richmond, Franklin, Columbia, McIntosh, Bryan, Scriven, Montgomery, Bullock, Jefferson, Jackson, Lincoln, and for other purposes therein mentioned.

The acts regulating roads and bridges, passed in 1793, so far as respects certain counties, repealed.

And the act passed in 1792, to be in force in those counties.

BE it enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same, That the above recited act so far as it respects the above said counties of Oglethorpe, Elbert, Hancock, Burke, Effingham, Greene, Wilkes, Washington, Warren, Richmond, Franklin, Columbia, McIntosh, Bryan, Scriven, Montgomery, Bullock, Jefferson, Jackson, Lincoln, be, and is hereby repealed; and that an act, entitled "An act for the better regulation of high roads and bridges," passed at Augusta, the twentieth day of December, one thousand seven hundred and ninety-two, be, and is hereby declared to be in full force in the said counties of Oglethorpe, Elbert, Hancock, Burke, Effingham, Greene, Wilkes, Washington, Warren, Richmond, Franklin, Columbia, McIntosh, Bryan, Scriven, Montgomery, Bullock, Jefferson, Jackson, Lincoln; and any law to the contrary notwithstanding, except that the fines imposed by the said act shall be paid in dollars at four shillings and eight pence each.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 22, 1796.

JARED IRWIN, Governor.

An Act to provide a fund in aid of the act of the last session of the legislature, entitled "An act for appropriating a part of the unlocated territory of this State, for the payment of the late State troops, and for other purposes therein mentioned."

WHEREAS, the executive authority of the United States has authorized a treaty to be held for the extinguishment of the Indian claims to certain lands within the limits of the State of Georgia, agreeably to the act of the last legislature, entitled "An act for appropriating a part of the unlocated territory of this State for the payment of the late State troops, and for other purposes therein mentioned;" which treaty the State is desirous of furthering to the utmost of her power and ability.
I. Be it therefore enacted by the senate and house of representatives of the State of Georgia in general assembly met, That the sum of fifteen thousand six hundred and fifty-six dollars, nineteen cents, of the stock of the United States, the property of this State, and funded in the name of George Jones, together with the interest due or to grow due on the six and three per cent. proportions of the said stock, be and the same is and are hereby appropriated in aid of the sum of twenty thousand dollars appropriated by the aforesaid act, entitled “An act for appropriating a part of the unlocated territory of this State, for the payment of the late State troops, and for other purposes therein mentioned;” for carrying a treaty with the Creek Indians into execution, and for extinguishing the said Indian rights to the territory in the said act mentioned and contemplated to be extinguished; and his excellency is hereby empowered to cause the same to be assigned, and set over on the books of the treasurer, or on the books of the commissioner of loans of the United States for this State, for this special purpose and no other.

And in order that no difficulty may arise from deficiencies of appropriation for the desirable object of carrying into execution the said treaty, and the extinguishment of the Indian rights under it,

II. Be it further enacted, That his excellency the governor, in case he shall deem the same necessary, shall be, and he is hereby empowered to cause so much confiscated property which may have reverted to the State, or which may have remained yet unprivileged, to be disposed of at his option, either at public or private sale, as may appear to him most advantageous to the State, as will raise the sum of ten thousand dollars cash; and which sum is hereby appropriated for that special purpose and no other; anything in any former law to the contrary notwithstanding.

III. And be it further enacted, That so soon as, and immediately after the extinguishment of the Indian claims as aforesaid to the lands contemplated to be obtained under the treaty shall have taken place, the further operation of the said act, entitled “An act appropriating a part of the unlocated territory of this State, for the payment of the late State troops, and for other purposes therein mentioned,” shall cease and stand suspended until the meeting of the general assembly; which his excellency the governor is hereby required to convene so soon as the treaty shall be ratified by the senate of the United States, and for twenty days thereafter.

IV. And be it further enacted, That no survey shall be made, or grant shall issue, for any land so extinguished, until the same shall be laid off into counties agreeably to the constitution.

V. And be it further enacted, That three discreet and proper persons shall be appointed by joint ballot of both branches of the general assembly, as commissioners on the part of this State, to attend the said treaty; and all appointments of commissioners or surveyors heretofore made, under and by virtue of the act aforesaid, are hereby declared null and void.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 22, 1796.

JARED IRWIN, Governor.
An Act for clearing out Ogeechee* river and Brier† creek.

WHEREAS, the river Ogeechee and Brier creek are capable of being made navigable for boats a considerable distance higher up those streams than they are at present, and it is an object of the first consideration, to improve the navigation of the watercourses capable of being made useful;

I. Be it therefore enacted by the Senate and House of Representatives of the State of Georgia in general assembly met, and by the authority thereof, That Michael Shelman, Thacker Vivion, Kindred Brasfield, Stephen Mills, Israel Bird, John London, Jesse McCall, Stephen Denmark, Joshua Loper and Drury Jones, be, and they are hereby appointed commissioners for clearing out the river Ogeechee; and that David Robinson, Jonathan Ashberry, John Whitehead, William McNorrel, William Moore and William Skinner, be, and they are hereby appointed commissioners for clearing out Brier creek; and the said commissioners or a majority of them, are authorized to take, receive and apply all such monies as may have heretofore been, or may hereafter be appropriated by the legislature, or as have heretofore been or may hereafter be subscribed, presented or given by individuals for the purpose of clearing either of the watercourses aforesaid; and to sue for, and recover of any subscriber or subscribers, all sums of money, or the value of any specific article or articles, which may have been or may be subscribed and not paid, before any court or tribunal having cognizance of debts to such amount, in the county where such subscriber may reside.

And the said commissioners are authorized and required to apply all monies, or specifics so received or recovered, towards carrying the purpose of this law fully into effect, in such way and manner as they, or a majority of each board may deem most effectual and proper. And the said commissioners or a majority of each board are authorized and required to contract with any person or persons for clearing the said streams, to wit: The river Ogeechee as high up as Louisville, and Brier creek as high up as Walker's bridge, in such manner and method as in their judgment may best promote the conveniences and advantages thereof; Provided, That the work shall be commenced at such places as may require it nearest the mouths of the said streams, and shall be progressed upwards and not otherwise.

II. And be it further enacted, That where any mill dam is already built, or may hereafter be built across the said river or creek below the places before mentioned, the proprietor or proprietors of such mill dam or dams, shall, within four months after the passing of this act, erect or prepare a gate, lock or passage, sufficient and convenient for the passage of any boat, raft or rafts of timber, boards or scantlings, capable of being carried down such stream if such dam were not there; and if the proprietor of any mill dam shall fail to erect and keep such gate, lock or passage, within four months after the passing of this act as aforesaid, then it shall and may be lawful for the said commissioners or any of them, or any person appointed by them,

* Lottery authorized by act of the same year, No. 569.
† See act of 1797, No. 605, for improving the navigation of Brier creek.
‡ Other commissioners to be appointed in Bullock county and alterations made by act of 1798, No. 630.
LAWS OF GEORGIA.

A. D. 1796.
No. 568.

to break down and destroy every such mill dam or dams; and the owner of any
boat, vessel or raft, which may be hindered or detained by reason of such dam, or
for want of a proper gate, lock or passage, or by reason of not opening the same
when required, may recover of the owner or proprietor or manager of such mill
dam or other floppage, five dollars for every hour such boat, vessel or raft may be
detained by the reason or means aforesaid, and any court or lawful tribunal, having
cognizance of debts to amount of the damage stated, in the county where such mill
dam may be, is authorized and required to give judgment, on good and sufficient
proof of the facts before them (the defendant being first summoned to appear and
answer the complaint) against such owner, proprietor or manager in terms of this
act, and award execution thereon.

III. And be it further enacted, That all hedges, flops or weirs already made; or
which may hereafter be made across the said river Ogechee, below Leuifville, or
across Brier creek below Walker's bridge, shall be taken up and removed by the per-
son or persons who made or placed, or caused the same to be made or placed, within
two months after the passing of this act, or at any time thereafter, any hedge, flop
or weir, or any part of either shall be standing or remaining in the said river or creek
below the places before mentioned, the said commissioners or either of them, or any
person by them appointed, shall have power to remove, or cause to be removed,
such hedge, weir or flop, and shall recover of the person who made or placed, or
cause to be made or placed the same, double the amount of the expence attending
the removal thereof, in manner herein before prescribed for recovery of the damage
sustained by the hindrance of any boat or raft; and if the person so offending hath
not wherewithal to pay the sum so awarded against him, he shall be compelled to
work on the said stream in clearing it out, a time sufficient to discharge such forfei-
ture, agreeably to the rates of labor then customary, or shall be committed to gaol
not exceeding two months.

IV. And be it further enacted, That the said commissioners, or the person or per-
sons employed or appointed by them, may lawfully cut down, and take off the lands
of any person or persons adjacent to the said river or creek, such and so many timber
trees or other trees as shall be necessary for the purposes of this act, and shall
not be liable to pay any price or damages therefor.

V. And be it further enacted, That if any person or persons shall fell any tree or
trees into the said river or creek, or cause the same to be felled, and shall not cut up
and remove the same within the space of forty-eight hours after such felling, such
person shall, on conviction before any justice of the peace for the county, forfeit and
pay the sum of five dollars for every tree so felled into the said river or creek, and not
removed as aforesaid; and such forfeiture shall be applied one half to the use of the
informers, and the other half to the purposes of this act.

VI. And be it further enacted, That the said commissioners shall each of them give
bond, with sufficient security, to his excellency the governor, in the sum of one
thousand dollars, faithfully to apply all monies which come into their hands towards
carrying into full effect the intention of this act; and in case of the death, resigna-

Hedges, weirs, and other ob-
structions, how to be removed.

Penalty on per-
sions felling trees
in Ogechee or
Brier creek.

Commissioners
to give bond &
security.
And to account with the executive.

A tax to be levied on adjacent lands.

How to be collected.

Not to affect orphans under age and without guardians.

A.D. 1796.
No. 568.

And be it further enacted, That the said commissioners shall, on or before the first day of January in each year, make a full and fair return of all monies by them received, and paid in conformity to this act, to his excellency the governor, together with the progress they may have made in the execution of their duty; and, the said commissioners shall be allowed two and an half per centum on all monies by them received, and paid away in manner aforesaid.

VII. And be it further enacted, That the said commissioners shall, on or before the first day of January in each year, make a full and fair return of all monies by them received, and paid in conformity to this act, to his excellency the governor, together with the progress they may have made in the execution of their duty; and, the said commissioners shall be allowed two and an half per centum on all monies by them received, and paid away in manner aforesaid.

VIII. And be it further enacted, That a tax shall be, and is hereby levied on all lands adjacent to either of the said streams, over and above the taxes already imposed, by law, or which may be imposed for county uses, in the following manner, to wit: Fifty cents on every hundred acres of land within one mile of either of the said streams, and below or within one mile of the places herein before named; thirty-seven and an half cents on every hundred acres of land within two and over one mile of either of the said streams, or of either of the places aforesaid, and twenty-five cents on every hundred acres of land within five, and above two miles of either of the said streams, or of either of the places aforesaid; and all persons liable to pay such tax are required to pay the same, to any one of the said commissioners who hath given bond as aforesaid, or on or before the first day of November next, otherwise the said commissioners, or a majority of them, may issue execution against those in default, directed to the sheriff or his lawful deputy of the county wherein such lands lie, who may levy the same on the goods and chattels of such defaulters, if any to be found in such county, and if not, then on a part of such lands competent to pay the tax due by such person; and may after three months public notice thereof, in the gazette of Savannah or Augusta, if the owner of such lands do not reside within such county, or after thirty days public notice in three or more public places in the county, if such owner be a resident of the country, expose the same to public sale to the highest bidder: Provided, That not more than a proportion of one tenth part of the lands belonging to any one person, shall be liable to sale under and by virtue of this act; And provided also, That the lands of orphans or infants under age, who have no guardian to act for them, shall not be liable as aforesaid.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concorded, February 22, 1796.

JARED IRWIN, Governor.

No. 569.

An Act to raise money for the purpose of opening and improving the navigation of Ogechee river, from Louisville to the mouth thereof.

Preamble.

WHEREAS, the improving of the navigation of Ogechee river will greatly increase the value of landed and other property lying on or contiguous thereto, and is an object well meriting legislative aid;
LAWS OF GEORGIA.

I. Be it enacted by the senate and house of representatives of the State of Georgia in general assembly met, That John Shelman, John Jones, Benjamin Lanier, Israel Bird and John Moore, be, and they are hereby appointed commissioners, who are hereby authorized and empowered to establish a lottery to consist of two classes; which said lottery shall be managed and drawn under the direction of the aforesaid commissioners or a majority of them.

II. And be it further enacted, That all the monies arising from the said lottery, after deducting the expenses of attending the drawing thereof, amounting to the sum of fifteen hundred dollars, be, and the same is hereby appropriated to and for the use of opening and clearing the river Ogechee, and improving the navigation from the town of Louisville to the mouth thereof.

III. Be it further enacted, That the commissioners aforesaid, shall within ninety days after the drawing of the said lottery is completed, deposit the aforesaid sum of fifteen hundred dollars, after deducting expenses, in the office of the treasurer, from whence the same shall be drawn from time to time, by the commissioners appointed by law (or a majority of them) for the purpose of superintending and managing the opening and clearing the aforesaid river, by an order from his excellency the governor.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 22, 1796.

JARED IRWIN, Governor.

An Act for keeping open Little river and Broad river.*

WHEREAS, it is just and reasonable that all citizens residing within the vicinity of Little river and Broad river should enjoy the natural and equal privilege of taking the fish of said rivers;

I. Be it enacted by the senate and house of representatives of the State of Georgia in general assembly met, That the owner or proprietor of every mill-dam that now is, or may hereafter be made, across the said rivers, from the confluence thereof as high as the fork, shall be so constructed as to admit a sluice of water of the width of one tenth part of the stream, where such mill-dam is or may be erected; which shall be kept open from the twentieth of February until the first day of April annually, and every person making a fish-dam or any other obstruction so as to prevent the fish passing in said river, shall leave at least one fourth part of the main stream open, so that the fish may have free passage. Provided, That Joseph Ray shall not be obliged to open his mill-dam until the first day of January next.

II. And be it further enacted, That it shall be the duty of the justices of the peace of the districts on each side of the rivers or any three of them, to see this act duly executed; and the said justices are hereby authorized to convene and decide on any complaints of the violation thereof, and may proceed to remove any obstruction to the

* This act is repealed in part by act of 1798, No. 642.
the passing of fish in said rivers, that is not authorized by this act; and any person presuming to replace obstructions so removed, shall forfeit and pay a sum not exceeding fifty dollars for every such offence, to be recovered in any court of record, one half to the informer and the other half to the use of the poor.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 22, 1796.

JARED IRWIN, Governor.

An Act to secure to Nathaniel Twining, Thomas Davis and Joseph Grant, for the term of ten years, the sole and exclusive right of running a line of stage carriages, between the city of Savannah and town of Augusta.

I. Be it enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same, That Nathaniel Twining, Thomas Davis and Joseph Grant, their heirs and assigns, shall have the sole and exclusive right of running a line of stage carriages, for the conveyance of passengers and their baggage, between the city of Savannah and town of Augusta in this State, for the term of ten years, to commence on the first day of October, which will be in the year of our Lord one thousand seven hundred and ninety-six.

II. And be it enacted, That if any person or persons shall, within the said term presume to run any stage carriage or carriages in any manner for fare or hire between the places aforesaid, without the consent or concurrence of the said Nathaniel Twining, Thomas Davis and Joseph Grant, under their hand and seals first obtained, every such person or persons so offending shall forfeit and pay to the said Nathaniel Twining, Thomas Davis and Joseph Grant, their heirs and assigns, double the amount of the sum demanded or received by the said person or persons for the carriage or conveyance of any person or persons to, or from any part or place within the limits of the said city of Savannah and town of Augusta, comprehending all the different routes between the same; to be recovered by the said Nathaniel Twining, Thomas Davis and Joseph Grant, or their legal representative, by action of debt before any magistrate or court having cognizance thereof: Provided nevertheless, That the said Nathaniel Twining, Thomas Davis and Joseph Grant shall, within the term of one year from the passing of this act, commence and put in practice the running the said line of stage carriages, and continue the same at least once every week between the places, and to the end of the time or term aforesaid. Provided, That the said Nathaniel Twining, Thomas Davis and Joseph Grant do give bond of one thousand pounds, with good and sufficient security to his excellency the governor, for the running of stages for the aforesaid term.

III. And be it further enacted, That the act passed at Augusta in the year one thousand seven hundred and ninety-three, vesting, on certain conditions, in William Thompson...
LAWs OF GEORGIA.

Thompson and Thomas M'Call, the sole and exclusive right of running a line of stage carriages between the city of Savannah and town of Augusta, not being carried into effect on the part of the said William Thompson and Thomas M'Call, the same shall be and is hereby repealed.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 22, 1796.

JARED IRWIN, Governor.

An Act for the better regulating and conducting elections in the several counties of this State.

WHEREAS, the several acts heretofore passed for the ordering and conducting elections, have by experience been found defective and incomplete, and the good citizens of this State will probably sustain injuries and impositions by a continuance of them; to prevent which as much as possible,

I. Be it enacted by the Senate and House of Representatives of the State of Georgia in general assembly met, and it is hereby enacted under and by virtue of the authority thereof, That all elections for members to represent this State in the general assembly thereof, and for representatives in Congress, sheriffs, clerks of the superior and inferior courts, registers of probates, county surveyors and coroners, shall be held at the court house or place appointed for holding the superior courts in the respective counties.

It shall be the duty of any three or more of the magistrates for each county, not being candidates, to preside at and make returns of all elections for senators and representatives in the general assembly, representatives in Congress, and county officers; and the sheriff of each county or his deputy, is required to attend at such elections, for the purpose of enforcing the orders of the presiding magistrates in preserving good order.

That at the general election which shall be held on the first Monday in November, one thousand seven hundred and ninety-seven, in the several counties of this State for members of the general assembly, the electors in each county shall elect a sheriff, clerk of the superior and inferior courts, register of probates, county surveyor and coroner, who shall hold their offices for the term of two years if they shall so long well behave themselves; and at the expiration of the said term of two years, the said electors shall again elect the county officers aforesaid, and in like manner at every second general election. Provided, That no person shall be twice elected sheriff of any county in any term of four years; in which provision those now in office are comprehended.

That the general election shall be annually on the first Monday in November; and the time for taking the votes shall be from nine o'clock in the morning till six o'clock in the afternoon.

When.
DIGEST OF THE

A. D. 1796.

No. 572.

Oath to be administered to voters.

Fraudulent practices & undue influence at elections to prevent.

The freedom of elections to preserve.

Electors—free from arrest.

When any doubts shall arise with respect to the qualification of the voters, the following oath shall be administered:—I, A. B. do solemnly swear or affirm (as the case may be) that I have attained to the age of twenty-one years, have paid my tax for the year preceding the election, have resided six months within the county, and that I am a citizen of the United States, and an inhabitant of this State.

So much of this act as relates to the election of magistrates and justices of inferior courts in certain counties rendered obsolete by the constitution of 1798, and therefore omitted.

II. That if the superintending officers or persons at any election whatever shall make a fraudulent return, or they or either of them whilst superintending at such election, or any candidate shall influence or endeavor to influence or persuade any voter not to vote as he first designed or intended, or shall take any undue means to obtain a vote, he or they shall forfeit for the first offence one hundred dollars; to be recovered by information in the superior court or inferior court of such county; and if a justice, shall be for ever disqualified from serving in the commission of the peace; and if a candidate, shall be thereby incapacitated from serving in the post or place for which he may be elected.

That if any person or persons whatsoever, shall, on any day appointed for holding any election, presume to violate the freedom of such election by any arrest, menace or threat, or attempt to overawe, affright or force any person qualified to vote, or offer any bribe to induce him to vote against his inclination, or shall after the said election be over, menace or spitefully use, abuse or insult any person because he hath not voted as he or they might have wished him, every such person so offending, upon sufficient proof of such violence or abuse, menacing or threatening, before any justice of the peace, shall be bound over to the superior or inferior court, himself in one hundred dollars, and two securities in fifty dollars each, to be of good behavior and abide the sentence of the said courts; where, if the offender or offenders are convicted and found guilty of such offence as aforesaid, then he or they shall, respectively for each offence, forfeit a sum not exceeding one hundred dollars, and be committed to gaol without bail or mainprise till the same be paid; which said fine so imposed shall be recovered by a writ of fieri facias or ca. sa. issued and signed by the clerk of such court under and by virtue of the sentence of the court; and the sheriff of such county is hereby required to levy such writ forthwith.

That no civil officer shall execute any writ or civil process whatsoever upon the body of any person qualified to vote at any election as aforesaid, either in his journey to, or return from, or during his stay there upon that account, under the penalty of five hundred dollars; Provided, he shall not be more than four days on his journey going to, returning from, or staying at the place for holding any general election, and two days after any other election herein before specified; to be recovered of, and from the officer who shall serve any process or arrest as aforesaid, after such manner and form, and to be disposed of as herein before directed; and all such writs or civil processes executed on the body of any person either going to, returning from or being at the place where such election is appointed, within the time before limited, he being qualified to vote thereat, are hereby declared null and void.

That
That at the general election which shall be held for members of the legislature on the first Monday in November next, and at every second general election thereafter, the electors at such election shall vote for two persons to represent this State in the house of representatives of the United States.

That no person shall be elected a representative in congress who has not been an inhabitant of this State three years next preceding his election, and paid his tax regularly during that time; nor shall he hold any office of trust or profit under this State or the United States, during the time for which he may be appointed a representative.

That the names of the several candidates be kept by the said clerks on separate papers, and the number and names of the voters shall be sealed up together with an accurate state of the poll, under the hands of the presiding magistrates, and transmitted by express to his excellency the governor within twenty days after the closing the poll at such election; who is empowered to draw on the treasury for payment of such express, not exceeding two dollars per day.

That the governor or commander in chief for the time being, shall within five days after the expiration of the said twenty days herein before allowed for making returns, count up the votes from the several counties, or such of them as may have made returns, for each person, and immediately thereafter issue his proclamation, declaring the persons having the highest number of votes, and qualified as aforesaid, to be duly elected to represent this State in the house of representatives of the United States, and to grant a certificate thereof under the great seal of the State to each of them; Provided, no certificate or commission shall issue to or for any such person so elected, until satisfactory proof is produced that the tax of such person has been regularly paid as above mentioned, and that he has actually had the residence herein prescribed.

Provided, That no person entitled otherwise to vote at elections shall be deprived of the privilege of voting at the next election, who shall pay a tax of six and one fourth cents for the last year, into the hands of tax collectors appointed for the present year, which shall be by them paid into the treasury.

That where any two or more persons have an equal and the highest number of votes on the general poll, then and in that case the governor shall issue his proclamation directing a new election.

That in case any person duly elected being in this State, and notified thereof in manner herein directed, shall not within twenty days, and if out of the State, within forty days after such notification, signify his acceptance or shall depart this life, the governor or commander in chief shall order a new election to be held in like manner as herein before pointed out.

That all writs of election for filling vacancies that may happen in the senate or house of representatives of this State, or house of representatives of the United States, or in county* officers, except such as may be appointed by his excellency the governor, shall be directed to the justices of the inferior court of the respective counties, who are hereby required to give public notice thereof, and cause the same to be held in manner and form as herein before pointed out, agreeably to such writ.

That

* The mode of filling vacancies in office is pointed out by the constitution of 1798.
That the presiding magistrates at any election for senator or representatives in this State, or representatives in congress, or such county officers as may be elected by the county at large, are hereby empowered and required to appoint three clerks to attend the said election, whose duty it shall be to keep three rolls where the names of all the voters shall be entered, and the said clerks shall likewise prepare three papers, in each of which shall be inserted the names of all the candidates; and shall, under the direction of the presiding magistrates, set down every vote that may be given in for each candidate opposite the name of such candidate, and shall on the close of the poll, count up the number of votes for each candidate; the person having the highest number of votes for any appointment, shall be deemed and declared duly elected to such appointment.

III. And be it further enacted, That all persons entitled to vote in the counties of Jefferson, Bullock, Jackson and Lincoln, are hereby required and directed to assemble at the place appointed for holding the courts and elections in the said counties, on the third Monday in March, one thousand seven hundred and ninety-six, and proceed to vote in the usual way for their several county officers, in manner directed and pointed out by this law; and if it shall so happen that there are no justices of the peace in said new counties, or not a sufficient number to hold elections agreeably to this law, that then and in that case, a justice or justices that have been in the commission for the county from which such new county or counties have been taken or laid out, shall be authorized to call in two or more fit and discreet persons to preside with him, whose return of such elections is hereby deemed sufficient to authorize the governor to commission the several persons elected agreeably to this act: And it shall be the duty of the presiding magistrates, to certify under their hands and seals all such elections.

IV. Be it further enacted, That the inferior court of the respective counties of this State, or any three or more of the members of said court shall be, and they are hereby authorized and required to elect the receiver or receivers of tax returns, as the case may be, for the time being, and the collector of tax in their respective counties, within forty days after the annual adjournment of the general assembly, and take bond with two or more good and sufficient securities in such sum as may be provided for in the tax law for the time being, conditioned for the faithful performance of the duties required of them by law; which bond shall by the said justices, or inferior court, be transmitted to the secretary of State, within the term of forty days as aforesaid, and shall, on the appointment of said collector and receivers, qualify them into office.

V. And be it further enacted, That if it shall so happen that any of the counties shall not elect, take bond and qualify the collector and receiver of tax returns pursuant to this act, that then, and in that case, his excellency the governor shall appoint receivers of tax returns and collector of taxes, and issue a commission directed to the justices of the inferior court of the county where such neglect or default may happen, to take bond and qualify the parties or persons so elected.

THOMAS STEVENS, Speaker of the House of Representatives.

BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 22, 1796.

JARED IRWIN, Governor.
An Act for erecting and establishing an academy in the town of Louisville, and for other purposes therein mentioned.

WHEREAS, it is of the greatest utility and importance in all well regulated governments, to encourage and promote the education of youth, and the promotion and advancement of useful learning: And whereas, there is not at this time any academy established for the purposes aforesaid in the said town:

I. Be it therefore enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same, That the Reverend David Bothwell, John Shellman, James Meriwether, John Cobbs and Josiah Sterrett, be, and are hereby appointed commissioners for carrying into effect the intention of this act, as is hereafter pointed out.

II. And be it further enacted by the authority aforesaid, That the said commissioners of Louisville be and are hereby directed to lay out forty acres of the land reserved for the said academy, and belonging to the said town of Louisville, into four acre lots, and also one acre lot for erecting the said academy on, and deliver a plan thereof to the commissioners or trustees of the said academy, who are hereby authorized and empowered to sell the said four acre lots to the highest bidder, and shall convey the same to the purchaser or purchasers, in a full and ample manner, expressing in the deed or conveyance, the intention of the sale of such lots.

III. And whereas, other counties of the said State have been empowered by preceding legislatures, to purchase confiscated property to the amount of one thousand pounds, for the purpose of erecting academies: Be it therefore further enacted by the authority aforesaid, That the said commissioners or trustees of the said academy be, and are hereby authorized, in like manner, to purchase such confiscated property, at the first sale or sales that may take place, to the amount of one thousand pounds, and apply the same as heretofore directed.

IV. And be it further enacted by the authority aforesaid, That the said commissioners or trustees of the said academy be, and they are hereby authorized and empowered, as soon as they shall be enabled by the fund arising from the sale of the aforementioned four acre lots and confiscated property, to erect on the said one acre lot, that shall be laid out on the most eligible place and convenient situation for that purpose, a building commodious and proper to answer the intention of this act, as an academy aforesaid, and to enter into such contracts for erecting the same as may be thought most advantageous for the said fund, by a majority of the said commissioners, and further to procure and agree with proper masters and professors, for the teaching, instructing and ruling the same, and to institute such bye-laws for the increasing the said fund and better governing the said academy, as to the said commissioners may appear best adapted for the purposes aforesaid.

V. And be it further enacted by the authority aforesaid, That the said commissioners or trustees shall yearly and every year render a just and true account of the fund of the said academy, to the governor for the time being, or his successors in office, for examination; and if found guilty of malpractice, such offending commissioner or commissioners
A. D. 1796. commissioners shall be displaced, and others appointed for that purpose in his or their room.

THOMAS STEVENS, Speaker of the House of Representatives.
BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 22, 1796.
JARED IRWIN, Governor.

No. 574. 

An Act to regulate the judiciary system of this State.

THOMAS STEVENS, Speaker of the House of Representatives.
BENJAMIN TALIAFERRO, President of the Senate.

Concurred, February 23, 1796.
JARED IRWIN, Governor.

No. 575.

An Act for appropriating money for the year one thousand seven hundred and ninety-six.
February 23, 1796.

A. D. 1797.
No. 576. 

An Act to repeal an act, entitled "An act for the inspection of cotton."

WHEREAS, an act passed on the twenty-first day of February, in the year of our Lord one thousand seven hundred and ninety-six, entitled "An act for the inspection of cotton," has been found in its operation not competent to the objects proposed, by no means beneficial to the interest of the State, and an unnecessary burden on the planters of that article;

Be it therefore enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority thereof, That the before recited act, be, and the same is hereby repealed.

DAVID MERIWETHER, Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Concurred, January 24, 1797.
JARED IRWIN, Governor.

No. 577.

An Act for the admission of John Lawson and Samuel Proctor Bayley, to the practice of the law.

BE it enacted by the senate and house of representatives of the State of Georgia in general assembly met, That John Lawson and Samuel Proctor Bayley, be, and they are hereby admitted to plead and practice law in the courts of this State; any law, rule
LAWS OF GEORGIA.

An Act to establish and make permanent the seat of the public buildings in the counties of Scriven and Bryan.

I. Be it enacted by the Senate and House of Representatives of the State of Georgia in General Assembly met, and by the authority of the same, That the seat of the public buildings in the county of Scriven, so far as relates to the court house and gaol, shall be in the center of said county, or such other place as may be adjudged most convenient for the citizens thereof, by James H. Rutherford, Francis Jones, Martin Martin, Anthony Burnell, senior, and Stephen Pearce, or a majority of them.

II. Be it further enacted, That the said James H. Rutherford, Francis Jones, Martin Martin, Anthony Burnell, senior, and Stephen Pearce, or a majority of them, shall be, and they are hereby fully authorized to purchase or otherwise procure a title, in fee simple, for such lot of land as they or a majority of them shall judge most convenient for the seat of the aforesaid public buildings, containing not less than five nor more than fifty acres, in trust to and for the use and benefit of the said county of Scriven, and to let the building of a court house and gaol thereon to the lowest bidder, first giving twenty days public notice of such intentions.

III. Be it further enacted, That the house of Benjamin Warren shall be considered as the court house of the aforesaid county, until the aforesaid buildings shall be completed, and no longer; and that all monies which shall be found necessary to carry this act into execution, shall be provided for by the inferior court of the aforesaid county, by exposing to sale such part of the foregoing lot of land, as they may deem proper, or otherwise purfuant to an act in such cases made and provided.

IV. And be it further enacted, That the justices of the inferior court in the county of Bryan, shall be, and they are hereby authorized and empowered to establish and make permanent the seat of the public buildings in the said county, at the cros roads, about two miles from Ogechee bridge, or at any other place within half a mile of the said cros roads; any law to the contrary thereof in anywise notwithstanding: And that the justices of the inferior courts for the said county of Bryan, be, and they are hereby empowered to make purchase of ground sufficient for that purpose; Provided, the same shall not exceed two acres, and that the same be taken at a valuation of a majority of the said justices.

Concurred, February 1, 1797.

JARED IRWIN, Governor.
A. D. 1797. An Act to establish a town on North Newport river, in the county of Liberty, for altering the place for holding the courts and elections within the said county, and for appointing commissioners to erect a court house and gaol in said town.

Preamble.

WHEREAS, it has been found that the town of Sunbury, the present seat of justice for the county of Liberty, is inconveniently situated for conducting the public business of the said county; and whereas, agreeable to a resolve of the last general assembly, authorizing and requiring the justices of the inferior court of the said county to call a meeting of the inhabitants to take their sense by ballot for fixing on a permanent spot for the seat of justice in the said county, and where the court house and gaol shall be built, so as to render the same more convenient for the majority of the inhabitants: It has been determined by a large majority of the citizens of the said county, that the town at North Newport bridge is the most eligible place for the seat of justice; and whereas, Matthew M'Allister, Esq. hath offered to convey a piece of ground, containing two hundred and thirty feet in length, and one hundred and fifty feet in width, situate near the said bridge, agreeable to a plan of a town called Riceborough, hereunto annexed, and in fee simple, without any price or consideration other than a wish and desire to promote and encourage the said town, and his regard for the inhabitants thereof;

I. Be it therefore enacted by the senate and house of representatives of the State of Georgia in general assembly met, That Thomas Stevens, Daniel, Stewart, Peter Winn, Joel Walker and Henry Wood, be, and they are hereby appointed commissioners to see that the square as represented in the said plan, be accurately admeasured and laid out, in conformity to the plan of the said town, to be called Riceborough, and to receive good and sufficient titles in fee simple for the said public square, containing two hundred and thirty feet north and south, and one hundred and fifty feet east and west, or as nearly so as the public road will permit, and also the streets and lanes of the said town, as delineated in the said plan, for the purpose and use of a court house and gaol in the said county of Liberty.

II. And be it further enacted by the authority aforesaid, That Thomas Stevens, Daniel Stewart, Peter Winn, Joel Walker and Henry Wood be, and they are hereby appointed commissioners for erecting and keeping in repair a court house and gaol within the said square; and that in case of the death, resignation, or refusal of any of the said commissioners, his excellency the governor is hereby authorized and empowered to appoint some other person or persons to act in his or their room.

III. And be it further enacted, That after the passing of this act, the courts and elections heretofore held, and all other public business heretofore transacted at the said town of Sunbury, shall be held and transacted at the said town of Riceborough, and the several offices of said county be thereto removed, any law to the contrary notwithstanding.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Concurred, February 1, 1797.

JARED IRWIN, Governor.
An Act to fix permanently the seat of the public buildings in the county of Montgomery.

WHEREAS, in and by an act of the legislature of this State, passed at Augusta in the year of our Lord, one thousand seven hundred and ninety-three, entitled "An act for laying out the several counties herein after named;" it was enacted that Solomon Wood, John Watts, Francis Pugh, Benjamin Harrison and Jesse Embrie, be appointed commissioners for fixing on a proper place to erect a court house and gaol in the county of Montgomery, and until such buildings be erected the courts should be held at the house of William Neal: And whereas, it now appears by the representatives of the said county, that the buildings are prepared for that purpose at the plantation of Arthur Lott, on the Ohoopie, being the place affixed on by the aforesaid commissioners;

I. Be it therefore enacted by the senate and house of representatives of the State of Georgia in general assembly met, That the courts, elections, and other county busineses, be hereafter transacted at the plantation of the said Arthur Lott.

DAVID MERRIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Concurred, February 8, 1797.

JARED IRWIN, Governor.

An Act for the relief of the heirs of Simon Munro, deceased.

WHEREAS, captain Harry Munro, late a British subject, died vested of real estate in this State, and did by his will bearing date the fourteenth day of November, and in the year one thousand seven hundred and eighty, leave the same to the heirs of Simon Munro, late of this State, deceased, who are citizens of the United States:

I. Be it enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same, That from and immediately after the passing of this act, the real estate of the said Harry Munro, late a British subject, which has not been sold under and by virtue of the act of confiscation, is hereby declared to be vested in the heirs of Simon Munro, late of this State, deceased.

DAVID MERRIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Concurred, February 8, 1797.

JARED IRWIN, Governor.

An Act to revise and amend the judiciary system of this State.

I. Be it enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same, That there shall be three judges of the superior courts in this State; which judges shall, before they enter on
on the duties of their office, take the following oath or affirmation, either before
the governor or commissioners by him appointed for that purpose, to wit:—"I do
solemnly swear or affirm, that I will administer justice without respect to persons,
and do equal right to the poor and to the rich; and that I will faithfully and impa-
tially discharge and perform all the duties incumbent on me as a judge of the superior
courts of this State, according to the best of my abilities and understanding, and
agreeable to the laws and constitution of this State, and the constitution of the
United States. So help me God."

II. And be it further enacted, That the State shall be divided into three circuits in
the following manner, to wit: The counties of Camden, Glynn, M'Intosh, Liberty,
Bryan, Chatham, Effingham and Bullock, shall form the eastern circuit; the counties
of Scriven, Burke, Montgomery, Washington, Warren, Richmond, Columbia and
Jefferson, shall form the middle circuit; and the counties of Greene, Jackson,
Franklin, Hancock, Oglethorpe, Elbert, Wilkes and Lincoln, shall form the western
circuit.

III. And be it further enacted, That the said judges shall preside in each circuit
alternately, so that no two terms be held by the same judge in the same circuit
successively.

IV. And be it further enacted, That the judges of the superior courts or one of
them, shall hold the said courts in each county twice in every year, at the respective
times, and in the manner following, to wit:

IN THE EASTERN CIRCUIT.
On the first days of March and September in each year, in the county of Glynn;
and the seventh days of March and September, in Camden; on the fourteenth days
of March and September, in M'Intosh; on the twenty-first of March and September,
in Liberty; on the thirtieth of March and September, in Bryan; on the fourth of
April and October, in Chatham; on the ninth of May and twenty-fourth of October,
in Effingham; on the sixteenth of May and thirty-first of October, in Bullock.

IN THE MIDDLE CIRCUIT.
On the first day of March and September, in the county of Burke; on the four-
teenth of March and September, in Scriven; on the twenty-second of March and
September, in Montgomery; on the twenty-eighth of March and September, in
Washington; on the eleventh of April and October, in Jefferson; on the sixteenth
of May and seventeenth of October, in Warren; on the twenty-third of May and
November, in Richmond; on the fifteenth of June and twelfth of December, in
Columbia.

IN THE WESTERN CIRCUIT.
On the first of March and September, in Hancock; on the fourteenth of March
and September, in Greene; on the twenty-eighth of March and September, in
Oglethorpe; on the fourth of April and October, in Jackson; on the eleventh of
April and October, in Franklin; on the eighteenth of April and October, in Elbert;
on the twentieth of May and November, in Wilkes; on the first of June and December, in Lincoln. Provided, That in case any of the aforesaid court days shall happen on Sunday, then and in that case, such court shall commence on the next day thereafter.

V. And be it further enacted, That the judges, attorney general and solicitors, shall meet annually at Louisville on the tenth day of July, for the purpose of forming rules for the government of the superior court, determining on such points of law as may be referred for argument, and may require an uniform decision, and for giving their opinions on such constitutional and legal points as may be referred for their consideration by the executive department: Provided always, That nothing herein contained, shall extend to, or be construed to authorize the judges to enter upon any proceeding which may affect any cause in its progress, to final decision agreeably to the constitution, in the county wherein the defendant or defendants reside; nor shall any order or decision of the said judges be promulgated, or tend to preclude the admission of any new evidence which may arise in the progress of any cause prior to the final decision and entering up judgment thereon in such county; and that it shall be the duty of the judge or judges presiding in the respective circuits, to make a report of the trial of every criminal case of a capital nature, which shall be published in one of the public gazettes, within sixty days after such trial shall have taken place.

VI. And be it further enacted, That the said superior courts shall have full power and authority to hear and determine, by a jury of twelve men, all pleas civil and criminal, and all causes of what nature or kind soever, according to the usages and customs of courts of law and equity, (except such as are hereby referred to inferior jurisdiction) on the days and times before mentioned. And that it shall and may be lawful for the said judge or judges to proceed with a jury, on petition and proceed directed to the said judges in all disputes of a civil nature, cognizable by original jurisdiction in the said court, for any debt or damages, or any sum of money above thirty dollars; and if any case or matter in dispute requires equitable interposition, and a common law remedy is not adequate, the judge presiding shall exercise all the powers of a court of equity, competent to compel the parties, plaintiff and defendant in a cause, to discover on oath all requisite points necessary to the investigation of truth and justice; which proofs, when obtained, shall be submitted to a special jury, whose verdict shall be final, and execution thereupon may be issued.

VII. And be it further enacted, That the said superior courts shall have power to issue writs of scire facias, mandamus, habeas corpus and all other writs which may be necessary for the exercise of their jurisdiction, and agreeable to the principles and usages of law and equity.

VIII. And be it further enacted, That the superior courts shall, in all cases respecting the discovering the transactions between co-partners and co-executors, compelling distributions if intestate estates, or payment of legacies, be competent to sustain a suit by bill and proceedings therein until the setting down of the cause for hearing; such superior court shall then submit the merits of the suit with the evidence thereon, which
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No. 582.

An appeal may be entered to a second special jury.

The clerks may in certain cases adjourn the court.

The judges, attorney and solicitors general, to frame rules of practice.

The court may administer all necessary oaths, and punish contempts.

Proceedings in civil causes to be by petition and process.

How to be issued & executed.

No special plea or demurrer to be admitted.

Want of form not to affect the merits.

May be amended on motion,

which in all cases, shall be given "via voco" in court (or otherwise within the rules of the common law) and all matters respecting the same, to a special jury, who shall give their verdict on the same; but if either party shall be dissatisfied with such verdict, an appeal may be entered in the clerk's office, within ten days after trial, when a hearing of such cause shall again be had before another special jury, and such trial shall be final and conclusive.

IX. And be it further enacted, That in case of unavoidable accident, if the said courts or either of them shall fail to be held at the times respectively appointed for holding the same, the proceedings shall not be discontinued; but the clerk of the said courts respectively shall, and may adjourn the said superior courts from day to day, not exceeding four days, until the said court shall meet; and in case the said courts shall not meet and sit in that time, the said clerk of the court as aforesaid, shall adjourn the same to the next term of the said court, to which time all causes then depending shall be continued over. And for the more speedy determination and orderly conducting of all causes in the said superior courts,

X. Be it enacted, That the judges, together with the attorney and solicitors general, or a majority of them, shall frame and agree upon a set of rules of proceedings and practice for all parties, practitioners and others, in the said courts, which shall be the same in all the said counties, and which shall in no cause be altered but at a meeting of the said judges, attorney and solicitors general as aforesaid. And the said judges shall have power to administer all necessary oaths or affirmations, and to punish by usual fine and imprisonment, at the discretion of the judge or judges presiding, all contempts of authority in any cause or hearing before the said court.

PROCESS.

XI. And be it further enacted, That the mode of proceeding in all civil causes in the superior courts shall be by petition with process annexed; which petition shall contain the plaintiff's charge, complaint, allegation or demand, plainly, fully and distinctly set forth, and be signed by the party and his attorney; and all petitions, writs and process, of whatsoever nature or kind they may be, issuing out of the said courts, shall be drawn, (if required) issued and signed by the clerk of each court respectively, and bear in the name of one of the judges of the said courts, and directed to the sheriff of the county, returnable to the next succeeding term; and be executed by serving a copy of the same on the defendant or defendants, or leaving such copy at his or their usual place of abode, at least twenty days before the first day of the meeting of the court; but that no special plea, demurrer or rejoinder shall be admitted or allowed of in either of the said courts; and if either of the parties are not prepared to proceed to trial, the court shall, upon sufficient cause being shown on oath, grant a continuance thereon until the next term; and no writ, petition, return, process, judgment or other proceeding in civil causes shall be abated, arrested, qualified or reversed for any defect or want of form, or for any clerical mistake or omission, not affecting the real merits of the cause; but the judge presiding shall cause the same to be amended on motion in court, without any additional costs, and proce...
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ceed to give judgment according to the right of the cause and matter in law, as shall appear unto said judge, without regarding any imperfections, defects, want of form, clerical mistake or omission in such writ, return, process, petition, judgment, or cause of proceeding whatsoever; and all causes in the said courts shall be managed by council or the party or parties themselves, under such order as the courts shall establish.

XII. And be it further enacted, That no person shall be permitted by the court to deny his bond, note, or bill for money or other thing, unless he shall make affidavit of the truth of such denial.

XIII. And be it further enacted, That no cause instituted as aforesaid, be suffered to lay over or be depending more than two terms, unless very special cause be shewn by affidavit of the party applying to put off the cause, to induce the judge presiding to lengthen or protract the time, which shall not in all extend to more than three terms.

EXECUTORS AND ADMINISTRATORS.

XIV. And be it further enacted, That no suit shall be instituted or execution issue against an executor or administrator for any debt or demand due or owing by any testator or intestate, until the expiration of twelve months from and after the death of such testator or intestate; and all suits depending in any court within this State at the time of his or her death, shall remain undetermined until the time limited as aforesaid shall expire; and to prevent delays, no process shall abate by reason of the death of a testator or intestate; but such death being suggested of record, the suit shall not be discontinued, provided the cause of action shall survive, either for or against such executor or administrator as the case may happen.

DISTRESS FOR RENT.

XV. And be it further enacted, That in all cases where distress for rent shall take place, no replevin shall be granted unless oath be made by the person or persons applying for the same, that he, she or they are not indebted to the person so making distress in the sum demanded for: Provided, That nothing herein contained shall debar the person or persons so applying for a writ of replevin to bring suit against the person Levy ing the distress, in any court of this State, for or on account of illegality therein.

BAII.

XVI. And be it further enacted, That in all cases where bail shall be required the amount of the debt or damages shall appear by the oath of the plaintiff or plaintiffs, or his or her agent or agents, before any judge or justice of the peace, which shall be filed of record in the clerk’s office, and a copy thereof fixed to the copy or copies of the process; and thereupon the sheriff shall take a bail bond, with sufficient security, for the appearance of the defendant or defendants, at the court to which such writ or process may be returnable; and if the defendant or defendants shall not appear agreeably to the tenor of the said bond, or to enter special bail to answer the action, and to pay the condemnation money thereof, or render the defendant into court, it shall

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No. 582.

Causes to be managed by counsel or the parties.

No person shall deny his bond, note or bill, but on oath.

Causes not to be continued more than 3 terms.

Executors and administrators —how long exempt from suits &c.

Suits, not to abate by death, if the cause of action survives.

Distress for rent —no replevin, but on oath.

Provido.
shall be the duty of the sheriff, on application therefor, to endorse or make an alignment of the bail bond to the plaintiff or plaintiffs, who may recover the amount due and owing by the defendant, with legal interest, by action of debt founded on the same, against the principal and bail: Provided, That any person or persons becoming bail for any defendant’s appearance at court, shall be exonerated from such engagement by surrender of such defendant in court, or in case there should be no court, by delivering him to the sheriff, at any time during the time allowed for holding such court: And provided, That the said bail on paying costs, shall be at liberty to enter special bail at any time before trial; but no impertinence, advantage or delay shall be had or taken thereupon; but the proceedings thereon shall be made up immediately, and come on in the same course and order as such, original action stood on the docket of the court; and the proceedings against special bail shall be in the form now used in the course and practice of the said courts respectively.

**Mortgages.**

**XVII. And be it further enacted by the authority aforesaid,** That the method of foreclosing mortgages in this State shall be as follows: Any person applying and entitled to foreclose a mortgage, or his or their attorney, shall petition the superior court of the county wherein such mortgaged property may be, stating the same, and the amount of his, her or their demand, and describing such mortgaged property; and the court shall grant a rule that the principal, interest and costs be paid into court within twelve months thereafter; which rule shall be published in one of the public gazettes of this State, served on the mortgagee or his attorney, at least nine months previous to the time when the money may be directed to be paid; and unless the principal, interest and costs be so paid, the equity of redemption shall be from thence foreclosed: In case of any dispute as to the amount due on any mortgage, the court shall on application, appoint one or more fit persons to audit and liquidate the same with liberty of an appeal thereon, or the said court may submit any other matter respecting the same to a special jury, which shall be taken from the grand inquest as in other appeals, whose decisions shall be final.

**XVIII. And be it further enacted,** That in all cases of foreclosure of mortgages, except where the State may be a party, the plaintiffs shall be compelled to take out execution against such property and the sheriff shall seize and sell such property at public outcry, with like notice, and under the same rules as are prescribed for the sale of such property by virtue of a common execution, and after paying the plaintiff the amount of his debt and costs, shall pay over the overplus (if any there be) to the defendant, or if the defendant be not in the State, shall pay such overplus to the clerk of the court, to be kept and secured for such defendant.

**Attachments.**

**XIX. And be it further enacted,** That it shall and may be lawful for the judges or either of them, upon complaint on oath by any person, that his debtor resides or is actually removing without the limits of this State, or absconds or conceals himself or stands
stands in defiance of a peace officer, so that the ordinary process of law cannot be served upon him, to grant an attachment against the estate of such debtor, or so much thereof as shall be of sufficient value to satisfy the plaintiff's demand and costs; which attachment shall be directed to, and served by the sheriff of the county, where the property may be found, or his deputy or any constable; and it shall be the duty of such sheriff or deputy or any constable to serve and levy the same upon the estate, both real and personal of such debtor wherever the same shall be found, either in the hands of any person or persons indebted to, or having effects of such debtor, and to summon such person or persons to appear at the next court to be held for the said county, and to which the said attachment may be returnable, there to answer upon oath what he is indebted to, or what effects of such party he hath in hands, or had at the time of serving such attachment, which being returned executed, the court may by order compel such person to appear and answer as aforesaid: Provided, that the said judges before granting such attachment shall take bond and security of the party for whom the same may be granted, in double the sum to be attached, payable to the defendant, for satisfying and paying all costs, which may be incurred by the defendant in case the plaintiff suing out such attachment shall discontinue or be cast in his suit, and also all damages which may be recovered against the said plaintiff for suing out the same; which bond shall be returned to the court to which the attachment may be made returnable, on or before the last day of the term; and the party entitled to such costs and damages may bring suit and recover thereon; and every attachment issued without such bond taken, or where no bond shall be returned as aforesaid, is hereby declared to be illegal, and shall be dismissed with costs: Provided always, That every attachment which may be issued as aforesaid, shall be attested by the judge issuing the same, and be by the sheriff or person authorized to serve the same, publicly advertised at the court house of the said county, at least thirty days before the sitting of the court; and if any attachment shall be issued within thirty days of the next court, such attachment shall be made returnable to the court to be held next after the expiration of the said thirty days, and not otherwise; and all attachments issued and returned in any other manner than is herein before directed, shall be, and the same are declared to be null and void; and all goods, chattels, lands and tenements, subject to such attachments, shall be repleviable by appearance and putting in special bail, or by the defendants giving bond with good and sufficient security to the sheriff or other officer serving the same, which bond he is hereby empowered and required to take, compelling the defendants to appear at the court to which such attachments shall be returnable, and to abide by, and perform the order and judgment of such court: Provided always, That all goods and effects attached and not replevied as aforesaid, where the same shall appear to be of a perishable nature, on motion of the plaintiff or his attorney, the court may and is hereby authorized and required to order a sale of such perishable property; and the monies arising from such sales shall be deposited in the clerk's office by the sheriff or other officer serving the same, to answer the demands of the plaintiff (if established) and the balance, (if any) after satisfying such demands and all costs, shall by order of the said court be returned to the defendant or his attorney.
XX. And be it further enacted, That if any attachment shall be returned executed, and the property attached shall not be replevied as aforesaid, the subsequent proceedings thereon shall be the same as on original process, against the body of the defendant, where there is a default of appearance; and all such goods and chattels, lands and tenements, not replevied, shall after the plaintiff has established his demand, be by order of the court sold and disposed of for and towards the satisfaction of the plaintiff’s judgment in like manner as if the same had been taken under execution; and when any attachment shall be returned, served in the hands of a third person, it shall be lawful upon his appearance and examination in the manner herein before directed, to enter up judgment against the original debtor, and award execution against such third person for the monies due by him to the absent debtor, and against such effects or property as may be in his hands or keeping, belonging to such debtor, or so much thereof as will be of value sufficient to satisfy the judgment thereon and costs.

EVIDENCE AND SETTS-OFF.

XXI. And be it further enacted, That where any witness resides out of the State, or out of any county wherein his testimony is required in any cause, it shall be lawful for either party, plaintiff or defendant, or his attorney, on ten days notice given to the adverse party, or his attorney, accompanied with a copy of the interrogatories intended to be exhibited, to obtain a commission from the clerk of the said court, directed to certain commissioners, to examine all and every such witness or witnesses on such interrogatories as the parties may exhibit; and such examination shall be read at the trial of the cause if either party shall think proper.

XXII. And be it further enacted, That the said courts shall have power on the trial of all causes, on motion and due notice thereof given, to require the parties to produce books, or writings in their possession, or power which contain evidence pertinent to the cause in question, and under circumstances, where they might be compelled to produce the same by ordinary rules of proceedings in equity; and if a plaintiff shall fail to comply with such order to produce such books or writings, it shall be lawful for the said courts, on motion, to give like judgment for the defendant, as in cases of non-suit; and if the defendant shall fail to comply with such order to produce books or writings, it shall be lawful for the said courts, on motion as aforesaid, to give judgment against him or her by default.

XXIII. And be it further enacted, That the said superior courts shall have power to perpetuate testimony, on the usual terms, practised in courts of equity; and also to establish copies of lost papers, deeds and other writings, under such rules and precautions as are and have been customary and according to justice.

XXIV. And be it further enacted by the authority aforesaid, That in case of mutual debts and setts-off, where the jury shall find a balance for the defendant, such defendant shall be at liberty to enter up judgment, and take out execution thereupon; provided notice of such set-off be served on the plaintiff or his attorney on or before the last day of the first term.

XXV. And be it further enacted, That the said courts shall be courts of record, and witnesses necessarily going to, returning from, and attending on the same, shall be free from all arrests by any civil action.

SPECIALTIES.
LAWS OF GEORGIA.

SPECIALTIES.

XXVI. And be it further enacted, That all bonds and other specialties, and all promissory notes and other liquidated demands, bearing date at any time since the ninth day of June, one thousand seven hundred and ninety-one, whether for money or specific articles, shall be of equal dignity, and be thereafter negociable by endorsement, and may be sued by the endorse or assignee, in his, her or their name, any law to the contrary notwithstanding: Provided, That nothing herein contained shall prevent the party giving any bond, note or other writing, from restraining the negotiability thereof, by expressing in the body thereof such intention.

JURIES.

XXVII. And be it further enacted, That the clerks of the superior courts of the respective counties shall procure from the tax collector of such county, and furnish to the court (within two months) a list of persons liable and qualified to serve as grand and petit jurors agreeable to the qualifications herein after prescribed; and all free white male citizens above the age of twenty-one years and under sixty years, are declared to be qualified and liable to serve as petit jurors for the trial of all civil causes, for recovery of debts or damages to any amount whatever; but no person shall be capable to be of a jury for the trial of treason, felony, breach of the peace, or any other cause of a criminal nature, or of any estate of freehold or of the right or title to any lands or tenements, in any court of record within this State, who shall not be qualified to vote at elections for members of the legislature; and if any person not qualified as aforesaid, shall be returned on any jury, he shall be discharged on the challenge and proof thereof, of either of the parties to such suit, or on his own oath of the truth thereof: Provided, That no exception against any juror, on account of his qualification, shall be allowed after he is sworn.

XXVIII. And be it further enacted, That the clerks of the several courts are required in presence or under the direction of the judge or judges of such court, to regulate and correct the several jury lists annually, by particularly specifying, in distinct columns, the persons most able, discreet and qualified as herein mentioned, to serve as grand jurors; which list, so corrected, shall be committed to the safe keeping of the clerks of such courts respectively; and the clerks of such courts shall immediately after receiving such lists, fairly enter the same in a book for that purpose to be provided by such clerk, (at his own expense) distinguishing in separate columns the persons selected to serve as grand jurors, and those for the trial of civil and criminal causes as aforesaid; and the names of the several persons so selected, shall be written on separate pieces of paper, and put into the different apartments of a jury box, to be provided by the clerk at the public expense, in the construction and manner herein after prescribed, to wit: There shall be an apartment in the said jury box, marked number one, in which shall be placed the names of all the persons selected as grand jurors, and another apartment marked number two, into which shall be put the names of all the persons selected for the trial of civil and criminal causes as aforesaid; which box shall be kept locked, and no jury shall be drawn or impanelled,
impannelled, but in the presence of one or more of the judges and the clerk of the court; nor shall any clerk of the court or other person having the custody of the jury box, presume on any pretence whatsoever, to open the said jury box, transpose or alter the names, except it be in the presence of the judge or justices officially attending for the purpose of drawing jurors, or correcting the lists, under penalty of being dealt with in the manner herein pointed out for mal-practice in office.

XXIX. And be it further enacted, That the said judge or justices and clerk of the court, or person having the custody of the key, shall previous to the adjournment of any superior court, or at least two months prior to the sitting of the next court, cause to be drawn out of the apartment of the said box marked number one, not less than twenty-three or more than thirty-six names as grand jurors; and out of the apartment marked number two, not less than forty-eight, or more than seventy-two names as petit jurors for the trial of civil and criminal causes as aforesaid; which names so drawn out shall after an account is taken of them, at each term or time of drawing, be carefully rolled up again, and deposited in two other departments to be provided in such jury box, marked number three and four, (to wit) the names of the grand jurors in the division number three, and the names of the petit jurors in the division number four; and when all the names shall be drawn out of the apartments number one and two as aforesaid, they shall then commence drawing from the apartments number three and four, and return them into the numbers one and two, and so on alternately.

XXX. And be it further enacted, That no grand jury shall consist of less than eighteen or more than twenty-three, but twelve may find a bill, or make a presentment, and that the names of the several jurors to be drawn as aforesaid, shall immediately after they are drawn out, be entered by the clerk on the minute book of such court; and if it shall so happen that from any unavoidable circumstance the judge shall not attend at the time appointed for holding the superior court in any county, he shall nevertheless attend in person for the purpose of drawing jurors, or shall transmit to the justices of the inferior court of such county, a request in writing, that they or any two of them attend at the clerk’s office, at some convenient day, at least two months preceding the next term, for the purpose of drawing grand and petit jurors in manner herein before directed; and the said judges of the superior courts, are declared to be responsible for the legal and regular drawing of jurors in the respective circuits in which they may reside: And in case of such unavoidable circumstance specially stated by any judge of the superior court, the said justices or any two of them shall, and are hereby required to conform to such requests, by attending and drawing jurors agreeably to this act: Provided nevertheless, That where juries have already been drawn in any county for the next term under the late judiciary act; such jury shall stand over and be considered as the legal juries under this law.

XXXI. And be it further enacted, That the clerk of the court shall annex a panell of the jury containing the names of the persons drawn to serve on the grand inquest, exactly transcribed from the minute book, to the precept for summoning such grand jury; and shall also annex another panell containing the names of the persons drawn as petit jurors, for the trial of civil and criminal cases, exactly transcribed.
juries in default
— in what manner to be served.

The panell to be filled with by-flanders or others.

The coroner to summon jurors in certain cases.

Petit jurors' oath.
DIGEST OF THE

SPECIAL JURY.

XXXV. And be it further enacted, That all special jurors shall be taken from the grand jury lift of the county, and struck in the presence of the court, in the following manner: The clerk shall produce a lift of the grand jurors present and there impannelled, from which the party plaintiff and defendant, or their attorney, shall strike out one alternately, until there shall be but twelve jurors left, who shall forthwith be impannelled and sworn as special jurors to try the appeal cause; and in all cases the appellant shall strike first; and in case of refusal in either to strike such special jurors after due notice given for the purpose and proof thereof, the judge before whom such notice is given for such special jury to be impannelled, shall, on behalf of such absent party or his attorney, proceed in the same way and manner as if the party absent or refusing had been present or consented to the same.

XXXVI. And be it further enacted, That the oath to be administered to special jurors shall be in the words following, to wit: “You shall well and truly try the cause now depending between A. B. appellant, and C. D. respondent, and a true verdict give according to equity, and the opinion you entertain of the evidence produced to you, to the best of your skill and knowledge, without favor or affection to either party. So help you God.”

VERDICTS, JUDGMENTS AND APPEALS.

XXXVII. And be it further enacted, That the plaintiff or his attorney shall not be at liberty to sign judgment within four days after verdict, within which time the party against whom such verdict shall pass, upon giving security, may stay execution thirty days after the end of the court; but all the property of the defendant shall nevertheless be bound from the day of obtaining the first verdict, which shall bear interest until paid; and in case either party shall be dissatisfied with the verdict of the jury, that then and in such case either party may within four days after the judgment of the court, (in all cases) enter an appeal in the clerk’s office, which shall be admitted and a new trial granted, and tried the next term by a special jury. Provided, The person or persons so appealing shall, previous to obtaining such appeal, pay all costs that may have arisen on the first trial, and give security for the eventual condemnation money, or to render the defendant in discharge thereof, and that no executors or administratrix, as such, shall be liable to give such security: But if on hearing such appeal and new trial, it shall appear, and the court shall certify that the appeal was frivolous or intended for delay only, then the court shall direct the jury trying the appeal cause to affix damages to the party aggrieved for such delay, not exceeding ten per centum; and in case of a jury committing contempt on breaking up before giving in their verdict in civil cases, the court may declare the same to be a mis-trial.

XXXVIII. And be it further enacted, That no confession of judgment shall hereafter be entered up, but in the county wherein the defendant or defendants reside, nor unless the cause hath been regularly sued out and docketed in the usual way as in other cases, nor until such cause be called in order by the court for trial.

XXXIX.
XXXIX. And be it further enacted, That no verdict shall be received on any unliquidated demand, where the jury have increased their verdict on account of interest, nor shall interest be given on any open account in nature of damages.

ARBITRATION.

XL. And be it further enacted, That in all matters submitted to reference by parties in suit under a rule of court, or other agreement in writing, signed by the parties, judgment shall be entered up by the party in whose favor the award is given, and execution shall issue for the sums awarded to be paid as they respectively become due, and to be levied on the property of the party against whom the judgment shall have been entered up, and such other proceedings shall be had thereon by the court, as in cases of judgments entered up on verdicts of juries. Provided, That no judgment shall be entered up on an award, where it shall appear any other cause or causes shall stand on the docket of the court against the defendant or defendants undetermined, before the cause in which a rule or other agreement in writing for arbitration is entered into.

EXECUTION.

XLI. And be it further enacted, That all executions shall be directed, to all and singular the sheriffs of the State, be signed by the clerks, and bear the name of one or more of the judges of the court; and may be levied on the estate, both real and personal, of the defendant, or issue against the party cast, in any county of the State.

XLII. And be it further enacted, That no injunction on any judgment obtained in the superior court shall be issued or allowed of; but in all cases where execution shall issue illegally on matters which shall have arisen subsequent to judgment, or the sheriff shall execute property claimed by any other than him against whom such execution issued, in which latter case it shall appear by the oath of the person so claiming or by the oath of his attorney, it shall be the duty of the sheriff to postpone the sale or further execution of the judgment until the next adjourned court or term of the superior court, whichever may first happen; and such court shall itself determine on the legality of such execution, and shall cause the right of property to be decided on by a jury at such court (if in term time) or at the next court thereafter, if such report be made at an adjourned court: Provided, The persons claiming such property or his attorney, shall give bond to the sheriff, with security in a sum equal to the amount of the execution, conditioned to pay to the plaintiff all damages which the jury on the trial of the right of property may assess against him, in case it should appear that such claim was made for the purpose of delay; and every juror on the trial of such claim, shall be sworn in addition to the oath usually administered, (to give such damages as may seem reasonable and just to the plaintiff against the claimant, in case it shall be sufficiently shewn that such claim was intended for delay only) and it shall be lawful for such jury to give verdict in manner aforesaid, by virtue whereof execution may issue against such claimant; And provided also, That the burden of the proof shall lay with the plaintiff in the execution.

XLIII.
XLIII. *And be it further enacted*, That no sales in future shall be made by sheriffs of property taken under execution, but on the first Tuesday in every month, and between the hours of ten and three o'clock in the day; and it shall be the duty of the sheriffs to give thirty days notice in one of the public gazettes of the State, of all sales of lands and other property executed by him, and also advertise the same in three of the most public places in the county where such sales are to be made; and shall give a full and complete description of the property to be sold, making known the name of the defendant and the person who may be in possession of the property (except horses, hogs and cattle) which may be sold at any time by the consent of the defendant; and in which case it shall be his duty to give the plaintiff ten days notice thereof, and also advertise the same in three or more of the most public places in the county where such property may be, at least ten days before the sale.

**OFFICE OF ATTORNEY GENERAL.**

XLIV. *And be it further enacted*, That the office of attorney general shall be, and is hereby declared to be vested in, and the duties thereof shall be performed by three persons, to be styled the attorney and solicitors general; one to attend the eastern, the middle, and another the western circuit, who shall execute their office jointly or severally, and shall be sworn to the faithful execution of the duties thereof; and the said attorney and solicitors general shall, previous to their entering into the duties of their respective appointments, severally give bond to his excellency the governor and his successors in office, with two good and sufficient securities which shall be approved of by his excellency the governor, or one of the judges of the superior courts, in the sum of five thousand dollars, conditioned for the true and faithful performance of the duties of their respective appointments; which bonds shall be taken by his excellency the governor, or either of the judges of the superior courts, and shall be deposited in the secretary of State's office; and it shall be their duty to prosecute all delinquents for crimes and other offences cognizable by the said courts, and all civil actions in which this State shall be concerned, and to give advice or opinion in writing to his excellency the governor, in questions of law in which the State may be interested.

And whereas, it may happen that neither the attorney general or either of the solicitors can attend at some of the said courts;

XLV. *Be it therefore enacted*, That in such case the judge presiding may, and he is hereby authorized and required to appoint some attorney at law, or other fit and proper person, to prepare and prosecute indictments and other business of the State; and such person so appointed, shall be entitled to the same fees and emoluments therein as the attorney or solicitors general would be entitled to, and the attorney and solicitors general shall be allowed a salary of one hundred and fifty dollars each, per annum.

**CLERKS OF THE SUPERIOR COURTS.**

XLVI. *And be it further enacted*, That the clerks of the said superior courts shall, before they enter upon the duties of their office, take the following oath or affirmation before one of the judges of the said court or justices of the inferior court, to wit: "I do solemnly swear or affirm, that I will truly and faithfully enter and record all the
the orders, and decrees, judgments and proceedings of the superior court for the county of and all other matters and things which may be brought to me, or by law ought to be recorded, and that I will faithfully and impartially discharge and perform all the duties of my said office, according to the best of my abilities and understanding. *So help me God.* And that the clerks of the said superior courts shall keep regular and fair minutes and dockets of all court business which shall be signed by the presiding judge or judges on the bench, as far as the same may be gone through prior to the adjournment from day to day, and shall give bond, with two securities, to the governor or commander in chief and his successors in office, in three thousand dollars, for his good conduct while in office, which bond shall be deposited in the public treasury: And that the clerks of the superior and inferior courts throughout this State be, and they are hereby declared to be justices of the peace, *ex officio,* so far as to authorize them to administer all oaths which relate to business appertaining to their said offices.

XLVII. *And be it further enacted,* That if any clerk shall be guilty of extortion or other mal-practice in the execution of his office, upon complaint made on oath to the attorney or solicitors general, it shall be the duty of such attorney or solicitor general to exhibit a bill of indictment against the person so offending; who upon conviction thereof, shall be fined or removed from office, and suffer such other punishment as the law directs.

XLVIII. *And be it further enacted,* That no clerk of a court or other person employed in his office shall act as an attorney in his own name, or the name of any other person, or be allowed to plead or practice in any of the courts of this State during the time he is in such office.

XLIX. *And be it further enacted,* That the sum of two dollars shall be paid on all suits commenced in the superior or inferior courts when the debt or damages sued for exceed the sum of five hundred dollars, and the sum of one dollar and fifty cents when the sum sued for does not exceed that amount, to be paid to the clerk by the plaintiff before the suit or process issues, for the use of the State, which sums shall be charged in the bill of costs; and the clerks of the respective courts of all the counties in this State, are hereby required to make annual returns to the treasurer on oath, on or before the first day of January in every year, of the number of suits commenced, and the sums received thereon, and shall at the same time remit to the treasurer the amount of such return, deducting three *per centum,* and any clerk failing to make such returns, and to pay or remit the monies as aforesaid, shall, on complaint made by the treasurer to the judge or justices of their respective courts, be liable to a writ of attachment for contempt, and fined at the discretion of the court; and continuing in default may be dismissed from office, and suffer execution from the treasurer in like manner as tax collectors; and the said clerks of the several courts shall be entitled to fifty cents for each execution by them issued.

L. *And be it further enacted,* That any attorney or attorneys who shall commence an action or actions in any of the courts of this State for any person or persons whatever residing out of the county wherein such suit may be commenced, shall be considered

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No. 582.

To keep regular minutes &c. to be signed by the presiding judge, and to give bond and security.

Clerks of the superior and inferior courts, may administer oaths.

How to be published for mal-practices in office.

No clerk to act as an attorney.

State fee on suits.

Attorney, when liable to pay fees.
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considered liable; and such attorney or attorneys are hereby made liable to pay to the clerk, sheriff and the defendant's attorney their respective fees.

SHERIFFS.

II. And be it further enacted, That the sheriffs of the several counties shall attend the superior and inferior courts in their respective counties when sitting, and by themselves or deputies, execute throughout the counties all writs, warrants, precepts and processes directed to them, and issued under the authority of any judge or justice of the said superior or inferior court, or the clerk of either of the courts; and the said sheriffs or their deputies shall have power to command all necessary assistance in the execution of their duty, and to appoint, as there shall be occasion, one or more deputies; and before any sheriff shall enter on the duty of his appointment, he shall be bound for the faithful performance of his duty by himself and his deputies, before any one of the said judges, to the governor of the State for the time being, and to his successors in office, jointly and severally, with two good and sufficient securities, inhabitants and freeholders of the county, to be approved of by the justices of the inferior court, or any three of them, in the sum of twenty thousand dollars; and the said bond shall remain in the office of the clerk of the superior court of such county, and may be sued for by order of the said court, for the satisfaction of the public or persons aggrieved by the misconduct of the sheriff or his deputy; and the said sheriff shall take and subscribe the following oath, before one of the judges of the superior or justices of the inferior courts, and the same shall be entered on the minutes of the said court, and before such sheriff shall enter on the duties of his office, to wit: "I do solemnly swear (or affirm, as the case may be) that I will faithfully execute all writs, warrants, precepts and processes directed to me as sheriff of the county of , and true returns make, and in all things well and truly, and without malice or partiality, perform the duties of the office of sheriff of during my continuance in office, and take only my lawful fees: So help me God." And an oath to the same purport shall be taken by each of the deputies of said sheriff in like manner.

III. And be it further enacted, That in all cases wherein the sheriff of any county or his deputy shall be a party, or interested, the writs, precepts and processes, shall be directed to the coroner of the county, and the said coroner is hereby authorized to execute and return the same; and in case of the death of either of the said sheriffs, the deputy or deputies shall continue in office, unless otherwise specially removed, and shall execute the same in the name of the deceased, until another sheriff be appointed and qualified; and the defaults and misfeasance in office of such deputy or deputies, in the mean time, as well before as after the death of such sheriff, shall be adjudged a breach of the condition of the bond given as before directed by the sheriff who appointed such deputy or deputies; and the executor or administrator of the deceased sheriff shall have the like remedy for the misconduct or misfeasance or default in office of such deputy or deputies, during such
such intervals as he would be entitled to (if the sheriff had continued in life and in the execution of his office) until his successor was appointed and sworn.

LIII. And it be further enacted, That the sheriff of each county shall at the expiration of his appointment, turn over to the succeeding sheriff, by indenture and schedule, all such writs and processes as shall remain in his hands unexecuted, who shall duly execute and return the same; and in case any sheriff shall neglect or refuse to turn over such processes in manner aforesaid, every such sheriff so neglecting or refusing, shall be liable to make such satisfaction, by damages and costs, to the party aggrieved, as he, she or they shall sustain, by reason of such neglect or refusal; and every succeeding sheriff shall be empowered and required to sell, and carry into effect, any levy made by his predecessor in office, in like manner as such sheriff could have done had he continued therein, and shall make titles to the purchasers for all property sold under execution, and not conveyed by his predecessor.

LIV. And it be further enacted, That the sheriffs of the several counties in this State shall have like powers and authorities, and they and their under sheriffs and gaolers, constables and other officers belonging to the court, be subject and liable to all actions, suits, fines, penalties and disabilities whatsoever, which they or either of them may incur, for or on account of the escape of prisoners, or for or in respect of any other matter or thing whatsoever, relating to, or concerning their respective offices, in the same manner as they have heretofore been liable by the laws in force in this State; and no sheriff, under sheriffs, deputy or other sheriff's officer shall act as an attorney at law, in his own name, or in the name of any other person, or be allowed to plead or practise in any of the courts of this State, during the time he is in such office.

LV. And it be further enacted, That the sheriff shall be liable either to an action on the cafe or an attachment for contempt of court, at the option of the party, wherever it shall appear that he hath injured such party, either by false returns, taking insufficient bail, or by neglecting to arrest the defendant, or to levy on his property, or to pay over to the plaintiff or his attorney, the amount of any fines which shall be made under or by virtue of any execution.

LVI. And it be further enacted, That if any sheriff, or his deputy or under sheriff, shall be guilty of extortion or other mal-practice in the execution of his office, upon complaint made on oath to the attorney or solicitor general, it shall be the duty of such attorney or solicitor general to exhibit a bill of indictment against the person so offending, who upon conviction thereof shall be fined by the court in treble the amount which he may have extorted from any person; which shall be applied, one moiety to the injured person, and the other moiety to the use of such county, and shall likewise be removed from office, and suffer such other punishment as the law directs.

LVII. And it be further enacted, Whenever the sheriff of any county within this State shall fail to make due and proper return of all writs, executions and other pro-
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LVII. And be it further enacted, That where any person heretofore or now appointed commissioners of the academy in any county of this State, have received or may receive monies or other funds into their hands, and have not or shall not apply such funds to the purposes intended, such commissioners may be removed or displaced by the legislature on proper representations of the facts, and others appointed to succeed them; which successors may commence and maintain an action or actions against their predecessors in office for any monies or other funds unapplied or unaccounted for as aforesaid, and may receive judgment and sue out execution thereon, in any court of law within this State, having cognizance thereof.

For REGULATING THE PROCEEDINGS OF THE INFERIOR COURTS OF THIS STATE.

LIX. Whereas, the constitution of this State authorizes the establishment of courts of inferior jurisdiction, Be it therefore enacted, That in every county within this State a court shall be held once in every six months, and shall be called inferior county courts, and shall be held and administered by the first five justices named in the commission of the peace, or any three of them, who being qualified in like manner as the judges of the superior courts, shall have full power and authority to hold the said courts, and to hear and determine causes and controversies, and other matters properly appertaining and referred by law to their jurisdiction.

LX. And be it further enacted, That the said inferior courts shall have full and concurrent jurisdiction with the superior courts in all civil cases whatsoever, except in trial of causes of real estate, which shall be tried in the superior courts only, and where either party in any cause tried and determined in any of the said courts shall be dissatisfied with the trial and determination thereof, an appeal shall be allowed to the superior court, there to be tried by a special jury, in like manner as other appeals are tried therein.

LXI. And be it further enacted, That the terms of the said courts shall commence and be held in manner and at the times following, that is to say:

THE EASTERN CIRCUIT.

On the first day of June and November, in Camden; on the eighth day of June and November, in Glynn; on the fifteenth day of June and November, in McIntosh; on the twenty-first day of June and November, in Liberty; on the twenty-seventh day of June and twenty-eighth of November, in Bryan; on the fifth day of July and fifteenth of December, in Chatham; on the eighteenth of July and nineteenth of December, in Effingham; on the twenty-fifth day of July and twenty-seventh of December, in Bullock.
THE MIDDLE CIRCUIT.


THE WESTERN CIRCUIT.

On the first day of June and November, in Hancock; fourteenth of June and November, in Greene; twenty-eighth of June and November, in Oglethorpe; fifth of July and December, in Wilkes; nineteenth of July and December, in Elbert; twenty-sixth of July and December, in Franklin; first of August and second of January, in Jackson; the eighth of August and ninth of January, in Lincoln: And the justices of the inferior courts may adjourn from day to day until they get through the docket.

LXIII. And be it further enacted, That the clerks of the inferior courts shall take a like oath, give a like bond and security, and be liable and subject to the like pains and penalties for mal-practice and neglect of duty as the clerks of the superior courts; and that the sheriff and his deputies, as well as constables and all officers of the court, shall be subject and liable to the rules and orders of the inferior court for all mal-practices or neglects of duty touching or relating to suits or other proceedings in such courts, in like manner as such officers are subject and liable in the superior courts.

LXIII. And be it further enacted, That the justices of the inferior courts shall, at the first term in every year, appoint not exceeding two fit and proper persons in each county's district for the respective counties as constables, who shall hold their appointments for one year, and shall take and subscribe the following oath or affirmation, that is to say, I, A. B. do solemnly swear or affirm as the case may be, that I will faithfully execute and return all summons, warrants, precepts and executions directed to me as constable for the county, and in all things well and truly to the utmost of my power, without malice or partiality, perform the duties of a constable, for the time I may continue in office. So help me God." And that previous to entering on the duties of their respective appointments shall severally give bond to his excellency the governor and his successors in office, with security, which shall be approved by one of the said justices for the true and faithful performance of the duties of their respective appointments; which bond shall be taken by one of the justices of the inferior court, and deposited in the clerk's office of their respective counties.

Provided always, That where it may happen no fit and proper person or persons offer themselves as candidates, the said justices may draw not exceeding two persons as constables for each county's district, who shall be liable to a fine of thirty dollars in case of refusal to perform the duties of such appointment.
LXIV. And be it further enacted, That any justice of the peace may, in cases where there is no constable in his district, either from death, removal or otherwise, authorize some person to execute the duties of constable until such vacancy is filled.

LXV. And be it further enacted, That the said justices or any one of them in each county may, in the absence of the judges of the superior court, grant a writ of habeas corpus in the same manner and under like regulations as a judge of the superior court is empowered to do; and in all cases not capital, such justices may discharge, admit to bail, or remand to gaol a prisoner at his discretion, according to law and justice; but in all cases of a capital nature it shall be necessary that one or more justices of the said county court do associate with such justice granting the writ of habeas corpus at the return thereof, and that a majority of said justices do concur in opinion.

LXVI. And be it further enacted, That the said courts shall have the same power to hold to bail in all cases cognizable before them, to draw, impanel and fine petit jurors for the trial of causes referred to their jurisdiction, to exercise a like authority over the subordinate officers of the said courts, to grant writs of attachment, and in all cases cognizable before them as aforesaid, be subject to the same rules and regulations as may be established by the judges and attorneys and solicitors general for the ordering and conducting suits in the superior courts; and in all respects shall be governed by that part of this act respecting the superior courts in matters submitted to their decision.

LXVII. And be it further enacted, That the sum of fifty cents shall be paid by the plaintiff or his attorney, to the clerk on issuing the process in all suits under one hundred dollars, and the sum of one hundred cents on all suits above that sum, to be divided among the presiding justices at each term, which sum shall be charged in the bill of costs.

JUSTICES COURTS.

LXVIII. For the more speedy recovery of small debts, Be it enacted, That the justices of the peace in the respective company districts, or any one or more of them, shall have authority and jurisdiction to hear and determine all suits for any debts or liquidated demand, or on account for any sums of money not exceeding thirty dollars, by summons or warrant. Provided, That no justice of the inferior court, or clerk, sheriff or attorney, being a justice of the peace, shall try any warrant or give judgment thereon in any civil case whatsoever. And the said justices are hereby authorized and empowered to give judgment and award execution thereupon; Provided nevertheless, That the party cauf may stay execution or appeal. Appeals to be tried by five jurors.
by five jurors, to be drawn, impanneld, and sworn as herein after particularly directed, and in no other manner whatsoever; whose verdict shall be final and conclusive between the parties: Provided always, That no justice or justices of the peace shall hold any justice's court or pass any judgment, except by consent of parties, on any other or more than one day in each month; which day they may appoint in their respective districts; nor at any other place than that specially mentioned in the warrant or summons; which warrant or summons shall be served by a constable duly appointed and sworn to the faithful execution of his office, either on the person of the defendant, or by leaving a copy thereof at his usual and notorious place of abode, at least ten days before the day of trial; and it shall be the duty of the constables in serving summons or warrants to make an entry of service thereon in writing, and to sign such return.

LXX. And be it further enacted, That the said justices shall have the like power and authority to hold to bail, for debts within their jurisdiction, and under like restrictions as herein before pointed out for the superior and inferior courts.

LXXI. And be it further enacted, That it shall be lawful for any justice of the peace on complaint to him made on oath, by any person, that his debtor is removing out of the county privately, or abandons and conceals himself, so that a summons or warrant cannot be served upon him, to grant an attachment against the goods and chattels of such debtor, or so much thereof as shall be sufficient to satisfy the debt and costs of the complainant; and such attachment shall be publicly advertised by the constable levying the same at two or more public places in the district, at least fifteen days; and shall be made returnable to the next succeeding justice's court thereafter, and shall be conducted and held by them for debts within their jurisdiction, in like manner as attachments issuing out of the superior or inferior courts, except that the time of trying such attachments before a justice of the peace shall be at or before the second justice's court for the district which shall happen after issuing such attachment; and the said justices respectively may, and are hereby fully authorized and empowered, to issue attachments returnable to the superior or inferior courts, under like circumstances and in like manner as the judges or justices of the said courts are empowered to do.

LXXII. And be it further enacted, That in all cases brought before any justice's court, the best evidence the nature of the case will admit of shall be required, nor shall any person be permitted to prove his own account by his own oath before such court without making oath in writing, that he hath no other evidence whereby the same can be established; and in all cases of mutual debts and set-off, the said justices may enter up judgment for the defendant, where it shall satisfactorily appear that there is a balance due him, and on motion and good cause being shown on oath by either party, the said justices may postpone the trial of any cause brought before them, not exceeding in all three months; and where any dispute may arise touching property levied on, it shall be the duty of said justice to issue his summons to three freeholders of the district, whose duty it shall be to attend, and after being sworn, well and faithfully to try the cause in dispute, to decide thereon; and the place for holding.
holding courts in each captain's district shall be fixed on by the justices thereof, and shall be as nearly in the center of such district as conveniently may be. And no person shall be permitted by the said justices to deny his bond, note or bill for money or other thing, unless such person shall first make affidavit to the truth of such denial.

LXXIII. And be it further enacted, That in case any person, after being summoned to answer any complaint for debt before any justice of the peace, shall before the sitting of such court, remove out of the district, such justice may nevertheless give judgment against him; and if any person after judgment of such court, shall remove out of the district or county, before satisfaction made, such justice may issue execution against such person; which execution being backed by any justice of the county where such person may be found, may be levied by any constable of such county.

LXXIV. And be it further enacted, That if any person shall live or reside within any county, for the space of ten days or upwards, the same shall constitute and be considered a sufficient residence within the same, so as to authorize the justices of such county to proceed against him before any company district court, as herein before pointed out, for all debts within their jurisdiction, which may be contracted during such residence.

LXXV. And be it further enacted, That in case there be no justice of the peace residing in any district, then it shall and may be lawful for the next nearest justice to proceed in like manner as if the defendant was an inhabitant of his district; and all causes in which a justice of the peace may be a party, shall be tried in the nearest adjacent company district, and not within the district in which he may reside.

LXXVI. And be it further enacted, That it shall be the duty of the constables of the several districts, to levy all executions put into their hands, agreeably to the tenor thereof, and to make due returns of the same, together with all summons or warrants to the court to which they may be made returnable; and if any constable shall fail to execute and make returns, or to pay to, or account with any person for whom he may have received money on execution, within ten days after the receipt thereof, the person so injured as aforesaid, may, upon application to any justice within the district, obtain a warrant against him; and such justice shall upon proof thereof award judgment and execution for the same, and all costs against such constable; and also fine him for such abuse, in a sum not exceeding ten per cent. on the amount so withheld; and in case of neglect or refusal to serve and return any warrant or summons as aforesaid, may fine the constable so offending in a sum not exceeding the amount of the debt due by the defendant; and all constables shall moreover be subject to be prosecuted and tried for malpractice in office, in like manner as herein pointed out for justices of the peace, and liable to like pains and penalties.

LXXVII. And be it further enacted, That the method of drawing jurors for the trial of appeals before justices of the peace, shall be this: The justices residing in each captain's district shall procure from the clerk of the superior court a list of all the persons liable to serve as petit jurors residing in such district, and shall write each name on such list on a separate piece of paper, which shall be deposited in an apartment.
ment of a box to be provided for by such justices, marked number one; and shall
draw such number of names therefrom not less than five nor exceeding seven, as
they may deem necessary from time to time, to try the causes depending before them;
which names so drawn shall be entered on a book by the justice presiding at the
drawing thereof, and shall be put into an apartment of such box marked number
two; and after all the names are drawn from number one, they shall commence
drawing from number two, and so on alternately; Provided, that no justice shall
presume to draw any jury but on a court day and in public; and that such jurors
shall be drawn by a person not interested in any suit to be tried; and any person so
drawn, and being summoned by a constable five days before such court, neglecting
to appear at such court, may be fined by the justice or justices presiding, in a sum
not exceeding three dollars, unless he shall shew sufficient cause of excuse, on oath
at the succeeding court for such deficiency: And in case of deficiency of jurors to
try any cause, the justices may direct a constable to fill and complete such jury from
the by-standers: Provided, That there shall not be less than three of the original
panel on such jury: And the constable's fees for summoning a jury shall be fifty
cents for every trial had before such jury, and shall also receive such other fees as
are given to constables by the fee bill now in force; and such jury shall for every
verdict by them given, be entitled to twenty-five cents, to be paid by the party in
whose favor the verdict may be, and to be taxed in the bill of costs.

LXXXVIII. And be it further enacted, That the oath to be administered to the jury
on the trial of appeals before justices courts, shall be the same as is prescribed for
special jurors in the superior courts.

LXXXIX. And be it further enacted, That the justices shall be allowed the follow-
ing fees: For making out a summons or warrant and hearing and determining the
cause, fifty cents; for writing and taking a bond or recognizance, twenty-five cents;
for issuing an execution, twenty-five cents; for writing an affidavit and swearing a
party or deponent where no suit is depending, twenty-five cents.

LXXX. And be it further enacted, That when any person charged with any offence
and brought before a justice of the peace, shall be discharged for want of sufficient
cause of commitment, the justice or justices may in his or their discretion discharge
the party without costs, or direct the cost to be paid by the prosecutor.

LXXXI. And be it further enacted, That the justices of the representative counties
shall be, and they are hereby declared to be liable to prosecution and trial, by indictment
for mal-practice in office: And it shall be the duty of the attorney and solicitors
general on complaint made to them or either of them, on oath, by any person or
persons, to frame and prefer an indictment to the grand jury of the county in which
the justice or justices complained of may reside, containing the merits of the com-
plaint specially set forth; which indictment, if found by the grand jury, and after
hearing the parties, and their evidences shall be tried by a jury, and if convicted on
such indictment, the judgment of the court may extend to fine or removal from
office or either, at discretion.
D I G E S T O F T H E

A. D. 1797.
No. 582.
Witnesses may be compelled to attend.

Sales of property under execution—how to be conducted.

Confess, for the care of stock.

Not authorized to sell lands, but may levy.

The sales to be made by the sheriff.

Repealing clause.

LXXXII. And be it further enacted, That a justice of the peace may issue summons for witnesses in any case to be tried before him, which being served three days before the day of trial, such witnesses shall be subject to a fine of three dollars for default, and the justice may issue an execution for the amount, provided sufficient excuse shall not be made, at or before the next court day; and all fines shall be paid into the hands of the inferior court for the use of the county.

LXXXIII. And be it further enacted, That no sales of property taken under execution shall hereafter be made by any constable, except on the justices court day in every month, and between the hours of ten and three o'clock in the day; and it shall be the duty of the constable to advertise all intended sales at three or more of the most public places in the proper district, and at one or more of the most public places in the county, at least fifteen days before any sale, and shall give a full and clear description of the property to be sold: Provided, That nothing herein contained shall extend to prevent sales of horses, hogs or cattle, at any time by consent of the defendant; but all sales of property by constables shall be at the place of holding the justices court in the several company districts; except in such as include the place appointed for holding the superior courts, in which case the sales to be made in such districts, shall be made at such public place.

LXXXIV. And be it further enacted, That the respective constables shall be allowed twelve and one half cents per day for the proper care and sustenance of each horse, fix and a fourth cents for each head of cattle, and two cents each for hogs and sheep executed by them.

LXXXV. And be it further enacted, That no constable shall be authorized to sell any lands, but shall, when no other species of property can be found, levy on any lands of the defendant, and deliver over the execution to the sheriff of the county with a return of the land levied on, who shall proceed to sell the same with such formalities as are preferred for sales of real estates.

LXXXVI. And be it further enacted, That all former acts for regulating the judiciary department of this State, be, and they are hereby repealed.

DAVID MERIWETHER, Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Concurred, February 9, 1797.
JARED IRWIN, Governor.

An Act to establish and make permanent the seat for public buildings in the county of Warren.

I. Be it enacted by the Senate and House of Representatives of the State of Georgia in general assembly met, and by the authority of the same, That the permanent seat for the court house and gaol in the county of Warren shall, and is thereby declared to be, on a lot or parcel of land on the plantation where Starling Gardner now resides, which was pointed out and agreed upon by the late commissioners appointed for that purpose; Provided, That said Starling Gardner shall, within three months
LAWs OF GEORGIA.

months after the passing of this act, well and truly execute and deliver a deed, in fee simple, for seven acres of land, to be conveyed to the said commissioners herein after named, and their successors in office, and for the use of the said county, to be laid out in lots and be appropriated as the said commissioners may direct, so as to carry into full effect a contract heretofore made between the commissioners of the said county and the said Starling Gardner.

II. And be it further enacted, That the justices of the inferior court of the said county, and their successors in office, are hereby declared to be the commissioners of the court house and gaol of the county aforesaid, and they or a majority of them are hereby authorized and fully empowered to let the same to the lowest bidder, after giving thirty days notice in three or more public places in the said county, on such plan as they may think proper; any law to the contrary notwithstanding.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMMANUEL, President of the Senate.

Concurred, February 9, 1797.

JARED IRWIN, Governor.

An Act to authorize the commissioners of Louisville to convey to John Cobbs and his assigns, six lots of land within the limits of the said town.

February 9, 1797.

An Act to grant further time to Abraham Baldwin, Esquire, elected to represent this State in the congress of the United States, to notify his refusal or acceptance.

Be it enacted by the senate and house of representatives of the State of Georgia in general assembly met, That the time be extended until the fourth day of March next, for Abraham Baldwin, Esquire, to signify to his excellency the governor his refusal or acceptance to represent this State in the congress of the United States.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMMANUEL, President of the Senate.

Concurred, February 10, 1797.

JARED IRWIN, Governor.

An Act to extend the time for the pretended purchasers of the Western Territory of this State to receive the sums they deposited in the treasury; and for further expunging from the face of the public records, certain entries relative to the pretended sales of the Western Territory of this State, under the usurped act passed the seventh of January, one thousand seven hundred and ninety-five.

I. Be it enacted by the senate and house of representatives of the State of Georgia in general assembly met, That his excellency the governor be, and he is hereby empowered
A. D. 1797.
No. 386.
The governor is empowered and required to issue warrants on the treasurer from and immediately after the passing of this act in favor of such persons as may have bona fide deposited monies, bank bills, or stock in the funds of the United States, or warrants in part or in whole payment of pretended shares of the said pretended purchased territory, under an usurped act passed at Augusta on the seventh day of January in the year one thousand seven hundred and ninety-five, under the pretended title of "An act supplementary to an act, entitled an act for appropriating a part of the unlocated territory of this State, for the payment of the late State troops, and other purposes therein mentioned; declaring the right of this State to the unappropriated territory thereof, for the protection of the frontiers, and for other purposes."

Provided, That the risk attending the keeping of the sum or sums so paid in, be deemed and is hereby declared to lay entirely with the persons who deposited them, and that any charge of guards or other expenses for the safe keeping thereof be deducted therefrom.

And provided also, That application be made for the sums so deposited on or before the first day of June, one thousand seven hundred and ninety-eight.

II. And whereas, in and by an act passed the thirteenth day of February, in the year one thousand seven hundred and ninety-six, annulling the said usurped act passed the seventh day of January, in the year one thousand seven hundred and ninety-five, the secretary, surveyor general, and other public officers were required within three days after the passing the same, to produce to the legislature all deeds and documents relating to the pretended sale of the Western Territory of this State to be expunged therefrom, in order that no trace of so infamous a transaction should remain in the public offices of the State; and it appears that either from the indisposition of the secretary of the State at that period, or through mistake or neglect, certain pretended mortgages relative thereto and given by the pretended purchasers, which were entered in the book of mortgages, marked E E in the said office, were neglected to be produced to the late legislature, to be expunged from the said book and burnt in conformity to the concurred resolution under the authority of the said act; Be it therefore enacted, That the said book E E shall on the day after the passing of this act, be brought into the representative chamber, and then and there, at or about the hour of twelve o'clock of the said day, the said pretended mortgages entered in the said book E E, from page one hundred and thirty-three to page one hundred and sixty-two inclusive, shall be carefully expunged from the said book E E, and burnt in the presence of the senate and house of representatives; and the president of the senate and speaker of the house of representatives shall designate under their hands on a sheet of paper to be inserted or pasted on in the place from whence they shall be so taken, the authority for which the same was done, and the number of pages so expunged.

DAVID MERIWETHER, Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Concurred, February 10, 1797.

JARED IRWIN, Governor.
An Act to establish the permanent seat of the court house and gaol in the county of Effingham.

WHEREAS, it appears that the true intent and meaning of the act entitled "An act to vest powers in the commissioners for the county of Effingham to fix on the place for building a court house," passed at Augusta in January, one thousand seven hundred and ninety-five, was to remedy the evils and inconveniences of holding the courts of the said county at an extreme corner thereof by fixing on a place most convenient to the inhabitants; for remedy whereof,

I. Be it enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same, That David Hall, Joshua Loper, Samuel Ryals, Goodlif Smith and Darius Garrifon be, and they are hereby appointed commissioners, with full and ample powers to point out and fix upon the most suitable and convenient place at or near, that is to say, within five miles of the center of the county, for erecting a court house and gaol thereon; and such place to be agreed on by them or a majority of them, shall, and the same is hereby declared to be the permanent seat of the court house and gaol of the said county of Effingham.

II. And be it further enacted, That from and immediately after the expiration of the time appointed for holding the next term of the superior and inferior courts in and for the said county of Effingham, the same shall be held at the plantation and house of James Wilfon; the same being at present the most suitable place near the center of the said county, until a permanent place be fixed on, and a court house and gaol shall be erected in pursuance of this act; any thing contained in or done in virtue of the before recited act, to the contrary hereof notwithstanding; which said act is hereby repealed.

DAVID MERIWETHER, Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Concurred, February 10, 1797.
JARED IRWIN, Governor.

An Act to repeal an act, entitled "An act for inflicting penalties on and confiscating the estates of such persons as are therein declared guilty of treason, and for other purposes therein mentioned," so far as relates to the banishment of William Oates and John Henderson.

BE it enacted by the senate and house of representatives of the State of Georgia in general assembly met, That the act, entitled "An act for inflicting penalties on and confiscating the estates of such persons as are therein declared guilty of treason, and for other purposes therein mentioned," passed the fourth day of May, one thousand seven hundred and eighty-two, so far as relates to the banishment only of William Oates and John Henderson, be and the same is hereby repealed; and that the said William Oates
Oates and John Henderson be, and they are hereby restored to all the rights of citizen: Provided, That they shall not be entitled to claim, hold or recover, property sold under the said act, formerly belonging to the said William Oates or John Henderson.

DAVID MERIWETHER, Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Concurred, February 10, 1797.
JARED IRWIN, Governor.

An Act to divorce or separate Walter Billingslia and his wife, formerly Jane Watson, and for protecting each of them in their respective estates.

February 10, 1797.

An Act to raise a tax for the support of government for the year one thousand seven hundred and ninety-seven.

BE it enacted by the senate and house of representatives of the State of Georgia in general assembly met, and it is hereby enacted by the authority thereof, That a tax of thirty-five cents for every hundred dollars value on all lands within this State, granted to, or surveyed for any person, as such lands shall be estimated at, shall be levied on the same in the following mode, to wit: All tide swamps (cultivated or uncultivated) including islands, of the first quality, at ten dollars thirty-nine cents per acre; of the second quality, at six dollars forty-three cents per acre; and of the third quality, at one dollar seventy-seven cents per acre.

Valuation of lands.

All pine lands, adjoining such tide swamps or contiguous thereto, and within three miles of water carriage, at one dollar sixty-one cents per acre; all prime inland swamps (cultivated or uncultivated) of the first quality, at an average of seven dollars seventeen cents per acre; of the second quality, at three dollars ninety-seven cents per acre; of the third quality, at one dollar sixty-two cents per acre.

All pine barren lands adjoining or contiguous thereto, at forty-three cents per acre.

All salt marsh, at forty-three cents per acre.

All high river swamps and low grounds (cultivated or uncultivated) including islands, including such as are commonly called second low grounds, lying above Abercorn creek, and as high as the mouth of M'Bean's creek, on Savannah river, of the first quality, at five dollars thirty-six cents per acre; of the second quality, at three dollars twenty-two cents per acre; and of the third quality, at one dollar sixty-one cents per acre.

All high river swamp as aforesaid, lying above M'Bean's creek, and as high as the mouth of Rae's creek, of the first quality, at eight dollars three cents per acre; of the second quality, at five dollars and thirty-six cents per acre; and of the third quality, at two dollars thirty-five cents per acre.

All
All high river swamps as aforesaid, from the mouth of Rae's creek to the mouth of Broad river, lying on Savannah river, of the first quality, at four dollars eighteen cents per acre; of the second quality, at two dollars thirty-five cents per acre; of the third quality, at seventy-five cents per acre.

All oak and hickory lands (cultivated or uncultivated) including islands, from the mouth of Rae's creek to the mouth of Broad river, and within one mile of Savannah river, of the first quality, at one dollar sixty-one cents per acre; of the second quality, at seventy-five cents per acre; and of the third quality, at forty-three cents per acre.

All oak and hickory lands including islands, (cultivated or uncultivated) from the mouth of Broad river up the Savannah river, and within one mile of the same, and up Tugalo river to the marked line on the said stream, of the first quality, at one dollar and eighteen cents per acre; of the second quality, at sixty-eight cents per acre; and of the third quality, at thirty-one cents per acre.

All oak and hickory lands, including islands, (cultivated or uncultivated) from the mouth of Broad river to the marked line on the head thereof, of the first quality, at one dollar eighteen cents per acre; of the second quality, at sixty-eight cents per acre; and of the third quality, at thirty-one cents per acre.

All high river swamp or low grounds, including islands, (cultivated or uncultivated) from fort Argyle to the mouth of Buckhead creek, on Ogechee river, of the first quality, at two dollars three cents per acre; of the second quality, at one dollar eighteen cents per acre; and of the third quality, at forty-three cents per acre.

All oak and hickory lands as aforesaid from the mouth of Buckhead creek to the head of Ogechee river, of the first quality at one dollar sixty-one cents per acre; of the second quality, at seventy-five cents per acre; and of the third quality, at forty-three cents per acre.

All high river swamp or low grounds including islands (cultivated or uncultivated) from the mouth of Buckhead creek to the head of Ogechee river, of the first quality, at one dollar sixty-one cents per acre; of the second quality, at seventy-five cents per acre; and of the third quality, at forty-three cents per acre.

All high river swamp (cultivated or uncultivated) including islands, from Cathead on the river Alatamaha to the mouth of Oconee river, of the first quality at two dollars thirty-five cents per acre; of the second quality, at one dollar eighteen cents per acre; of the third quality at forty-three cents per acre.

All high river swamp or low grounds as aforesaid, from the mouth of Oconee river along the northern stream on the north side of the Indian temporary line, to the confluence of the Oconee and Appalachee or south fork, of the first quality, at three dollars twenty-two cents per acre; of the second quality, at one dollar sixty-one cents per acre; of the third quality, at forty-three cents per acre.

All river swamp as aforesaid, from the confluence of Oconee river and Appalachee upwards on the north side of the Indian temporary line, of the first quality, at two dollars fifteen cents per acre; of the second quality, at one dollar and thirty cents per acre; and of the third quality, at seventy-five cents per acre.

All
A. D. 1797. All other oak and hickory lands throughout this State, of the first quality, at one dollar and eighteen cents per acre; of the second quality, at sixty-eight cents per acre; and of the third quality, at thirty-four cents per acre.

All oak and hickory lands including islands (cultivated or uncultivated) above the flowing of the tide on all rivers, from Cape-hend on the river Alatamaha to the river St. Mary's inclusive, to the marked line aforesaid, of the first quality, at seventy-five cents per acre; of the second quality, at forty-three cents per acre; of the third quality, at twenty-one cents per acre.

All lands on the sea islands, or lying on or contiguous to the sea shore, usually cultivated or capable of cultivation in corn, indigo or cotton, of the first quality, at four dollars eighty-one cents per acre; of the second quality, at two dollars thirty-five cents per acre; and of the third quality, at one dollar eighteen cents per acre.

All other pine lands throughout the State, at twenty-one cents per acre.

II. And be it enacted by the authority aforesaid, That the sum of thirty-one and a quarter cents, shall be levied on all free male white persons of the age of twenty-one years and upwards, in this State; and the sum of thirty-one and a quarter cents on all negroes and other slaves whatever, under the age of sixty years, within the limits of the State; and the sum of thirty-one and a quarter cents for every hundred dollars value of every lot, wharf or other lands not herein already enumerated—and on all buildings within the limits of any town, village or borough within the State; the sum of fifty cents upon all male free negroes, mulattoes and mulattos, from the age of twenty-one years and upwards over and above the taxable property they may be possessed of; that the sum of twenty cents shall be levied for every hundred dollars value of all persons flock in trade, shopkeepers and others, and to be computed at prime cost, and the return to be made on oath that the flock in trade so returned, is the highest estimation of the flock in such person’s possession, at any time not exceeding three months preceding the time appointed by this law for such flock in trade to be estimated and returned. The sum of four dollars on all professors of law and physic, and the sum of fifty dollars on all billiard tables; and the sum of three hundred dollars on every E O table or other instrument of the like construction for the purpose of gambling; that the tax imposed on E O and billiard tables may be levied and collected at any time after the passing of this act wherever such tables may be found; and every tax collector is hereby required to proceed immediately against persons keeping such tables, as is directed in cases of non-payment of taxes on other property; and the sum of four dollars on all factors and brokers, and on all foreign wares, liquors and merchandise sold, bargained or trafficked for by all such factors and brokers; the sum of eighteen and three quarter cents on every hundred dollars by them so sold or disposed of to be given in upon oath; and the sum of fifty cents upon every hundred dollars of the funded flock of the United States, to be given in by the holders thereof, in like manner as flock in trade. Provided nevertheless, That in all cases of extreme indigence or infirmity, the inferior court of each county shall be, and they are hereby authorized to remit the poll tax upon such indigent or infirm persons claiming the same.
III. And be it enacted by the authority aforesaid, That there shall be a receiver for each county throughout this State, and that the mode of taking the returns shall be as follows:

The receiver of tax returns in each county shall give notice to each captain's district within the county, by advertising in the most public place of each district, the day and place he will attend to receive the returns of taxable property therefor; and which notice shall be given at least ten days previous thereto; such receiver shall likewise attend previous to making his return of defaulters, three different days in each district for that purpose, which days shall not be within seven days of each other; and the commanding officer in each company shall give to the receiver so attending, a lift of the inhabitants liable to pay taxes, within his district, on oath or affirmation, to the best of his knowledge and information, under the penalty of thirty dollars, in case of failure, to be recovered before any justice of the peace within the county, one half to the person suing for the same, the other for the use of the poor of such county. And it shall be the duty of the receiver of returns, at all times, upon personal application, to receive the returns not given at the time and place specially notified at any time before he makes a digest of the whole returns; and he shall, previous to entering on the execution of his duty, take and subscribe an oath or affirmation in the words following, to wit: "I, A. B. do solemnly swear or affirm, that I will truly and faithfully perform the duties of receiver of returns of taxable property in the county to which I am appointed, as required of me by this act, and will not receive any return but on oath or affirmation."

IV. And be it also enacted, That all and every person liable to pay tax, shall give in the lift of his, her or their taxable property, as well as a lift of every such person or persons as he, she or they may be, attorney or attorneys, executor or executors, administrator or administrators for, in the county or counties wherein such attorney, executor or administrator resides, describing as near as possible from the plats, deeds or other documents, the particular situation of such land, in what county, what particular water course on, and what lands it adjoins; for whom surveyed or to whom granted; and the receiver of such returns shall make a general digest, and return the whole of the taxable property received as aforesaid, and also of the taxable property of non-residents and defaulters within his county, and shall transmit three copies, one to the collector of the county, one to the inferior court, and one to the treasurer, and that the said tax-receivers do deliver the aforesaid three copies, to wit: To the collector and clerk of the inferior court on or before the fifteenth day of July next, and to the treasurer on or before the first day of August thereafter, under the penalty of one thousand dollars for each offence; including therein his own taxable property; and shall publish within one month thereafter, in the gazette, the names of the defaulters, under the penalty of two hundred dollars; and the receivers shall receive two and one half per cent. on the taxes arising from all property returned, and six and one fourth cents on each return of a poll without property; and it shall be his duty to transmit to the treasurer and clerk of the inferior court and collector of taxes, each a copy of such digest. And that the said several receivers to be
A. D. 1797. No. 590. appointed by this act, shall be paid by the collectors in their respective counties, the sums which shall become due them for their services as allowed by this act. Provided, That no receiver shall be allowed or paid by the collectors, before such receiver shall produce a certificate from under the hands of the clerk of the inferior court of such county, that such receiver is entitled to such sum for his services agreeable to this act; which certificates such clerks are hereby, on application, directed to give; and every collector shall be allowed credits for such payments in his settlement with the treasurer; who is hereby required to transmit an alphabetical digest (from the several general returns in his office) of all the lands and other property returned as lying in each county, to the inferior courts of the respective counties, to be examined and compared with the returns of such county; for which duty the treasurer shall be entitled to the sum of five dollars for each digest so transmitted; for which sums his excellency the governor is authorized to draw a warrant on the treasury, on the treasurer’s producing and depositing in the executive office a receipt for such digest from the clerk of the inferior court of the county; and in case the treasurer shall fail or neglect to transmit such alphabetical digest on or before the last day of each year, he shall forfeit and pay the sum of fifty dollars for each digest not transmitted; to be recovered by the justices of the inferior court, in any court having cognizance thereof, and applied to the use of such county. And it shall be the duty of each tax receiver to examine the alphabetical digest so transmitted by the treasurer, and report upon oath all lands and other property within his district not returned as aforesaid, and the quality of such land, to the best of his knowledge and information, to the collector for such county; and it shall be the duty of such collector to proceed to collect the taxes due thereon, in the same manner as if such property had been returned under this act, and shall be accountable for the same to the treasurer.

V. And be it further enacted, That the receivers and collectors of tax for the respective counties shall be responsible to the executive department, and be amenable to such rules in conducting the duties of their respective offices, as the executive may think necessary and proper. The collectors of the respective counties before they enter on the duties of their office, shall give bond with sufficient security, as follows: For the county of Chatham, in the sum of twenty thousand dollars; for the county of Camden, in the sum of four thousand dollars; for the county of Glynn, in the sum of two thousand dollars; for the county of McIntosh, in the sum of five thousand dollars; for the county of Liberty, in the sum of five thousand dollars; for the county of Bryan, in the sum of three thousand dollars; for the county of Effingham, in the sum of two thousand dollars; for the county of Screven, in the sum of two thousand dollars; for the county of Burke, in the sum of five thousand dollars; for the county of Montgomery, in the sum of two thousand dollars; for the county of Washington, in the sum of four thousand dollars; for the county of Warren, in the sum of four thousand dollars; for the county of Hancock, in the sum of four thousand dollars; for the county of Greene, in the sum of five thousand dollars; for the county of Richmond, in the sum of eight thousand dollars; for the county of Columbia, in the sum of six thousand dollars; for the county of Wilkes, in the sum of ten thousand dollars;
of mental: forthwith which for fuch or for the juft and lawful and the law of A. D. 1797. No. 590. as authorized and required to appoint some other person willing to accept the same on the qualification aforesaid, who shall attend in each district of the county to receive such tax, and shall previously give at least ten days notice thereof, and shall attend at least two days in each captain's district; and not within ten days of each other; and if he shall presume to execute the said office without the qualification aforesaid, he shall forfeit double the sum for each person's tax he shall receive; to be recovered by any person who shall inform and prosecute for the same in any court or tribunal having cognizance of debts to that amount.

VI. And be it further enacted, That the governor for the time being, shall take bond and security of the collectors of each county respectively, in conformity to this act, for the due performance of all the duties required of them; and shall transmit a deedimus to the justices of the inferior court of the several counties, or any two of them, to receive and cause to be executed such bond, with two or more securities; to be approved of by such justices; which bond shall be forthwith transmitted by them to the treasury office.

VII. And be it further enacted by the authority aforesaid, That all persons whatsoever, who are possessed of any lands, granted to or surveyed for them or for any other person or persons, or of slaves, either in their own right, or of any other person or persons whatever, or are liable to pay any other tax by virtue of this act, shall, on or before the first day of May next, render a particular account thereof on oath in writing, setting forth in what county such land and slaves are, to the best of his, her or their knowledge, to the receiver of the county wherein such person resides, at such time and place as the receiver of such county shall appoint for doing thereof, so that the same be done on or before the first day of May aforesaid; which oath or affirmation shall be in the words following, viz. "I, do swear or affirm (as the case may be) that the account which I now give in, is a just and true account of all the taxable property which I was possessed of, held or claimed on the first day of January last, or was interested in or entitled unto, either in my own right, or the right of any other person or persons whatsoever, as parent, guardian, executor, administrator, agent or trustee, or in any other manner whatever, according to the best of my knowledge, information and belief, and that I will give a just and true answer to all lawful questions that may be asked me touching the same; and all this I declare without any equivocation or mental:
A. D. 1797.
No. 590.

Penalty for neglect or false returns.

Attorneys or trustees—how liable for tax.

Absonees—in what manner to be notified.

“mental reservation whatever; So help me God.” Which said oath or affirmation the receivers of tax returns for the several counties, are hereby respectfully authorized and required to administer gratis.

VIII. And be it further enacted, That if any person or persons shall neglect or refuse to give in a return of his, her or their taxable property, or shall be convicted of fraud or of making a false return thereof, he, she or they shall be liable to pay to the clerk of the inferior court of the county, a fine of ten dollars for every hundred dollars valuation so neglected or concealed; one half whereof for the use of the county under the direction of the inferior court, and the other half to the use of the informer or informers; to be recovered in any court having cognizance of the same.

IX. And be it enacted, That all attorneys or trustees of, or for any person or persons living without the limits of this State, shall make true returns as aforesaid, in the district wherein such attorney or trustee resides; and that such attorney or attorneys, trustee or trustees, shall be subject and liable to pay the tax to become due by this act, or which may be due by virtue of any former tax act or acts, for such land or lands, slave or slaves, out of his or their own proper estate, notwithstanding such attorney or attorneys, trustee or trustees, may renounce or disclaim acting as such before the said taxes are levied; unless such attorney or attorneys, trustee or trustees, shall make oath before the receiver aforesaid, that he or they hath or have renounced such trust or attorneyship, before the payment of such tax became due, without having done it only with design to avoid the payment thereof. Provided always, That if such attorney or attorneys, trustee or trustees, shall within one year next after making such oath, again become attorney or attorneys, trustee or trustees, or act as such, he or they shall be liable to pay the said tax as herein directed, any thing herein contained to the contrary notwithstanding; and for levying whereof the same remedy shall be and is hereby given as for levying the tax to become due by virtue of this act, on the proper estate or estates of such attorney or attorneys, trustee or trustees, or other person or persons acting as such.

X. And be it further enacted by the authority aforesaid, That in case any land or other taxable property shall be found by the receivers to belong to any person or persons residing without the limits of this State, and who have no attorney or attorneys, trustee or trustees legally constituted in this State, or which have not been returned to any receiver appointed to the county where such lands are, then, and in such case the receivers shall be, and they are hereby authorized and required to charge such lands and other property for the payment of the tax imposed thereon, and also for all taxes due thereon by any former tax act, and forthwith, once in every month, to publish and give notice of such charge or assessment in the gazette: And in case of non-payment of such taxes within six months, the said lands and other property shall be thereafter liable to double tax, and to be proceeded against by attachment in a summary way by the collector in the manner of distresss and sale, and to make titles to the person or persons purchasing the same, and to pay the money, lawful charges only to be deducted, into the treasury. Provided, The owner or owners, his or her agent
agent or attorney shall not within twelve months after such sale apply for the surplus; and it shall be the duty of every tax collector, and he is hereby required on the day on which he shall come to a final settlement with the treasurer, or on the day when he is required by law to close his accounts, to make a return on oath, which shall be certified and vouched for by at least two justices of the peace for the county, of all lands sold by him for the taxes, specially setting forth the tax for which it was sold, the price it sold for, and the purchaser or purchasers. And in case of failure, such collector and his securities shall be subject to a penalty of two thousand dollars, to be recovered in any court having cognizance thereof, to the use of the prosecutor, and shall also be subject to an action at law for damages, by any person aggrieved thereby.

XI. And be it enacted by the authority aforesaid, That all persons whatsoever, who are possessed of any lands or slaves in this State, in his or their own right, or in the right of any other person, or any ways liable to pay tax by virtue of this or any other act, shall pay in their taxes to the collectors that may be appointed to receive the same, in the manner herein after directed, on or before the first day of February next, and the respective collectors receipts shall be held and taken as satisfactory; and if on the said first day of February, any person or persons shall be in default, the collector of the county where such default shall happen, shall immediately proceed against such defaulter by distraint and sale, (after due notice given of such sale, which in no case shall be less than twenty days, by advertisement in one of the public gazettes of this State, and stating the amount of the assessment levied or tax due by such person or persons) of goods and chattels if any to be found, otherwise of the lands of such defaulter or defaulters, or so much thereof as will pay the amount of taxes due, with costs; but no sale of lands shall be made or be valid unless two months notice thereof be given by advertisement in one of the gazettes of the State, which shall be regularly published until the day of sale; and in all such cases to make titles to the purchasers of the property sold as aforesaid. And the said collectors respectively shall, on or before the first day of June, in the year of our Lord one thousand seven hundred and ninety-eight, close their accounts, and deliver the same to the treasurer for the time being, and after deducting five per centum on all such taxes as they shall receive, pay the remainder to the said treasurer.

And the tax collectors shall, at all sales of land for taxes, first offer such part of such lands for sale as may reasonably be expected to produce the amount of tax due by the owner thereof; and if he shall not have a bid for such part of the said lands, he may then offer a larger quantity until he can produce bids to the amount of the taxes due; and that no sale of lands heretofore or hereafter made by tax collectors of more than one tract or grant belonging to or sold as the property of one person or one company or society of persons, where such tract first sold shall have produced or amounted to the taxes due by such person, or on all the lands returned or represented as the property of such person or persons, shall be deemed or considered valid; but such sales are hereby declared to be null and void.

XII. And be it further enacted, That when any of the said receivers of returns or collectors of taxes shall or may discover that any land or slaves or other taxable property
property hath not been returned as in this act pointed out, he or they shall summon three freeholders resident of the district where such land may lie or property be, to ascertain the quality of such lands or other property, and double the tax thereon, for which amount the collector is hereby empowered and required to levy, sell and convey, in the manner herein already mentioned. Provided always, nevertheless, That all lands or other property vested in commissioners or trustees, for public uses, shall not come within the purview of this act. And provided also, That no sale which shall be made under this act of the property of orphans (having no guardians or trustees) shall have any effect.

XIII. And whereas, it has happened, and may frequently happen, that between the day of receiving the return, and the day appointed for the payment of the said tax, many persons have left the district in which they reside, and have been returned by the collectors as insolvents, who had no property upon which the collectors could levy and distrain, Be it therefore enacted by the authority aforesaid, That the collector in any county, shall be obliged to lay before the grand jury of each county, a list of such insolvents as may be in such county or counties; on oath, who shall allow or disallow the same.

XIV. And be it enacted by the authority aforesaid, That the taxes imposed by this act shall be preferred to all securities and incumbrances whatever; and that in case any person or persons coming under the notice of this act shall die between the time of giving in his, her or their returns to the receiver or receivers respectively, and the paying of his, her or their tax, and any goods or chattels of the deceased to the value of the sum taxed shall come into the hands of his, her or their executors or administrators, or executors in their own wrong, such executors or administrators shall pay the same by the time before limited prior to all judgments, mortgages or debts whatsoever, otherwise a warrant of execution shall issue against the proper goods and chattels of such executor or administrator; and if any person or persons between the time of rendering the account of his, her or their estate to the receiver aforesaid, and the time of his, her or their paying in the said tax, shall be about to depart the county in which he, she or they may have immediately then preceding resided; the said collector or collectors is and they are hereby directed and required forthwith to levy the same notwithstanding the day of payment may not then have arrived, unless such person or persons shall and do find securities to be approved of by the said collector or collectors respectively, for the payment thereof, at the day herein appointed.

XV. And be it further enacted, That all deeds of gifts, conveyances, mortgages, sales and assignments of goods, lands, tenements and chattels of any kind of any persons whatsoever, made with an intention to avoid paying the aforesaid tax, are hereby deemed and declared null and void; and in case any person who has mortgaged his estate real or personal, shall refuse or neglect to pay the tax of the same, the mortgagee shall be liable to pay the same. Provided, That no sale for taxes under this act shall tend to affect the State title, to any property mortgaged or secured thereto.

XVI.
XVI. And be it further enacted, by the authority aforesaid, That the treasurer for the time being, be, and he is hereby empowered and required to grant executions against all former collectors of taxes who are, or may be defaulters immediately after the passing of this act; and he is hereby required and directed to proceed and prepare the form of a general return to be made by the respective receivers of tax returns, to be approved of by the governor, and transmitted by the treasurer, without delay, to the aforesaid officers.

XVII. And be it further enacted, That where the collector of the county finds no property real or personal therein, of persons in arrear, to satisfy the tax due by virtue of this or any former tax act, such collector is hereby authorized and empowered to sell so much of the property of the person neglecting to pay as aforesaid, as may be situate in any other county or counties, as will satisfy the said tax and arrears of tax as aforesaid, without further notice than his giving twenty days previous publicity of said sale by advertisement in one of the gazettes of this State; and the collectors shall be allowed the sum of fifty cents for each execution levied, and five per centum on the amount or neglect of all sales.

XVIII. And be it further enacted, That every person or persons refusing or neglecting to give in a list of his, her or their taxable property agreeably to the directions of this act, shall forfeit and pay for every such neglect, the sum of one dollar for every free male above the age of twenty-one years, and the sum of one dollar for every negro; the sum of eighty cents on every hundred dollars value of every lot, wharf or other lands not herein already enumerated, and on all buildings within the limits of any town, village or borough within the same, to be paid by the master or owner thereof, and to be recovered by bill, plaint or information, before any court of record; the one half thereof to go to the informer, and the other half to the use of the county where such information is made; except where the prosecution is carried on by presentment, and in that case the whole shall be applied to the use of the county: Provided always, That such information or presentment be made within twelve months after such neglect or default.

XIX. And whereas, divers persons, non-residents of this State, import large quantities of goods, wares and merchandise, and evade the payment of taxes by not being in this State at the time usually prescribed for making returns for taxes; for remedy whereof, Be it enacted, That any non-resident who shall expose to sale any goods, in this State, shall, on his arrival or within seven days after entering the same, make return, on oath, to the receiver of taxable returns, and give security to the tax collector, to pay the same on or before the time prescribed for paying taxes imposed by this act: Provided, That such goods shall not be liable to pay the tax, when they may be exported, or placed in the hands of a vendue master to be actually disposed of by him or them; and on failing to comply as aforesaid, it shall and may, be lawful for the tax collector to proceed against him or them, in like manner as against persons about to remove out of the county.

XX. And be it further enacted, That it shall be the duty of the judges of the superior courts, at their next term, after the returns of the receiver of taxable pro-

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A. D. 1797.
No. 320.
Executions against defaulting tax collectors. Form of a general return. Collectors may, in certain cases, sell property lying out of their county. Additional tax on defaulters. Tax on merchandise to be paid by non-residents. Defaulters to be preented.
property shall have been made agreeably to this act, to give it in charge to the grand
juries of the several counties, that they do present all such persons as may be
defaulters under this act; Provided nevertheless, That where any person or persons
who may be a defaulter, shall, before any information or presentment be made against
him or them, go to the clerk of the superior court of his county, and give in a lift
of his property, upon oath, in the same manner as ought to have been given to the
receiver, such person or persons shall be exonerated from the pains and penalties of
this act; and each person shall pay to such clerk for taking such lift, the sum of fifty
cents; and every such clerk shall return to the collector of his county, on or before
the first day of December one thousand seven hundred and ninety-seven, a true lift
of such property, and also transmit to the treasurer a return thereof, on or before
the first of February following.

XXI. And be it enacted by the authority aforesaid, That the tax imposed by this act,
shall be paid and collected in specie, bank bills of the United States or of the different
branches thereof, governors, presidents and speakers warrants, agreeably to the
order of the present legislature, and nothing else; and no replevin shall lie, or any
judicial interference be had in any levy or distraint for taxes under this law, but that
the party injured be left to his own proper remedy in a court of law.

XXII. And whereas, in conformity to the tax law of one thousand seven hundred
and ninety-five many persons had returned their lands in the counties where they lie,
but have since taken advantage of the law of one thousand seven hundred and ninety-
six, and paid the taxes thereon in the counties where they reside; and the collectors
still stand charged with the amount of the returns so made; Be it enacted, That the
treasurer be and he is hereby directed and authorized to credit any tax collector with
the amount of returns made of lands by persons residing in other counties; Provided,
Such collector shall make oath that such taxes have not been paid to him, and the
treasurer shall make returns of all such lands to the collector of the county, where
the owner, trustee, agent, attorney or guardian may reside, requiring such collector
to shew whether the taxes have or have not been paid to him, and if not, he the
said collector is authorized and required to proceed against such owner, agent, trustee;
or guardian as in cases of default.

XXIII. And be it further enacted, That the sum of fifteen dollars shall be levied
on all negroes brought into this State by sea, for settlement or sale; except such as
may be brought in by emigrants from any other part of the United States for settle-
ment, to be paid to the tax collector of the county within which such negroes may
arrive, within the space of twenty days after such arrival, and a return of which
negroes shall be made to the receiver of tax returns of the county, within five days
after such arrival, specifying the number and sexes of negroes so imported; and in
case of neglect or refusal to make such returns or payment, the said negroes shall
be, and are hereby declared to be forfeited to and for the use of the State; and
such tax collector is hereby authorized and required to sell and dispose of such ne-
groes, and to lodge the amount of sales thereof in the treasury; Provided, That the
tax collectors appointed by virtue of this act, shall not be entitled to receive more
than
LAWS OF GEORGIA.

than one per centum on the tax imposed by this act, on negroes brought into this State by sea, nor the receiver of tax returns more than one half per centum on the amount of such tax; and such collector shall quarterly account for, and pay into the treasury all monies so by them received for such tax: And provided also, That nothing in this act shall be construed to impose a tax of fifteen dollars on negroes brought into this State, actually belonging to the vessels bringing them as mariners.

XXIV. And be it further enacted by the authority aforesaid, That any receiver making a false return expressive of more or other than is to him given in, shall forfeit and pay to the party aggrieved, a sum equal to double the amount of the tax on the property so illegally returned; and any collector demanding any other or more tax than by this act is imposed according to the respective returns, shall forfeit and pay to the party aggrieved, for every such offence, four fold on the sum so unlawfully received, to be recovered before any jurisdiction having cognizance thereof. And it shall be the duty of the sheriffs of the respective counties, to execute all executions and other process issued by the treasurer against officers appointed by this act, under and by virtue of the same.

XXV. And be it further enacted, That in case any collector of taxes for any county in this State, shall not settle his account with the treasurer, and pay in the amount of his collection by the time pointed out in this act, the treasurer shall publish in one of the gazettes of this State, a notification, requiring all and singular the tax collectors who may be in arrear, to come forward and settle their accounts, and pay the balance they may respectively owe, into the treasury, within two months from the date of such notification, which shall be regularly published six weeks successively, stating the sums due by each collector, their names and securities; and in case of failure to make settlement and pay in the monies aforesaid, the treasurer is authorized and directed to issue his execution against every collector so in default, directed to all and singular the sheriffs of this State, and transmitted to the sheriff of the county for which the collector is appointed, who is required to levy the same immediately, if any property of the defendants in the county, if not, to transmit the same to any other county where the defendants or either of them may have property; and the sheriff of such other county is in like manner to levy the same. And no execution issued by the treasurer, in manner herein prescribed, shall be stayed by reason of the death of the said collector or his securities, as to the sum due, or the legality of the execution.

XXVI. And be it further enacted, That the collectors of the several counties shall, before they receive the taxes from defaulters in their respective counties, ascertain and enter in a book to be kept for that purpose, the taxable property in default, and the amount of taxes due by such defaulter; an exact copy of which book or digest they shall transmit to the treasurer, and another copy shall lodge with the receiver of taxes of the said county, who shall add the same to his digest previous to such collector's receiving the taxes from such defaulters; and in case any collector shall attempt to receive the taxes or any part thereof from such defaulter or defaulters, before he shall transmit the aforesaid digests to the treasurer and
A. D. 1797.
No. 590.
Former collectors in default, required to return dags to the treasurer.

receiver as aforesaid, he shall forfeit double the amount so received to be recovered by execution to be issued by the treasurer as in case of default, on information thereof to the treasurer.

XXVII. And be it further enacted, That all former collectors who are now in default, shall, within sixty days after the passing of this act, return a digest to the treasurer and another to the receiver of all monies received, or which they may receive from defaulters as aforesaid, in the manner herein pointed out, and on failure thereof shall be subject to execution and the penalties which collectors under this act are subject to.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Concurred, February 11, 1797.

JARED IRWIN, Governor.

No. 591.

An Act to establish a tobacco inspection in the town of Petersburg; one on the south side of Broad river, at the mouth thereof; and one other on the lands of Ezekiel Harris, above Augusta.

I. Be it enacted by the senate and house of representatives of the State of Georgia in general assembly met, That it shall and may be lawful for an inspection of tobacco to be established in the town of Petersburg, in the county of Elbert, on lots thirty-five and thirty-seven, the property of William Watkins; and that the said warehouse with all the benefits and emoluments thereof, be, and is hereby vested in him the said William Watkins, his heirs and assigns.

II. And be it enacted by the authority aforesaid, That one other tobacco inspection shall be established on the south side of Broad river, at the mouth thereof, on the lands of Thomas Walton, junr. and that the right of the said warehouse be, and is hereby vested in the said Thomas Walton, junr. his heirs and assigns.

III. And be it enacted, That another warehouse be, and is hereby established on the plantation of Ezekiel Harris, in the county of Richmond, and that the right of the said warehouse be, and is hereby vested in the said Ezekiel Harris, his heirs and assigns.

IV. And be it further enacted, That the aforesaid tobacco inspections shall be regulated and governed by the same laws that now are or may hereafter be made for the government of the several tobacco inspections within this State; and the proprietors thereof shall be allowed to receive the same storage as is directed by law to be received at other tobacco inspections.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Concurred, February 11, 1797.

JARED IRWIN, Governor.
LAWS OF GEORGIA.

An Act to establish a road from Louisville to Savannah; one from Lou-

isville to Washington, in Wilkes county; and another from the

Chickasaw ford, on Brier creek, to Columbia court house.

WHEREAS, a road is now opened from within three miles of Louisville to
within fifteen miles of Savannah, that is to say: Beginning at Lambert's
Big creek, in the county of Jefferson, to McCullars, Mill spring, on Buckhead, to
Isaac Brinon's; thence to Asa Tanner's; from thence into the Augusta road, above
captain John Spencer's. And whereas, bridges are now erected over Lambert's Big
creek, big Buckhead, little Buckhead, and little Ogeechee, at a great expense, but
defrayed by the generous subscription of individuals;

I. Be it therefore enacted by the Senate and House of Representatives of the State of Georgia
in General Assembly met, That the said road be established as a public one, and that
John Clements, John Powell, and Hugh Alexander, for the county of Jefferson;
Bryant McCullars, Isaac Brinon and Batt Jones, for the county of Burke; Richard
Cooper, Gabriel Parke and Asa Tanner, for the county of Screven; and Earnest
Zitteror, Samuel Ryall and Christopher Bailey, for the county of Effingham, be
commissioners in the counties to which they respectively belong, to open and work
on such parts of the said road, from Louisville to Savannah, as are not already
opened, and to keep in repair the remainder.

II. And be it further enacted, That the said commissioners shall have full power to
call out the inhabitants liable to work on the same agreeably to the existing road act
now in force.

III. And be it further enacted, That one other road be opened and laid out from
Louisville to the town of Washington (Wilkes county) across Little river, at William-
son's mill; and that William Black, Zachariah Gray, and James Rogers, be appointed
commissioners for the county of Jefferson; Isaiah Tucker, Solomon Newsom and
Vincent A. Tharpe, commissioners for the county of Warren; and Robert Mathews,
Thomas Porter and Richard Worsham, be appointed commissioners for the county of
Wilkes; whose duty it shall be to view, lay out, open, and keep in repair the
aforesaid road, and shall have the same powers given by law to commissioners or
surveyors of roads in this State.

IV. Be it further enacted, That a public road be established from the Chickasaw
ford, on Brier creek, to Columbia court house; and that James Culbreath, John
Hobbs and Thomas Waggoner be appointed commissioners on the part of the coun-
ties of Richmond and Burke; and that John M'Donald, David Harris and
Hancock be appointed commissioners on the part of the county of Columbia. And
in case of death, resignation or removal from office of either of the aforesaid com-
misiners, the inferior court of the county in which such vacancy may happen, shall
fill up the vacancy at the next succeeding court; any law to the contrary notwith-
standing.

DAVID MERIWETHER, Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Concurred, February 11, 1797.

JARED IRWIN, Governor.
A. D. 1797. An Act to establish an inspection of tobacco at the White Bluff, on the Oconee river, in the county of Washington.

No. 594. An Act to divorce or separate Henry Moore M'Donald and Mary his wife, and for protecting each of them in their separate estates.

February 11, 1797.

No. 595. An Act to divorce Benjamin Butler and Elizabeth his wife.

February 11, 1797.

No. 596. An Act respecting vendue masters.

WHEREAS, it hath been determined by a joint resolution of both branches of the present legislature, that it is necessary to increase the number of vendue masters for the city of Savannah, and to appoint others for other places in this State.

I. Be it enacted, That there shall be six vendue masters for the city of Savannah, to wit: The same that were elected by joint ballot of both houses on Tuesday the twenty-fourth day of January past; and who shall in every respect proceed and conduct themselves in conformity to the terms of the "Act for regulating vendues," passed the eighth day of December, one thousand seven hundred and ninety-four; for and during the time they may continue in office.

II. And be it further enacted, That there shall be one vendue master for the town of Augusta; one for Louisville; one for St. Mary's; one for Washington, in Wilkes; one for Petersburg; and two for Liberty county; who shall be appointed by concurred resolution of both houses, and in all matters shall conform to the aforesaid Act for regulating vendues.

III.
III. And be it further enacted, That the mayor and aldermen of the city of Savannah be, and they are hereby authorized after the expiration of one year from the first day of March next, to appoint vendue masters for the city of Savannah annually, and are required to take bond and security of such vendue masters, agreeably to the act for regulating vendues aforesaid; which bonds they shall transmit to the treasury office; and the said mayor and aldermen shall fill all vacancies which may happen of vendue masters, either from death, resignation, suspension or removal from office by the governor or otherwise.

IV. And be it further enacted, That the justices of the inferior court in every other county where vendue masters are directed by law to be appointed, to appoint such vendue masters, take bond and security, and fill all vacancies which may happen in like manner as the mayor and aldermen are authorized to do for the city of Savannah.

V. And be it further enacted, That the tax on all lots in the city of Savannah, from which the improvements have been destroyed by the late dreadful fires, (except such as may have been injured, to be established by the oath of the owner, agent, or trustees) for the year one thousand seven hundred and ninety-six and one thousand seven hundred and ninety-seven, be remitted.

DAVID MERIWETHER, Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Concurred, February 13, 1797.
JARED IRWIN, Governor.

An Act to revise and amend the several road acts, and for other purposes therein mentioned.

I. Be it enacted by the Senate and House of representatives of the State of Georgia in general assembly met, That every person liable to work upon any of the roads, creeks, causeways, water passages and bridges within this State, shall bring with them to the place appointed by the commissioners or surveyors or any or either of them, such tools as they may be directed by the said commissioners or surveyors or any or either of them as aforesaid; and every person or persons refusing or neglecting to bring the tools as aforesaid, and the owner, manager or employer of such male slave or slaves as are liable to work, and shall refuse or neglect to bring the said tools, shall be liable to be fined at the discretion of the said commissioner or commissioners, surveyor or surveyors, or a majority of them, where there are more than two in any one district, in a sum not exceeding an half dollar each for every day he or they shall neglect or refuse to bring the said tools.

II. And be it further enacted, That the bridge across South Newport river, which divides the counties of Liberty and McIntosh, shall be built and kept in repair at the joint expense of the said counties, by a tax to be levied on the inhabitants of each county by the justices of the inferior court of the said counties respectively.
III. And be it further enacted, That the act entitled "An act for regulating and keeping in repair the public roads and bridges in the several counties in this State," passed at Augusta on the ninth day of December, one thousand seven hundred and ninety-three, be, and the same is hereby declared to be in full force and effect in the counties of Bryan and McIntosh; any law to the contrary notwithstanding.

IV. And be it further enacted, That the male slaves subject to road work under the afore recited act belonging to and residing on the plantations of John W egy, Ralph Elliott, and the estate of Thomas Savage, esqrs. lying and being on the river Ogeechee, in the county of Chatham, be, and they are hereby considered as liable to work the public road in the county of Bryan only.

V. And whereas, it hath been found impracticable for the several persons liable to work on that part of the road in the county of Liberty leading from the court house in Greene county to the town of Sunbury, lying between the county line and Wells's ferry, to open and complete the same; Be it therefore further enacted, That the commissioners or surveyors of the said district or division, with consent of the justices of the inferior court for the county of Liberty, be, and they are hereby authorized and empowered to agree with any person or persons willing to undertake to open and complete the said road and bridges so as to make the same payable.

VI. And be it further enacted, That the justices of the inferior court for the county of Liberty, be, and they are hereby authorized and empowered to assess a tax on the inhabitants of the said county, not exceeding one eighth part of the general tax for the year one thousand seven hundred and ninety-seven, to be applied for the purpose of opening and clearing out that part of the aforesaid road lying between the county line and Wells's ferry.

VII. Be it further enacted, That it shall be lawful for the inferior courts of the respective counties in this State, to establish such ferries at such places as they may deem proper in their respective counties; and also to establish the fees or rates of ferriage at such ferries as they may establish pursuant to this act.

VIII. And be it further enacted, That this act shall operate and be enforced in the counties wherein the act for regulating and keeping in repair the public roads and bridges in the several counties in this State, passed on the ninth day of December one thousand seven hundred and ninety-three, operates and has effect, and in no other, except that part which empowers the inferior courts to establish ferries which shall operate in every county throughout the State.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Concurred, February 13, 1797.

JARED IRWIN, Governor.

An Act for appropriating money for the year one thousand seven hundred and ninety-seven.

IV. And be it further enacted, That in all cases where application shall be made by persons who may have deposited monies in the treasury in part or whole...
whole payment for pretended shares of land under the usurped act passed at Augusta on the seventh day of January, one thousand seven hundred and ninety-five, and who are authorized under the act of the present session to draw such deposits therefrom, the person or persons so applying, shall, previous to receiving a warrant for any sums so deposited, produce the original treasury receipt for the same, which shall be filed in the executive office; a sum equal to three and a fourth cents per day to each private foot militia man raised under the establishment of the United States for the protection of this State, and agreeable to a concurred resolution of a former legislature for the time such privates were in actual service, to appear from the muster rolls of the said troops; to the honorable Abraham Baldwin eight hundred and seventy-six dollars ninety-five cents; to John E. Smith the sum of five hundred dollars for printing the laws and journals of the present session; Provided, the said Smith shall have said laws and journals correctly printed and delivered to the executive, at the seat of government, except such as may be receipted for at his office by the members of the respective counties, on or before the first day of April next; and shall also establish a press in the town of Louiville on or before the first day of October next; And provided also, That the said Smith shall within twenty days give bond and security to his excellency the governor in the sum of one thousand dollars for the true performance of the said services; and in case of his neglect or refusal to do, his excellency the governor is hereby directed to contract for the printing the said laws and journals upon such terms as to him may appear most conducive to the public good; Provided, Provided, That nothing in this act contained shall extend or be construed to extend to the authorizing the treasurer to pay out of the treasury any part of the monies deposited by the pretended purchasers under the usurped act of the seventh of January, one thousand seven hundred and ninety-five, in part or whole, pretended payment for shares of the territory sold under the said act to any other than those who have deposited the same.

DAVID MERIWETHER, Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Concurred, February 13, 1797.
JARED IRWIN, Governor.

An Act to revise and amend an act supplementary to an act for regulating the town of Augusta; and to amend an act, entitled "An act for regulating the town of Savannah and hamlets thereof; and for other purposes."

I. Be it enacted by the senate and house of representatives of the State of Georgia in general assembly met, That every owner of a lot in the said city, and every citizen of this State, who is an occupier of a house, and shall have resided in the said city twelve months previous to the day of election of aldermen for the said city, shall convene in some place to be appointed and publicly notified by the mayor and aldermen.
A. D. 1797.
No. 599.

Aldermen now in office, at least ten days previous to the day of election within the said ward in which they reside, or own a lot as aforesaid, on the first Monday in March next, and elect by ballot one alderman, who shall be a freeholder in the said city, to represent them in the city council thereof: Provided, That no house or tenement shall qualify more than one person to a vote.

II. And be it further enacted, That two or more magistrates of the county of Chatham shall preside at, and superintend the said election, in each ward, and that one or more confables of the said county or city shall attend, for the purpose of preferring order at the said election.

III. And be it further enacted, That if any person shall offer to vote, who is not known to the presiding magistrate to be a citizen of this State, and otherwise qualified as aforesaid, he shall not be allowed to vote, unless he shall produce a certificate from some court of record properly authenticated, of his being qualified as such, and having taken the oaths of allegiance in conformity to the acts of this or the United States.

IV. And be it further enacted, That no person holding an appointment under this State or the United States (except justices of the peace and officers of the militia) shall be eligible to the appointment of an alderman.

V. And be it further enacted, That no person holding an appointment under the corporation of the said city, and for which he receives a salary or other compensation for his services, shall be entitled to vote for an alderman during the time for which he holds his appointment.

VI. And be it further enacted, That the alderman which shall be elected on the first Monday of March next as aforesaid, shall hold their appointments until the first Monday in July, in the year one thousand seven hundred and ninety-eight, on which day the persons qualified to vote as aforesaid, shall proceed to elect an alderman for each ward in the manner and under the restrictions pointed out in this act; and shall annually thereafter on the first Monday in July, in every year, elect an alderman for each ward as aforesaid, to represent them in the city council agreeable to this act, and in no other manner whatever.

VII. And for the better regulating the town of Saint Mary's in the county of Camden, Be it further enacted, That the commissioners of the said town of Saint Mary's be, and they are hereby vested with full power and authority to make such by-laws and regulations as may be necessary for the good order and government of the said town of Saint Mary's; Provided, such by-laws and regulations be not repugnant to the laws and constitution of this State, and the United States.

VIII. And be it further enacted, That so much of the aforesaid acts as militate with this act be, and the same are hereby repealed.

IX. And be it further enacted by the authority aforesaid, That the trustees of the town of Augusta be, and are hereby authorized and required to make uniform the street called Greene street, by reducing the same to an uniform and equal width, and to convey by proper deeds of conveyance, to the persons holding lots on the south side thereof, between Washington and Lincoln streets, the ground lying and being between the
the said lots respectively, and a parallel line to be drawn from the corner at the inter-
section of Greene and Washington streets, to the corner where the said Greene
street is intersected by Lincoln street on the south side thereof, and to their heirs and
affigns forever, in fee simple, in as full and ample a manner, as the other lots in the
said town have been conveyed; the aforesaid lot holders respectively, their heirs or
affigns, first giving bond with good and approved security to the said trustees, payable
on or before the first day of March in the year one thousand seven hundred and
ninety-eight, with interest from the date thereof, for a sum of money which shall
be equal to the average amount of the trustees or commissioners sales of the two
squares of lots, the one laying immediately above and the other below the aforesaid
corners, in proportion to the quantity of ground to be conveyed to each lot holder;
and the money arising therefrom, shall be, and the same is hereby appropriated to
the use of the academy in the said town; any thing contained in the original plan
of the town, or any former act relative thereto, notwithstanding.

X. And whereas, in and by an ordinance passed by the general assembly on the
sixth day of December, one thousand seven hundred and ninety, the exclusive right
to erect a bridge over the river Savannah at Augusta, was vested in Wade Hampton,
his heirs and affigns, upon certain conditions therein expressed; and the said Ham-
pton in pursuance thereof, did, at great expense, erect a bridge in terms of the said
ordinance; which said bridge hath been entirely destroyed by an extraordinary fresh
in the said river; and the said Hampton being desirous of rebuilding the said bridge,
and to have further time allowed him to effect the same; and great public utility hav-
ing been experienced by that heretofore erected:

Be it therefore enacted by the authority aforesaid, That the before mentioned ordi-
nance is hereby revised, and declared to be in full force and operation, and the time
therein limited for rebuilding a bridge across the said river, shall, and is hereby
declared to be extended to the term of two years, from and after the passing of this
act and no longer.

XI. And be it further enacted, That provided the said bridge shall be re-built within
the fixed term of two years, in manner pointed out in the aforesaid ordinance, then
and in that case the profits and emoluments arising from the said bridge, together
with all the rights and privileges intended to be vested by the said ordinance shall,
and is hereby declared to be exclusively vested in the said Wade Hampton, his heirs
and affigns according to the true intent and meaning thereof: Provided nevertheless, That
the trustees of the town of Augusta, or a majority of those actually residing in the
county of Richmond, shall be, and are hereby vested with full power and authority
to point out the situation or place where the said bridge shall be erected; and the
said Wade Hampton shall be governed in that respect by their determination.

XII. And whereas, a majority of the whole number of trustees of the academy
and town of Augusta, is found by experience to be too numerous a body to manage
and conduct the various branches of business attached to their appointment, owing
to the frequent absence and change of residence of members; for remedy whereof,

XIII. Be it enacted, That from and immediately after the passing of this act, a
majority of the trustees actually being and residing within the county of Richmond,
A. D. 1797.
No. 599.

George Walker appointed a trustee. The number not to be encroased.

XIV. And be it further enacted by the authority aforesaid, That George Walker, Esq. be, and he is hereby appointed a trustee in the room of Seaborn Jones, Esq. who hath resigned: And that the whole number of trustees for the said town and academy shall not exceed the number now in office.

DAVID MERIWETHER, Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Concurred, February 13, 1797.
JARED IRWIN, Governor.

An Act to amend an act, entitled "An act to regulate elections within this State, so far as it respects the elections of magistrates and justices of the inferior courts in certain counties within this State.

February 13, 1797.

An Act for repealing an act, entitled "An act authorizing certain persons herein mentioned, to erect toll bridges over Little river and over water courses within this State.

I. WHEREAS, it is found from experience that toll bridges are prejudicial, and not of that benefit to the inhabitants contemplated by the said act, De it therefore enacted by the Senate and House of Representatives of the State of Georgia, in general assembly met, That the above recited act be and the same is hereby repealed; except so far as relates to the bridge over Beaver dam in Screven county, on the Savannah and Augusta road, and Little river.

II. And be it further enacted, That the justices of the inferior court in each county where toll bridges have been erected in conformity to the aforesaid act, be empowered to agree with the person or persons who have so erected a toll bridge or bridges agreeably to the terms of the act aforesaid, for a reasonable and adequate compensation for the expense and labor attending the building thereof; and to levy a tax on the county to discharge the same, which shall not exceed one tenth part of the general tax, unless the people at large in such county shall prefer doing it by subscription; in which case no tax shall be levied by the inferior court; Provided, such subscription shall be filled and paid into the hands of the said court within six months from the passing of this act.

DAVID MERIWETHER, Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Concurred, February 13, 1797.
JARED IRWIN, Governor.
LAWS OF GEORGIA.

An Act for opening and keeping open the river Oconee.

February 13, 1797.
Repealed by act of 1798, No. 618.

An Act to pardon a certain negro man named Jerry.

Be it enacted by the Senate and House of Representatives in general assembly met, and by the authority of the same, That a pardon is hereby granted to a negro man by the name of Jerry, the property of Benjamin Kitchen, now under sentence of death in the county of Washington.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Concurred, February 13, 1797.

JARED IRWIN, Governor.

An Act for the relief of the unfortunate sufferers by the late fires in Savannah.

WHEREAS, the city of Savannah, in this State, hath been visited in the course of the last year, by the most extensive and disastrous conflagrations, ever experienced on this continent, whereby a great many industrious and worthy citizens of this State have been reduced from a state of comfortable ease and competency, to ruin and distress; And whereas, it is not consistent with the character and duty of social beings, to stand aloof and treat with indifference the afflictions of their fellow creatures; and the dreadful effects of those calamities have extended beyond the bounds of individual benevolence; in which case it becomes the duty of that government under whose protection the unfortunate may be, and to whose support they have in prosperity contributed, as well from motives of policy as beneficence, to alleviate their afflictions as far as the general interest will permit.

I. Be it therefore enacted by the Senate and House of Representatives of the State of Georgia in general assembly met, That one third of the revenue or income which may be derived to this State from the tax imposed on negroes brought into this State for sale, for the current year, be and is hereby appropriated to and for the relief and benefit of the unfortunate sufferers aforesaid.

II. And be it further enacted, That the tax collector for the county of Chatham, or any other county into whose hands any money may come, for and on account of the negro tax aforesaid, be, and is hereby authorized and directed to pay into the hands of the mayor and aldermen of the city of Savannah, one third of such monies quarterly; and the receipt of the said mayor shall be acknowledged and admitted by the treasurer in the settlement of the said tax collectors accounts.

III. And be it further enacted, That such monies shall be subject to such distribution or disposition as the citizens of Savannah may think proper to make.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Concurred, February 13, 1797.

JARED IRWIN, Governor.
A.D. 1797. An Act to improve the navigation of Brier Creek, from the line dividing the counties of Burke and Scriven, to the mouth thereof.

I. Be it enacted by the Senate and House of Representatives of the State of Georgia in general assembly met, That the male inhabitants of the county of Scriven, from the age of eighteen to forty-five years, which do or may reside within two miles of the said creek, shall be, and they are hereby made liable to work on and improve the navigation of the said creek from the aforesaid lines of Burke and Scriven to the mouth thereof, by laboring thereon three days in each year, under the penalty of one dollar for each day, which any person or persons as aforesaid shall neglect or refuse to work or aid in improving the navigation of the said creek; and the master, owner or other person or persons having the charge or custody of any slave or other person bound to service or under the age of twenty-one years, shall be, and they are hereby made liable to pay for the default or neglect of any such person or persons whatever.

II. Be it further enacted, That the inferior court of the county of Scriven shall be authorized to appoint commissioners to improve the navigation of the said creek; who are hereby authorized to call or summon the said inhabitants, and by their joint labor to improve and open the navigation of the said creek; and they, the said commissioners respectively, shall issue executions against the several persons who may neglect or refuse to comply with the terms of this act, and to apply such sum or sums of money as may be so received, to and for the use and benefit of the navigation of the said creek.

III. Be it further enacted, That such persons as are required by this act to aid in the improving of the navigation of the aforesaid creek, shall be exempted from working on any public road.

IV. And be it further enacted, That every person or persons liable to work as aforesaid, shall bring with them one good ax each, and such other tools and implements as the said commissioners may direct; and every person or persons neglecting or refusing to bring such tools and implements as may be required as aforesaid, shall be fined in a sum not exceeding one dollar each per day; and the owner, manager or employer of any slave or slaves liable to work, and neglecting or refusing to bring the tools or implements required by the commissioners as aforesaid, shall be fined for each slave, neglecting or refusing as aforesaid, in a sum not exceeding one dollar each per day; to be recovered by warrant under the hand and seal of the said commissioners or a majority of them, directed to the sheriff or any constable of the county in which they reside; and it shall be the duty of the said sheriff or constable to levy and make sale of the defaulters goods and chattels, as in case of execution and levy, ordered by the superior or inferior courts in this State.

V. Be it further enacted, That all other acts or parts of acts for the improvement of the navigation of the aforesaid creek, so far as militates against this act, shall be and they are hereby repealed.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Concurred, February 13, 1797.

JARED IRWIN, Governor.
An Act to make permanent the seat of the public buildings in the county of Glynn, and for other purposes therein mentioned.

I. Be it enacted by the senate and house of representatives of the State of Georgia in general assembly met, That Richard Prichard, Martin Palmer and Moses Burnett be, and they are hereby appointed commissioners of the court house and gaol in the county of Glynn; which court house and gaol shall be erected on one of the most convenient public lots in the town of Brunswick, which shall be conveyed to them by the commissioners of the aforesaid town and commons.

II. And whereas, it has been found that there is much more land reserved for the commons of Brunswick than is necessary for that purpose; Be it therefore enacted, That the commissioners of the above town and commons are hereby authorized to fell and dispose of five hundred acres of the commons of Brunswick, at such time and place as they may deem most proper, after giving three months public notice in one of the gazettes of Savannah, in lots not exceeding fifty acres each, and make titles to the purchaser or purchasers in fee simple; which monies arising from the sale of the said land shall be applied under the direction of the said commissioners of Brunswick as follows, to wit: One moiety thereof to the use of the court house and gaol, and the other to the use of the academy; Provided, That the said lands be not sold for less than three dollars per acre; any law to the contrary notwithstanding.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Concurred, February 13, 1797.

JARED IRWIN, Governor.

An Act to divorce and separate George Mathews and Margaret his wife, and for protecting each of them in their respective estates.

February 13, 1797.

An Act to divorce or separate Abner Mitchel and Salley Mitchel his wife, formerly Salley Mitchel, and for protecting each of them in their respective estates.

February 13, 1797.

An Act to incorporate Augusta; and improve the public roads in the neighbourhood thereof.

WHEREAS, from the extent and population of the town of Augusta, its growing importance, both with respect to increase of inhabitants and difpulsive commerce, it is indispensably necessary that many regulations should be made for the preservation of peace and good order within the same: And whereas, from the many weighty and important matters that occupy the attention of the legislature at their general meeting, it has hitherto been found inconvenient, and may hereafter become more to, for them to devise, consider, deliberate on, and determine all such laws and regulations as emergencies, or the local circumstances of the said town may from time to time require:
A. D. 1797. I. *Be it therefore enacted*, That from and immediately after the passing of this act, all persons, citizens of the United States, and residing one year within the said town, and having a freehold or lease for years, of a lot within the same or the village of Springfield, or between the said village and town, shall be deemed, and they are hereby declared to be, a body politic and corporate; and the said town shall hereafter be called and known by the name of the City of Augusta, and shall be divided into the following districts, to wit: All lots situate below the cross street, running from the river Savannah, between the market house and the house of Mrs. Fox, to be called and known by district number one; all the lots between said street, and the cross street running from the said river, between the house of Mr. Andrew Innes, and the house occupied by Collin Reed and company, to be called and known by district number two; and all the lots above that street, including the village of Springfield, shall be called and known by district number three.

II. *Be it further enacted*, That any three justices of the peace for the county of Richmond, shall, within sixty days after the passing of this act, give ten days public notice, that two members are to be chosen for district number one, three members for district number two, and two members for district number three, to represent them in city council, whose qualification shall be the same as that of a member of the house of representatives of the State legislature; and that all free white persons residing in each district, being citizens of the United States, and residing one year within the said town, and having a freehold or lease for years of a lot therein as aforesaid, shall be entitled to vote for members for their respective districts; and they shall also notify the time and place, when and where the election is to be held for each district, and appoint proper persons to conduct the same; and the said persons, when the election is closed, shall make a return to the said justices of the persons chosen members of the respective districts; and the said justices shall give notice to the several persons of their appointments respectively, and summon them to meet together at any time and place within three days after their election, for the purpose of taking the oath of office prescribed by this law, which oath may be administered by any justice of the peace, or one warden to another; *Provided*, Three be present at the time of administering the same, and shall be in the words following: "I, A. B. do solemnly swear, that I will, to the utmost of my power, support, advance, protect and defend the good order, peace and welfare of the city of Augusta and its inhabitants; and will faithfully demean myself in the office of intendant, (or member of the city council, as the case may be) for the said city, according to the by-laws and regulations thereof, to the best of my skill and judgment; I do swear that I will support the constitution of this; I do also swear that I will support the constitution of the United States."

III. *Be it further enacted*, That when five or more of the said members shall have met and qualified as aforesaid, they shall within three days after such their qualification, give five days public notice, that an intendant of the city is to be chosen by the members of the city council either from among their own body, or the citizens of the said town, possessing the qualifications of a member as aforesaid; and at the time...
time mentioned in such notice, the said members shall meet at the court house in the said city, and vote for such intendant: And when such intendant shall be chosen, he shall take the oath above inferred, in the presence of any two or more of the members; after which he may qualify such members as were not before qualified, and if any member should be chosen intendant, he, together with the members, shall fill up such vacancy until the next annual election. And the said intendant shall and may, as often as occasion may require, summon the members to meet together in city council, any five of whom, with the intendant, shall be known by the name of, and they are hereby declared to be, The City Council of Augusta: And they and their successors hereafter to be appointed, shall have a common seal; and shall be capable in law to purchase, have, hold, receive, enjoy, possess and retain, to them and their successors, for the use of the city of Augusta, in perpetuity, or for any term of years, any estate or eellate, real or personal; messuage, lands, tenements, or hereditaments of what kind or nature soever, within the limits of the said city; and to sell, alien, exchange, or leave the same, or any part thereof, as they shall think proper; and by the same name to sue and be sued, implead and be impleaded, answer and be answered unto, in any court of law or equity in this State: And they shall also be vested with full power and authority, from time to time, under their common seal, to make and establish such by-laws, rules and ordinances, respecting the harbor, streets, public buildings, work houses, markets, wharfes, public houses, carriages, wagons, carts, drays, pumps, buckets, fire engines, the care of the poor, the regulation of disorderly people, negroes, and in general every other by-law or regulation that shall appear to them requisite and necessary for the security, welfare and convenience of the said city, or for preserving peace, order and good government within the same: And the said city council shall also be vested with full power and authority to make such assessments on the inhabitants of Augusta, or those who hold taxable property within the same, for the safety, benefit, convenience and advantage of the said city, as shall appear to them expedient; and to affix and levy fines for all offences committed against the by-laws of the said city; and they are hereby authorized to appoint a clerk, treasurer, harbor master, fire master, marshall, constables and all such other officers respectively, as shall appear to them requisite and necessary for carrying into effectual execution all the by-laws, rules and ordinances they may make for the good order and government of the said city and the persons resident therein. Provided, That nothing herein contained shall authorize the city council to remove or alter the place for the public market house within the said city, but the one now established may be enlarged or extended, as the convenience of the citizens may from time to time require; nor shall they make any by-laws repugnant to the constitution or laws of the land. And provided also, That the by-laws, rules and ordinances they may make, shall, at all times, be subject to the revisal, alteration or repeal of the legislature.

IV. And be it further enacted, That the said members of the city council shall each of them have full power and authority, and they are hereby required, to keep peace and good order within their respective districts; to issue warrants, and cause all
A. D. 1798. 
No. 609. 

DIGEST OF THE 

Election, annual, on the first Monday in April. 

Penalty on persons elected, refusing to serve. 

How punishable for mal-practice &c. 

Public roads—under their direction. 

V. And be it further enacted, That it shall be the duty of the said city council, and they shall have full power and authority, to keep in repair all public roads leading to Augusta, for the extent of three miles from the said city; and may levy a tax for that purpose, in such manner and under such regulations as they may conceive least burthensome to the citizens, and best calculated for the general good, convenience and welfare of the said city and the inhabitants thereof.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Assented to, January 21, 1798.

JAMES JACKSON, Governor.
LAW OF GEORGIA.

An Act for the better regulating the town of Louisville.

WHEREAS, the town of Louisville requires regulation: Be it therefore enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same, That the following persons, to wit: Doctor John Powell, John Berrien, Cheffley Botwick, John Shelman and Michael Shelman, Esquires, be, and they are hereby appointed commissioners of the town of Louisville; and that they or a majority of them, shall immediately after the passing of this act, convene, and proceed to the appointment of a clerk and such other officers as they may deem necessary to carry this act into execution.

II: And be it further enacted, That the said commissioners shall have, and they are hereby vested with full power and authority to make such by-laws and regulations, and inflict or impose such pains, penalties and forfeitures as shall be conducive to the good order and government of the said town of Louisville: Provided always, That such by-laws and regulations be not repugnant to the laws and constitution of the State; and that the pains, penalties and forfeitures aforesaid, shall not extend to life or member.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Affented to, January 31, 1798.

JAMES JACKSON, Governor.

An Act to prohibit the further importation of slaves into this State.

WHEREAS, a practice hath hitherto prevailed, of importing great numbers of slaves into this State for sale, from Africa and elsewhere, which is not consistent with the principles of benevolence and humanity, or consonant with the true interest and prosperity of the State:

I. Be it therefore enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same, That six months after the passing of this act, it shall be unlawful for any person or persons, to import into this State, from Africa or elsewhere, any negro or negroes of any age or sex, or to make sale or other disposition of them by themselves, their agents or attorneys, to the inhabitants of this State; any such person or persons for offending, shall, for the first offence, forfeit and pay the sum of one thousand dollars, for every such negro so imported, sold or otherwise disposed of; and for every subsequent offence, the sum of one thousand dollars, to be recovered by bill, plaint or indictment, in the superior court of the county where the offence shall happen, one half to the use of any informer, who shall prosecute the offender to conviction, and the other half to the use of the State.

II. And be it further enacted by the authority aforesaid, That three months from and after the passing of this act, if any person or persons shall bring into this State, from any other State in the United States, any mullatto, mulatto, or negro slave
A. D. 1798. or slaves, of any age or sex, or make sale or other disposition thereof to any of the inhabitants of this State, all and every person and persons so offending, shall forfeit and pay for the first offence, the sum of five hundred dollars, and for the second, and every subsequent offence, one thousand dollars, for every mulatto, mulatto or negro slave so brought into this State, sold or otherwise to be disposed of, to be recovered in the superior court of the county where the offence shall happen, by bill, plaint or indictment, one half to the use of any informer, who shall prosecute the offender to conviction, the other half to the use of the State. And to prevent any evasion, or construction contrary to the true intent of this act, Be it enacted, That wherever it shall appear to the satisfaction of a court and jury, that any person or persons have actually brought such slave or slaves into this State, with a view or intention of making sale of the same, and he or they be duly convicted thereof, such person or persons shall be subject to the same penalties, as in cases where the importation and sale, or other disposition, shall have been made; and the act of bringing them into this State, with such intention, and the act of making sale or other disposition of them, shall be severally considered and taken as a consummation of the offence herein prohibited, and be punishable in the county where either act shall be committed. Provided always nevertheless, That nothing in this act shall be construed to prevent any person removing into this State from either of the United States, and becoming a citizen thereof, from bringing with him any number of slaves. And nothing herein contained shall restrain the sale or other disposition of slaves by the citizens of this State, in their own right, and in the ordinary methods of transferring that species of property, unless it shall be made appear, that such practice is intended as a fraud upon this act, and contrary to the true intent and meaning thereof. And provided also, That from and after the time aforesaid, no person whatever shall bring, or cause to be brought, from any of the United States, any slave or slaves, except such who are removing to this State, or such who have negroes left by will or otherwise, in any of the United States; that before any such slaves be brought into this State, the person intending to bring such slaves, shall first make oath before the court of the county (or justice of the peace) from which he is about to remove, or bring such slaves, that the slaves he is about to bring to Georgia are his own family negroes, or such as have been actually left him by will or otherwise, particularly specifying the name, number and sex of such negroes, that a certificate, together with the seal of the said county annexed, shall be by such person produced to a justice of the peace, after coming into this State; that such justice is hereby required to give such person a certificate of the same, which shall entitle him to pass to the county in which he resides, or is moving to, and within twenty days after his arriving in such county, shall go to the clerk of the superior court, and there make oath, that the negroes he has brought with him are the same comprehended in the certificate aforesaid, which certificate and oath shall be filed of record in such office.  

DAVID MERIWETHER, Speaker of the House of Representatives.  
DAVID EMANUEL, President of the Senate.  

Assented to, January 31, 1798.  
JAMES JACKSON, Governor.
An Act for the better securing to Alexander Cowell, a certain tract of land, purchased at the sale of confiscated property.

February 1, 1798.
Private:

An Act to authorize the mayor and aldermen of the city of Savannah, as commissioners of the court house and goal of the county of Chatham, to draw the sum granted by law, to each county, for building and repairing court houses and goals.

February 2, 1798.

An Act to authorize and empower the trustees of the White Bluff congregation, to sell land conveyed certain land therein mentioned.

February 2, 1798.

An Act for preventing controversies concerning the bounds of land and for processioning the same.

I. Be it enacted by the Senate and House of Representatives of the State of Georgia in general assembly met, and by the authority of the same, That once in every ten years, the bounds of every person's land shall be processioned or gone round, and the land marks renewed in manner following, that is to say: It shall be the duty of every captain or commanding officer in each militia company district throughout this State, at their respective company musters, after the first day of June next, to hold an election for three persons who shall be appointed processioners of land for each district; and all and every person in this State, are hereby required to procession and go round their respective tracts of land, in manner and form as is hereafter pointed out by this act, that is to say: Wherever two persons lines may join, they are directed and required to meet, and chop or plainly mark the same, with one or more persons disinterested, to see that they do not disagree respecting the land marks, and make new line trees; but whenever a dispute shall arise about such line, the commissioners or processioners appointed as aforesaid, shall come forward, with the county surveyor, to assist in ascertaining and determining the true line between the parties, and mark out the same; each commissioner receiving for such service one dollar per day, and the surveyor two dollars per day, which shall be paid equally by the parties disagreeing as aforesaid: And where one of the parties concerned, or his agent or representative, after being duly summoned sixty days before the day for processioning the same, shall fail or refuse to attend, it shall and may be lawful for the other party to call on the processioners, who shall then proceed to mark out the line, at the expense of the party refusing or failing to attend as aforesaid.

II. And be it further enacted, That all lands throughout this State, shall be processioned or gone round, in manner and form as pointed out by this act, in twelve months from and after the first day of June next, under the penalty of one hundred dollars.

Lands to be processioned within 12 months.

Penalty for neglect.
D I G E S T O F T H E

A. D. 1798. dollars for the omission or refusal of every person or persons so refusing, one half to go to the informer, and the other to county use, to be recovered by bill, plaint or information, in any court having cognizance thereof.

Repealing clause. III. And be it further enacted, That all laws passed for this purpose be, and the same are hereby repealed.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Assented to, February 2, 1798.

JAMES JACKSON, Governor.

No. 615. **An Act to admit the counties of Glynn, Camden, Columbia and Bullock, to the privilege of electing their magistrates**.

February 2, 1798.

Rendered obsolete by the constitution of 1798.

No. 616. **An Act to declare null and void the contract of matrimony between Ignatius Gilpin and Charlotte Vincent, and to protect the said Charlotte in her person and property**.

February 2, 1798.

Private.

No. 617. **An Act for opening and keeping open the river Oconee**.

I. BE it enacted by the senate and house of representatives of the State of Georgia in general assembly met, That if any person or persons having stopped, or shall stop the main stream of the river Oconee, by dams or any other contrivance, so as to prevent the passage of fish up the said river, they shall open one tenth part of the main stream of the said river: And if any person or persons, shall refuse or neglect to open so much of the main stream of the said river, by the fifteenth day of February next ensuing, as high as the fork of the said river, above Fort Mathews, and the two forks of the said river above Fort Mathews, the one known by the name of the North fork, the other known by the name of Middle river, shall have one tenth part of the main stream of each river opened, and also that fork known by the name of Appalachee, shall have one tenth part of the said river opened as high as Fort Washington, on the high shoals: And every person or persons so refusing or neglecting, shall, for every such offence, forfeit and pay the sum of twenty-five dollars per day, to be recovered in any justice court in the district where such offence may be committed, the one half to the informer, and the other to the use of the county where such judgment may be obtained: Provided, That where any mill is built, or may be built, on either of the above mentioned streams, the owner or owners thereof shall keep a slope in their dams of ten feet, so as fish may pass, and in so doing, shall be considered as complying with the intent and meaning of this act.

II.
II. And be it further enacted, That Broad river shall be kept open in manner pointed out by an act for keeping open Little river and Broad river, passed the second day of February, one thousand seven hundred and ninety-six, from the first day of February until the fifteenth day of April.

III. And be it further enacted by the authority aforesaid, That the act, entitled "An act for keeping open the river Oconee," passed at Louifville on the thirteenth day of February, one thousand seven hundred and ninety-seven, be, and the same is hereby repealed.

DAVID MERIWETHER Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Assented to, February 2, 1798.
JAMES JACKSON, Governor.

An Act to add a number of plats, collected by the secretary of State, to the surveyor general's office.

WHEREAS, the secretary of State hath produced a book, wherein he hath copied six hundred and sixty-four plats, from the originals found amongst loose papers in his office, which have been examined by the surveyor general, and by him certified to be accurately copied from the said originals, and it is proper that all such old plats, as have been lost or destroyed during the late war, should be replaced whenever opportunity offers:

I. Be it therefore enacted by the senate and house of representatives of the State of Georgia in general assembly met, That the said six hundred and sixty-four plats or surveys, be, and the same are hereby attached to the office of surveyor general, and are hereby declared to constitute a part of the records of that office.

DAVID MERIWETHER, Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Assented to, February 2, 1798.
JAMES JACKSON, Governor.

An Act for the better regulating the admeasurement of Lumber within this State; and for other purposes.

WHEREAS, it has been found by experience, that that part of the lumber law for appointing lumber measurers, will by no means answer the purposes intended by the legislature:

I. Therefore be it enacted by the senate and house of representatives of the State of Georgia in general assembly met, That from and immediately after the passing of this act, all persons qualified to measure lumber, may admeasure and give certificates as is usual in such cases, and receive such compensation as shall be agreed on by the feller, purchaser, and the person measuring the same.
II. And whereas, raft men and other persons have long been in the habit of taking up drifted lumber of all descriptions, and disposing of the same, and converting of the profits to their own use: Therefore be it further enacted, That if any raft man or men, or other person or persons, shall attempt to dispose of any drifted lumber so taken up by him or them within this State, be liable to pay a fine not exceeding thirty dollars for every such offence, to be recovered in any court having jurisdiction of the same, one half for the benefit of the informer and prosecutor, and the remaining moiety to the use of the county wherein such offence shall be committed. And whereas, it has been a custom too long established in the city of Savannah, to purchase lumber of all descriptions of raft men and other persons:

III. Therefore be it further enacted, That from and immediately after the passing of this act, if any person or persons, in the city of Savannah or elsewhere, shall be detected in purchasing of lumber of the above description, except from factors or lumber cutters, he or they shall be liable to pay a fine not exceeding thirty dollars for each and every such offence, to be recovered in any court having jurisdiction of the same: Provided nevertheless, That nothing contained in this act shall prevent, or be construed to prevent raft hands or other persons from taking up drifted lumber, and receiving a reasonable compensation from the owner or owners of such lumber, on their delivering of the same to the rightful owner thereof.

IV. And be it further enacted, That in all sea port towns, where lumber is brought for exportation or otherwise, the inferior courts of the county, where such ports shall be, shall immediately after the passing this act, convene, and appoint such number of persons as they may deem necessary for lumber inspectors, whose duty it shall be to attend, when called on by sellers and purchasers of lumber, to inspect such as they themselves cannot agree on as to its quality; and such lumber inspectors shall receive fifty cents for every thousand feet so inspected, to be paid for equally by the feller and purchaser.

V. And be it further enacted, That so much of the act regulating the admeasurement of lumber, and appointing lumber measurers, as militates with this act, be, and the same is hereby repealed.

VI. And be it further enacted by the authority aforesaid, That so much of an act, passed in the year of our Lord one thousand seven hundred and ninety-five, so far as respects the appointing of commissioners for fixing on a spot for a court house and gaol in the county of Lincoln, be, and the same is hereby repealed: and that Isaac Avery, John Winne, Duncan Bohannon, John Mofs and John Lockheart, be, and they are hereby nominated and appointed commissioners for fixing on a spot for the court house and gaol in the county of Lincoln; and that a determination of the said commissioners, or a majority of them, shall be binding in all cases respecting the fixing the court house and gaol for the said county, any law to the contrary notwithstanding.

VII. And be it further enacted by the authority aforesaid, That so much of an act passed in the year of our Lord one thousand seven hundred and ninety-five, so far as respects the appointing of commissioners for fixing on a spot for a court house and gaol...
gaol in the county of Jackson, be, and the fame is hereby repealed; and that James Cunningham, Owen I. Bowen, Thomas Barren, Jofeph McCutching, Abfolem Ramsey, Matthew Stone and Micajah Binge, be, and they are hereby nominated and appointed commissioners for fixing on a spot for the court house and gaol in the county of Jackson; and that a determination of the said commissioners, or a majority of them, fhall be binding in all cases respecting the fixing the court house and gaol for the said county, any law to the contrary notwithstanding.

DAVID MERIWETHER, Speaker of the Houfe of Repreſentatives.

DAVID EMANUEL, President of the Senate.

Assented to, February 2, 1798.

JAMES JACKSON, Governor.

An Act to pardon John Hume Manderfon.

February 2, 1798.

Private.

An Act to repeal an act for keeping open Little river and Broad river, fo far as it reſpects Jofeph Ray, Bazil Lamar, and the heirs of Wiliamfon, upon certain conditions.

WHEREAS, it hath been found that an act paſſed the twenty-second day of February, one thousand seven hundred and ninety-six, has in its operation borne hard upon Jofeph Ray and Bazil Lamar, by preventing the prosecution of their design to erect merchant mills upon Little river: And whereas, it is of much more confequence to the community at large, to encourage the manufactory of flour, than the inconsiderable advantages resulting to a few individuals, from the egress of the fish in the aforesaid river.

I. Be it therefore enacted by the Senate and Houfe of Repreſentatives of the State of Georgia in general assembly met, and by the authority of the fame, That fo much of the aforesaid act for keeping open Little river and Broad river, as reſpects the mill feats of the aforesaid Jofeph Ray and Bazil Lamar, be and the fame is hereby repealed. Provided always nevertheleſs, That if the said Jofeph Ray and Bazil Lamar fhall not, within two years from and after the paſſing of this act, erect or caufe to be erected and completed a merchant mill each, in which may be manufactured into good merchantable flour, one hundred and fifty bufhels of wheat in the space of one day, this act fhall, after the expiration of the aforesaid two years, be taken and conſidered, fo far as it reſpects the aforesaid Jofeph Ray and Bazil Lamar, as not operating to repeal the aforesaid act for keeping open Little river; but the fame fhall thereafter be received and remain in full force and efficiency.

II. And whereas, a bounty of land upon Little river was granted to Andrew Burns’, in conſideration of his erecting a saw mill theron, which was accordingly completed: So far alfo as reſpects A. Burns’ saw mill.
A. D. 1798. And whereas, it was a departure from the original intention of the legislature, to impede the exercise of the aforesaid saw mill, by requiring a sluice to be opened in the dam of the same:

Repealing clause.

Be it therefore further enacted, That the aforesaid act for keeping open Little river and Broad river, so far as it relates to the aforesaid saw mill, be, and the same is hereby repealed.

DAVID MERIWETHER, Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Assented to, February 2, 1798,
JAMES JACKSON, Governor.

No. 623.

An Act to impose a tax, for the support of the government, for the year one thousand seven hundred and ninety-eight.

VIII. AND be it further enacted, That any person or persons, owning more than ten thousand acres of land within this State, shall cultivate or cause to be cultivated, five acres for every hundred acres over and above ten thousand acres as aforesaid; and in default thereof, a double tax shall be assessed by the collectors of the respective counties, where such default shall be made; and that all lands of this description shall be, and are hereby declared chargeable in the original grantee or grantees name, any law to the contrary notwithstanding.

IX. And be it further enacted, That at the meeting of every general assembly hereafter, it shall be the duty of the treasurer, to make out an account of the arrearages of all collectors of taxes and holders of public monies; and to post it up in the State house, for the information of the members.

DAVID MERIWETHER, Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Assented to, February 2, 1798.
JAMES JACKSON, Governor.

No. 624.

An Act for appropriating money, for the year one thousand seven hundred and ninety-eight.

February 2, 1798.

No. 625.

An Act to provide more effectually for training the militia of this State.

WHEREAS, the appointment of the officers, and the power of training the militia of the several States, according to the discipline prescribed by congress, is secured to them respectively by the constitution of the United States: And whereas, it is evident from the experience of ages, that to be prepared for war, is the greatest security of the peace of a nation; and that a well organized militia ought
ought to be considered among the first objects of a free people: And whereas, many
of the officers commanding the militia of this State, have not been sufficiently.
instructed in the practice of the said discipline, to enable them to teach the same to
the privates under their command; for remedy whereof,

I. Be it enacted by the Senate and House of Representatives of the State of Georgia in
general assembly met, and by the authority of the same, That it shall be the duty of the adjutant general, to convene all the field officers, and the brigade
inspectors of each respective brigade, once in every year, at such convenient time
and place therein, as may be agreed on by him and the officers commanding the
name, for the purpose of advising and assisting the said officers in carrying into effect,
the discipline prescribed by congress; and it shall be the duty of the said officers to
attend accordingly, fully and completely equipped as the law directs, and to conform
to such rules and regulations as the said adjutant general may deem necessary for that
purpose, for a term not exceeding two days at any one meeting; Provided however,
that such rules and regulations be not contrary to law.

II. And be it further enacted, That it shall be the duty of the brigade inspectors,
and they are hereby required to attend at the usual place of regimental musters in
each regiment, within the several brigades to which they respectively belong, twice
in every year, at such convenient time as they may appoint, for the purpose of
instructing and training the adjutant and company officers thereof; and the better
to carry the same into effect, to establish an uniform discipline throughout the State,
it shall be the duty of the captains, subalterns and adjutant, of each regiment, with
the first serjeant of the several companies, and they are hereby required to assemble
at the regimental muster ground therein, in complete uniform, agreeably to law,
each commissioned officer with his commission, at such time as the brigade inspector
may appoint as aforesaid, equipped with a musket, bayonet, cartouch box, belt,
and at least six cartridges; and such captain, subalterns and adjutant, so convened,
shall form a company, and be subject to such orders, regulations and restrictions, as
he may deem necessary, to teach and enforce the discipline prescribed by congress,
for a term not exceeding two days at any one meeting.

III. And be it further enacted, That it shall be the duty of the brigade inspectors,
on due notice by the officer commanding the respective regiments, to attend all the
regimental musters in the brigade to which they severally belong, for the purpose of
advising and assisting the officers on parade, and instructing them in their duty in their
several places. And it shall be the duty of the adjutant of the several regiments, on
like notice, to attend all battalion musters for the purpose aforesaid.

IV. And be it further enacted, That it shall be the particular duty of the officers
commanding companies, and of the adjutants, to instruct and train the non-commissioned officers and privates, in conformity to the discipline so to be taught them as
aforesaid; and the said field officers, company officers and adjutants, shall, and they are
hereby declared to be liable to trial by courts martial, and to all the pains, penalties
and disabiliies, prescribed by law for non-attendance, disobedience of orders, or
ungentlemanlike behavior, in regard to the aforesaid service.
A. D. 1798.

V. And be it further enacted, That the adjutant general shall be allowed two dollars, the brigade inspectors one dollar and seventy-five cents, the adjutant one dollar and fifty cents, and the drum majors and file majors, one dollar per day each, for their services, while on actual duty in performing the aforesaid service; the accounts of the adjutant general for the same, being first certified by a major general or the commander in chief; the accounts of the brigade inspectors by a brigadier general; and those of the adjutants by a lieutenant colonel. And for the more easy and effectual transmitting of military orders,

VI. Be it further enacted, That the major generals and brigadier generals be, and they are hereby vested, with power to employ such persons or persons as they may deem necessary, to ride express, for transmitting such orders as in their judgment may be for the good of the public service; and that such persons so employed, shall be allowed at and after the rate of one dollar per day, during the necessary time they are actually engaged in performing such duty, to be paid by the governor out of the contingent fund, upon their producing a certificate of the general officers so employing them. Provided, That a day's riding of an express, be not less than thirty-five miles per day.

VII. And be it further enacted, That the founders, potters, forgers, steel makers, nail manufacturers, colliers, together with the managers and their clerks, who now are or may hereafter be actually engaged and employed in carrying on the Adilim and all other iron works within this State, be, and they are hereby exempted from militia and all other public duties while so employed.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Assented to, February 2, 1798.

JAMES JACKSON, Governor.

An Act for calling in the outstanding evidences of debts due from this State, and for issuing new ones in lieu thereof, under proper checks and restrictions.

WHEREAS, abuses may arise, from a variety of certificates for debts due by this State, having been issued without proper checks:

I. Be it therefore enacted, That every person or persons, holding any certificate or certificates, issued by either or any of the auditors or treasurers of this State, as well for sums of money due and owing from the State, as for bounties of land issued in favor of the late State troops, shall, within two years from and after the passing of this act, return the said certificate or certificates to the comptroller general, who shall file the same in his office of record, and issue to the holder thereof, his certificate for the like amount, in lieu thereof. Provided, The said certificate or certificates, returned as aforesaid, shall appear to the entire satisfaction of the said comptroller general, to be a genuine certificate or certificates, issued by one of the auditors or treasurers
An Act for the better regulation of the inspection of tobacco in this State; and for other purposes.

WHEREAS, it has been found to be injurious to the interest of the planters of tobacco in this State, that the inspectors should be appointed from the citizens of any particular county: for remedy whereof,

I. Be it enacted by the Senate and House of Representatives of the State of Georgia, in general assembly met, That it shall and may be lawful for the justices of the inferior courts of the counties of Richmond, Columbia, Lincoln, Elbert, Franklin, Jackson, Oglethorpe, Greene, Wilkes, Hancock, Warren, Burke, Jefferson, and Washington, to recommend two persons for inspectors, to any court where warehouses are established by law; and the said county courts respectively, shall be obliged to appoint three inspectors out of the number so recommended, for each warehouse that may be in such county; and in case of failure or refusal of any or each of the said counties to so recommend, the court shall proceed to elect out of such persons who may be recommended; and in case no recommendations are made, the court may elect from any candidates that may offer.

II. And be it further enacted, That an inspection of tobacco shall be, and the fame is hereby established at the town of Sparta, in the county of Hancock; and the inferior court of the said county are authorized and empowered to fix and determine on the spot whereon the said warehouse shall be erected in the town aforesaid, which said warehouse shall be under the same rules and regulations, as other warehouses established by law in this State.

III. And be it further enacted, That an inspection of tobacco shall be, and the fame is hereby established at the city of Savannah; and the justices of the inferior court of the county of Chatham, are hereby authorized and empowered to determine on

A. D. 1798.
No. 626.
Proviso.
The said act, enacted by Wade and O'Bryen, not to be received.

Provisions.

DAVID MERRIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Assented to, February 2, 1798.

JAMES JACKSON, Governor.

LaWS OF GEORGIA.

Treasurers of this State, agreeable to law, or a concurred resolution of the general assembly: And provided also, That nothing in this act shall extend to authorize the comptroller general to receive any certificate or certificates under the signature of Wade and O'Bryen, or to issue his certificate in lieu of such certificate or certificates under the signature of the said Wade and O'Bryen.

II. And be it further enacted, That in case any certificate or certificates issued by any of the auditors or treasurers as aforesaid, which shall be presented to the said comptroller general, shall appear to him to be counterfeit, he shall deface such certificate or certificates, by writing in large letters, the word "Counterfeit" on the face of the said certificate or certificates, and retain and file the same in his office, and shall not issue any certificate in lieu thereof.

DAVID MERRIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

An Act for the better regulation of the inspection of tobacco in this State; and for other purposes.

WHEREAS, it has been found to be injurious to the interest of the planters of tobacco in this State, that the inspectors should be appointed from the citizens of any particular county: for remedy whereof,

I. Be it enacted by the Senate and House of Representatives of the State of Georgia, in general assembly met, That it shall and may be lawful for the justices of the inferior courts of the counties of Richmond, Columbia, Lincoln, Elbert, Franklin, Jackson, Oglethorpe, Greene, Wilkes, Hancock, Warren, Burke, Jefferson, and Washington, to recommend two persons for inspectors, to any court where warehouses are established by law; and the said county courts respectively, shall be obliged to appoint three inspectors out of the number so recommended, for each warehouse that may be in such county; and in case of failure or refusal of any or each of the said counties to so recommend, the court shall proceed to elect out of such persons who may be recommended; and in case no recommendations are made, the court may elect from any candidates that may offer.

II. And be it further enacted, That an inspection of tobacco shall be, and the fame is hereby established at the town of Sparta, in the county of Hancock; and the inferior court of the said county are authorized and empowered to fix and determine on the spot whereon the said warehouse shall be erected in the town aforesaid, which said warehouse shall be under the same rules and regulations, as other warehouses established by law in this State.

III. And be it further enacted, That an inspection of tobacco shall be, and the fame is hereby established at the city of Savannah; and the justices of the inferior court of the county of Chatham, are hereby authorized and empowered to determine on

A. D. 1798.
No. 626.
Proviso.
The said act, enacted by Wade and O'Bryen, not to be received.

Provisions.

DAVID MERRIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Assented to, February 2, 1798.

JAMES JACKSON, Governor.

LaWS OF GEORGIA.
A. D. 1798. No. 617.

DIGEST OF THE

An Act to authorize certain commissioners therein named, to establish a lottery, for the purpose of raising the sum of three thousand dollars, to be appropriated to clearing out and improving the navigation of the Alatamaha and Oconee rivers, commencing from the sea, and continuing as far up as the Rock Landing; and for other purposes.

Preamble.

WHEREAS, it appears essential to the interest of the people at large, that the navigation of the Alatamaha and Oconee rivers should be improved as far up the latter river as the Rock Landing, those being the principal channels through which the produce of the western parts of this State are conveyed to market: And whereas, there are at present many obstructions to the easy navigation thereof:

I. Be it therefore enacted by the Senate and House of Representatives of the State of Georgia in general assembly met, and by the authority of the same, That it shall and may be lawful for the commissioners herein after named, to establish a lottery within nine months after the passing of this act, to raise the said sum of three thousand dollars, under such schemes and regulations as they may think fit and proper, for the purpose of opening and improving the navigation of the said rivers.

II. And be it further enacted by the authority aforesaid, That Jonathan Fabian, John Couper, Ferdinand O'Neal, Spencer Wilfon, David Blackhear, John Jones and Samuel Wright, be the commissioners authorized to carry the same into effect.

III. And whereas, the manufactory of cotton will be attended with public utility, and William M'Clure and James Thompson have propased to erect machines for that purpose:

Be it therefore further enacted by the authority aforesaid, That it shall and may be lawful for the commissioners herein after named, to establish a lottery within six months from and after the passing of this act, to raise the sum of two thousand dollars, under such schemes and regulations as may by them be deemed necessary; the said money to be applied to the use and benefit of the said William M'Clure and James Thompson, for the purpose of erecting and carrying on the machinery aforesaid.

IV. And be it further enacted, That all former laws respecting an inspection at Savannah, so far as relates to that inspection only, shall be, and are hereby repealed.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Assented to, February 2, 1798.

JAMES JACKSON, Governor.
IV. And be it further enacted, That Benajah Smith, Joel Abot and John Mathews, be, and they are hereby appointed commissioners to carry the last mentioned lottery into effect.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Assented to, February 3, 1798.

JAMES JACKSON, Governor.

**An Act to render more safe and expeditious the navigation from the river Alatamaha to the town of Brunswick; and for other purposes therein mentioned.**

WHEREAS, the transportation of produce by water from the river Alatamaha to the town of Brunswick, cannot at present be effected but at considerable risk, and by a circuitous route. And whereas, the danger and distance may be greatly lessened by cutting a canal from the said river to Alligator creek. And whereas, the commissioners of the academy of the county of Bryan, are seized and possessed of a tract of land between the said river and creek, through which the canal can be most advantageously made:

I. Be it enacted by the Senate and House of Representaives of the State of Georgia in general assembly met, That the said commissioners and their successors be, and they are hereby empowered to cut a canal through the tract aforesaid, to form a communication between the said river and creek, which canal must be of the width of twenty-five feet, and of the depth of seven feet.

II. And be it further enacted, That as a compensation to the said commissioners for cutting such canal and keeping it in proper condition, they shall be allowed a toll of one dollar for all boats of fifty bushels burthen; the sum of two dollars for all boats or vessels not more than twenty and less than fifteen tons burthen; and the sum of fifty cents for all other boats or vessels which shall navigate the said canal or any part thereof; the said sums to be paid to the said commissioners, their successors in office or assigns, for the use of the academy aforesaid.

III. And whereas, the commissioners aforesaid have purchased, confiscated property for the use of the academy, to the amount only of seven hundred and twenty pounds and seventeen shillings, and are by law entitled to purchase to the amount of two hundred and seventy-nine pounds three shillings more; And whereas, there is in the county aforesaid, lands which have never been sold for the benefit of the said State.

Be it enacted, That the said commissioners be, and they are hereby empowered to expose to sale any tract or tracts of the said land, to procure the said sum of two hundred and seventy-nine pounds three shillings; Provided, That three months notice of such sale be given in one of the Augusta gazettes, and in one of the Savannah gazettes; and by advertisement, at two of the most public places in the said county. And provided also, That if the sale of the said tract or tracts shall exceed the sum last aforesaid mentioned,
A. D. 1798.
No. 629.

Certain powers vested in commissioners of roads, for keeping Ogeechee bridge in repair mentioned, that then, the surplus shall be paid by the said commissioners into the treasury. And whereas, the bridge which is laid over Great Ogeechee, between the counties of Chatham and Bryan, for the want of timely repair, has been in such a condition, as to expose travellers and their property, to injury and danger:

IV. Be it enacted, That the commissioners for the roads of the said county, be, and they are hereby empowered and required, whenever the said bridge shall be in such a condition, to give notice thereof, and of the repairs which it requires, to either of the owners of the said bridge, or to any qualified executor or administrator of an estate of which the said bridge or any portion thereof, may make a part; and if neither of the said owners, nor such executor or administrator, shall make or cause to be made such repairs, within ten days after receiving such notice, that then, the said commissioners are hereby empowered and required to make such repairs, and on their being completed, the said commissioners are hereby required to furnish either of the said owners, or such executor or administrator, with an account of the sums expended or contracted to be paid for such repairs, and if, within ten days after such account is furnished, the amount thereof shall not be paid by either of the said owners, or such executor or administrator, or some person authorized by them, or either of them, the said commissioners are hereby authorized to institute a suit, in their names, against such owners or either of them, or the executors qualified as aforesaid, or such administrator or administrators, and to recover in such suit the amount which shall be proved to have been expended or contracted to be paid for the repairs aforesaid, together with such reasonable allowance for their trouble and superintendence, as a jury may think fit.

V. And be it further enacted, That such suit may be instituted in either the superior or inferior court of the county in which the defendant or either of them may reside, and to such suit there shall be no impudence, but it may be tried at the desire of the commissioners, at the term to which it may be brought.

DAVID MERIWETHER, Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Assented to, February 3, 1798.

JAMES JACKSON, Governor.

No. 630.

An Act to amend an act for clearing out Ogeechee river and Brier creek.

WHEREAS, a number of citizens of Bullock county hath petitioned this legislature for altering the mode of clearing out the lower part of Ogeechee river:

I. Be it therefore enacted by the senate and house of representatives of the State of Georgia, That the justices of the inferior court of the county of Bullock, be, and they are hereby authorized and required to appoint commissioners in the said county, for the purpose of clearing out the river Ogeechee opposite to the said county line as far as the said line extends, which said commissioners shall have full power and authority to call
call out the inhabitants liable to work on the roads, who shall work on the said river at the time appointed by the said commissioners, six days in every year.

II. And be it further enacted, That the said inhabitants liable as aforesaid, shall be subject to the same fines and penalties for not working on the said river, or for disobedience of the orders of the commissioners, as they are liable to by the road act of force in said county, for neglect of duty or disobedience of orders in working on the said roads.

Provided always, That the said inhabitants shall not be liable to work on the public roads in the said county for more than six days in one year: And provided also, That the said inhabitants, upon producing a certificate from the said commissioners, of their having worked on the said river in clearing and rendering the same navigable, to the justices of the inferior court of the said county, within ten days after working as aforesaid, he or they producing such certificate, to be filed of record in said court, shall not be liable to the additional tax imposed by the said act, entitled "An act for clearing out Ogeechee river and Brier creek."

III. And be it further enacted, That the inferior court of any of the counties included and made liable to the said tax by the aforesaid act, be, and they are hereby authorized, upon the petition of a majority of the inhabitants liable as aforesaid, to appoint commissioners for opening and clearing the said river, opposite to the county line of the inhabitants so petitioning, which said commissioners shall be vested with like power as the commissioners to be appointed for Bullock county; and the inhabitants in such county petitioning as aforesaid, shall be liable to the same penalties, and entitled to the same advantages, which the said inhabitants of Bullock county are liable or entitled to by this act.

DAVID MERIWETHER, Speaker of the House of Representatives.

DAVID EMANUEL, President of the Senate.

Assented to, February 3, 1798.

JAMES JACKSON, Governor.

An Act to open a communication across the marsh, from Hampton river to Racoon point.

WHEREAS, the opening a communication from Hampton river to Racoon point, near the island of Great Saint Simons, by cutting a canal across a marsh which separates the same, will be of great public utility, by facilitating the navigation from the said island, and the ports adjacent to the city of Savannah:

I. Be it therefore enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same, That John Couper, John McIntosh and William McIntosh, Esquires, be, and they are hereby appointed commissioners to superintend the opening and keeping in repair the said canal, and to carry into full effect the intentions of this act.

II. And be it further enacted, That all free persons and slaves, living and being north of a line to be drawn from a place called the Village, to Pike's Bluff, both inclusive,
A.D. 1798.
No. 631.

Inclusive, who are subject to work on the roads in the said island, shall be, and they hereby are made subject and liable to work on the said canal, until the same be completed, and to keep it thereafter in good repair: Provided, That all persons and slaves, subject to work on the same, shall not be compelled to work more than three days at any one time, or more than six days in any one year.

III. And be it further enacted, That the said commissioners shall give at least ten days notice to all persons who reside, and to all overseers or managers of the estates of non-residents owning slaves within the aforesaid limits, of the time and place of their attendance, for the purpose of carrying the intent of this act into effect: And if any person subject as aforesaid, shall fail to attend agreeably to such notice, together with all slaves owned by them, or under their care and management, they shall be subject to the following fines, that is to say: For the non-attendance of every free person, the sum of one dollar per day; and for the non-attendance of every slave, the sum of seventy-five cents per day; to be levied of the goods and chattels of such defaulters, by warrant of distress and sale under the hands and seals of the said commissioners or any two of them, directed to any constable of the county of Glynn, unless the party making such default, shall within ten days thereafter, make such excuse on oath as shall be deemed satisfactory by the said commissioners; And provided also, That the said commissioners shall not issue such warrant of distress, without satisfactory proof being first made, that the notice required by this act was duly served.

DAVID MERIWETHER, Speaker of the House of Representatives.
DAVID EMANUEL, President of the Senate.

Asfented to, February 3, 1798.

JAMES JACKSON, Governor.
An Act to give concurrent jurisdiction to the superior courts of this State, with the inferior courts thereof in civil cases.

I. BE it enacted by the senate and house of representatives of the State of Georgia in general assembly met, two thirds of both houses concurring therein, That from and after the passing of this act, the superior courts of this State shall have concurrent jurisdiction with the inferior courts thereof, in all civil cases.

DAVID MERIWETHER, Speaker of the House of Representatives.
ROBERT WALTON, President of the Senate.

Affixed to, February 7, 1799.
JAMES JACKSON, Governor.

An Act to amend an act, entitled, "An act to revise and amend the judiciary system of this State."

I. BE it enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same it is hereby enacted, That the superior and inferior courts, shall be held in the several counties, at the respective times appointed by an act, entitled, "An act to revise and amend the judiciary system of this State, so far as relates to the first terms which shall happen after the passing of this act;" and from and after the expiration of the said first term in each county, the said superior courts shall be held in each county in the respective districts twice in every year, by one or more of the judges of the superior courts, at the several times herein after mentioned, to wit: In each county

IN THE EASTERN DISTRICT.

On the first Monday in October in the county of Camden; the Monday thereafter in the county of Glynn; the Monday thereafter in the county of M'Intosh; and the Monday thereafter in the county of Liberty. On the third Monday in November, in the county of Bryan; the Monday thereafter in the county of Bullock; the Monday thereafter in the county of Effingham; and the Monday thereafter in the county of Chatham.

SPRING CIRCUIT.

On the third Monday in March, in the county of Camden; the Monday thereafter in the county of Glynn; the Monday thereafter in the county of M'Intosh; and the Monday thereafter in the county of Liberty. On the first Monday in May, in the county of Bryan; the Monday thereafter in the county of Bullock; the Monday thereafter in the county of Effingham; and the Monday thereafter in the county of Chatham.

And the said superior courts shall be held at the respective times following:

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On the first Monday in March and September, in Columbia; the third Monday in March and September, in Richmond; on the first Monday in April and October, in Burke; on the third Monday in April and October, in Screven; on the fourth Monday in April and October, in Jefferson; on the second Monday in May and November, in Montgomery; on the third Monday in May and November, in Washington; and on the second Monday in June and December, in Warren.

And the said several courts shall be held at the respective times following:

**In the Western District.**

On the first Monday in February and August, in Hancock; on the second Monday in March and September, in Greene; the third Monday in March and September, in Oglethorpe; the fourth Monday in March and September, in Jackson; the first Monday in April and October, in Franklin; the second Monday in April and October, in Elbert; the third Monday in April and October, in Lincoln; and the fourth Monday in April and October, in Wilkes.

II. And be it further enacted, That from and after the expiration of the said first term after the passing of this act, the inferior courts shall be held twice in every year in each county by the justices of the said inferior courts, or a majority of them, at the several times herein after mentioned, that is to say: in the several counties

**In the Eastern District.**

On the first Monday in January, in Camden; on the Monday thereafter in Glynn; on the Monday thereafter in M'Intosh; on the Monday thereafter in Liberty; on the Monday thereafter in Bryan; on the Monday thereafter in Bullock; on the Monday thereafter in Effingham; and on the Monday thereafter in Chatham. On the first Monday in June, in the county of Camden; the Monday after in Glynn; the Monday after in M'Intosh; the Monday after in Liberty; the Monday after in Bryan; the Monday after in Chatham; the second Monday thereafter in Effingham; and the Monday thereafter in Bullock.

And the said inferior courts shall be held at the respective times following:

**In the Middle District.**

On the third Monday in June and December, in Columbia; the fourth Monday in June and December, in Richmond; the first Monday in July and January, in Burke; the second Monday in July and January, in Screven: the third Monday in July and January, in Jefferson; the fourth Monday in July and January, in Montgomery; the first Monday in August and February, in Washington; and the second Monday in August and February, in Warren.

And the said inferior courts shall be held at the respective times following:

**In the Western District.**

On the first Monday in January and June, in Hancock; on the second Monday in January and June, in Greene; on the third Monday in January and June, in Oglethorpe; on the fourth Monday in January and June, in Jackson; on the first Monday
Monday in February and July, in Franklin; on the second Monday in February and July, in Elbert; on the third Monday in February and July, in Lincoln; and on the fourth Monday in February and July, in Wilkes. And the justices of the inferior courts may adjourn from day to day, until they accomplish the business of the term.

POWERS COMMON TO BOTH.

III. *And be it further enacted,* That the said superior and inferior courts shall have full power and authority to hear and determine all causes both civil and criminal of which they shall severally have jurisdiction according to the constitution and laws of this State, by a jury of twelve men, to be taken from the county, in such manner as shall hereafter be prescribed, according to the usages and customs of law.

IV. *And be it further enacted,* That in case of unavoidable accidents, whereby the said superior courts in any county, shall not be held at the time appointed for holding the same, it shall be the duty of the clerk of such court to adjourn the same from day to day, not exceeding two days; and if the said court should not sit within the said two days as aforesaid, such clerk shall then adjourn the same to the next term.

V. *And be it further enacted,* That the said superior and inferior courts shall be courts of record, and have power to administer oaths, and exercise all other necessary powers appertaining to their jurisdictions respectively, according to law; and where any of the said courts shall fail to meet, the proceeding in such courts shall not thereby be discontinued, but shall stand continued over in the same manner as if such failure had not been; and all witnesses going to, attending on, and returning from any of the said courts, shall be free from arrest on any civil process.

VI. *And be it further enacted,* That the said courts shall have power on the trial of causes cognizable before them respectively on ten days notice, and proof thereof being previously given to the opposite party, or his, her, or their attorney, on motion to require either party to produce books and other writings, in his, her or their possession, power or custody, which shall contain evidence pertinent to the cause in question, under circumstances where such party might be compelled to produce the same by the ordinary rules of proceeding in equity; and if the plaintiff shall fail or refuse to comply with such order, it shall be lawful for the court on motion to give judgment against such plaintiff as in case of non-suit; and if the defendant shall fail or refuse to comply therewith, the court on motion shall give judgment against such defendant as in case of judgment by default; and the said courts respectively shall have power and authority to establish copies of lost papers, deeds or other writings under such rules and precautions as are or may have been customary and according to law and equity.

VII. *And be it further enacted,* That the judges of the superior courts or any one of them, and the justices of the inferior courts or any of them, in the absence of the judges of the superior courts, shall have power to issue writs of *habeas corpus,* and in all cases to discharge, admit to bail, or remand to gaol any prisoner, according to their discretion and the law of the land: *Provided,* That in all cases of a capital
A. D. 1799. No. 633.

capital nature where a writ of habeas corpus shall be issued by a justice of the inferior court, it shall be necessary that one or more of the justices of such inferior court shall associate with the justice granting the same, at the return thereof, and a majority of such justices shall concur in opinion on any decision or order aforesaid: And it shall be the duty of such justices to attend on one day's notice being given of the time and place of the return of such writ.

**PROCESS.**

VIII. *And be it further enacted, That all suits of a civil nature, cognizable in the said courts respectively, shall be by petition to the court, which petition shall contain the plaintiff's charge, allegation or demand, plainly, fully and distinctly set forth, and be signed by the plaintiff or his, her or their attorney, and to which petition the clerk shall annex a process signed by such clerk, and bear testament in the name of one of the judges, or justices of such court, directed to the sheriff, requiring the defendant or defendants to appear at the court to which the same shall be made returnable, and shall be served on the defendant or defendants at least twenty days before the return thereof, by delivering a copy of such petition and process to the defendant or defendants, or leaving such copy at his, her or their most notorious place or places of residence. And if any process shall be delivered to the sheriff or other officer whose duty it shall be to execute the same, so late that it cannot be served in manner aforesaid, twenty days before the sitting of the court to which it shall be returnable, such process shall not be executed, but the officer shall return the same with the truth of the case. And if any original civil process shall be taken out within twenty days of the next court, the same shall be made returnable to the next court to be held after the expiration of the said twenty days and not otherwise: And all process issued and returned in any other manner than that herein before directed, shall be, and the same is hereby declared to be null and void.*

IX. *And be it further enacted, That all process issued by the clerks of the said courts respectively, where the sheriff, who ought to execute the same, shall be anywise interested, shall be directed to the coroner of such county, and served and returned by him in the same manner as is required of sheriffs: And for the more orderly and regular proceeding in the said courts, the following rules and methods shall be observed, to wit: The defendant or defendants shall appear at the court to which the petition and process shall be returnable, and on or before the last day of the said court, shall make his, her or their defence or answer in writing, which shall plainly, fully and distinctly set forth the cause of his defence, and be signed by the party making the same, or his, her or their attorney; which said answer may contain as many several matters as such defendant or defendants may think necessary for his, her or their defence: Provided, That no person shall be permitted to deny any deed, bond, bill, single or penal, note, draft, receipt, or order, unless he, she or they, shall make affidavit of the truth of such answer at the time of filing the same: And the said petition and answer shall be sufficient to carry the same to the jury, without
without any replication or other course of proceedings: And no petition, answer, return process, judgment, or other proceeding in any civil cause, shall be abated, arrested, quashed or reversed for any defect in matter of form, or for any clerical mistake or omission, not affecting the real merits of the cause; but the court on motion shall cause the same to be amended without any additional cost at the first term, and shall proceed to give judgment according to the right of the cause and matter of law, as it shall appear to the said court, without regard to such imperfections in matter of form, clerical mistake or omission; and no dilatory answer shall be received or admitted unless affidavit be made of the truth thereof.

X. And be it further enacted, That where any defendant shall fail to appear and answer in manner aforesaid, the court on motion of the plaintiff, or his counsel, shall enter a judgment by default, and the plaintiff’s claim, allegation or demand, shall be tried in all cases of judgment by default, by a jury; but no such trial shall in any case be had at the first term: And no cause whatsoever, depending in the said courts shall be continued more than one term at the instance of the same party.

XI. And be it further enacted, That in all cases where a suit shall be instituted in any of the said courts, on any bond, note, or other written obligation, subscribed by several persons, who reside in different counties, the plaintiff shall have his option to institute his suit in either of the said counties, and the clerk shall issue the original petition and process and a copy or copies in such county, against the defendant or defendants who may reside therein, in manner directed by this act; and shall also issue another original and copy or copies thereof for the defendant or defendants, resident in other county or counties: and it shall be the duty of the plaintiff, his agent or attorney, to cause such original and copies to be delivered to the sheriff or other officer in such other county or counties, who shall execute and return the same to the court from whence they issued, in such manner as is herein before directed, and on such return the plaintiff may proceed as in other cases.

EXECUTORS AND ADMINISTRATORS.

XII. And be it further enacted, That no suit or action shall be issued against any executor or administrator, for any matter or cause against the testator or intestate of such executor or administrator in any of the said courts, until the expiration of twelve months after probate of the will of such testator, or letters of administration granted on the estate of such intestate.

And no suit in any of the said courts shall abate by the death of either party, where such cause of action would in any case survive to the executor or administrator, whether such cause of action would survive in the same, or any other form, but the same shall proceed as if such testator or intestate had not died, under the restrictions and regulations following: When a plaintiff shall die, in any case aforesaid, the executor or administrator of such plaintiff shall within three months after taking out probate of the will, or letters of administration, give notice to the defendant or defendants by seire facias to issue out of the clerk’s office, returnable in the manner herein before prescribed for the issuing and return of process; and in cases where the
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And where a *femelle* being plaintiff shall marry pending any suit, the same shall not abate by reason of such intermarriage, but the same being suggested on the record, such cause shall proceed in the name of the husband and wife.

**BAIL.**

**XIII. And be it further enacted**, That in all cases where bail is requirable, and the plaintiff in any action shall require bail, such plaintiff shall make affidavit before any judge, justice of the inferior court, or justice of the peace within this State, or any judge or justice of a superior court of any one of the United States, shall have annexed thereto the seal of the State from whence it shall come, and a certificate of the governor, certifying that the person taking such affidavit is one of the judges or justices of a superior court of that State, of the amount claimed by him, and that he has reason to apprehend the loss of the said sum, or some part thereof, if the defendant or defendants is, or are not held to bail; which affidavit shall be filed in the clerk's office, and copies thereof affixed to the original petition and process, and to the copy or copies thereof, and the amount sworn to, shall be endorsed on the petition and process.

**XIV. And be it further enacted**, That when any civil process shall issue out of any of the said courts whereby bail shall be required to be taken in manner aforesaid, of any person or persons to answer any action in any of the said courts, the sheriff or other officer shall take a bond with one or more sufficient security or securities, for double the sum sworn to, and shall return such bond with the petition and process: And in case the sheriff or other officer shall fail or neglect to take such bail, or the bail taken shall be deemed insufficient by the court, on exceptions taken thereon, and entry thereof made at the first term to which the said petition and process shall be returned, such sheriff or other officer, and his or their security or securities, in either of the said cases, shall be deemed and stand as special bail, and the plaintiff may proceed to judgment according to the provisions of the act herein before mentioned. And in all cases where any defendant or defendants of whom bail shall be required, shall refuse to give good and sufficient bail, it shall be the duty of such sheriff or other officer, to commit such defendant or defendants to the common gaol of the county, or if there should be no gaol in the county, or the same shall be insufficient, it shall and may be lawful for the said sheriff or other officer, to confine such defendant or defendants in some private house; Nevertheless, such person or persons shall be allowed all the benefits of appearance and defence, as if he, she or they were personally present, and shall not be discharged out of custody but by putting in bail, or by order of court.

**XV. And be it further enacted**, That all bail taken according to the directions of this act, shall be deemed, held and taken as special bail, and as such be liable to the recovery of the plaintiff; but the plaintiff after final judgment, shall not take out execution.
execution against such bail, until a copias ad satisfaciendum shall be first issued thereon, and the principal cannot be found, and shall also issue a feire facias returnable to the said court, which shall be served on the bail at least twenty days before the return thereof; and after the return of such copias ad satisfaciendum against the principal, and feire facias against the bail, and judgment thereon, execution may issue against the principal and bail, or either of them, or either of their estates, unless the bail shall surrender the principal at or before entering up final judgment on the feire facias, either in open court in term time, or to the sheriff of the county in which such principal shall reside, at any time in vacation: And it shall be the duty of the court to order such principal into the custody of the sheriff, and the duty of the sheriff in time of vacation to receive into his custody such principal, and in either case to commit him, her or them to gaol according to the directions of this act, any law, usage or custom to the contrary notwithstanding.

XVI. And be it further enacted, That when any feire facias issued according to the directions of this act, shall be by the proper officer returned served, the bail shall appear and answer, and the matter be tried at the first term to which the feire facias shall be returned, unless the bail shall shew very special cause to induce the court to continue the same for one term and no longer; and in case such bail shall not appear and answer in manner aforesaid, the court on motion of the plaintiff, or his counsel, shall enter final judgment at the first term: But if it shall appear to the court, to which any feire facias may be returned served on the bail, that the principal is confined in any gaol of this State, by virtue of any civil process, on proof thereof, and on motion of the plaintiff, or bail, the said court shall order and direct, that such principal be retained in gaol, where he, she or they shall remain a prisoner or prisoners, until he, she or they shall have paid the plaintiff’s judgment and costs, or be otherwise discharged according to law; a copy of which order being served on the gaoler or keeper of such prison, before such prisoner’s releasement, shall be a sufficient authority for him to retain such prisoner until such order shall be complied with, and shall also be deemed a surrender of such principal, and as such shall discharge the bail. Provided, That nothing herein contained shall be so construed as to prevent any person, who shall be surrendered by the bail, pending any action, from putting in other good and sufficient bail, who shall be subject to the like proceedings, and allowed the same advantages as are herein before prescribed.

MORTGAGES ON REAL ESTATES.

XVII. And be it further enacted, That the method of foreclosing mortgages on real estates in this State, be as follows: Any person applying and entitled to foreclose such mortgage, or his, her or their attorney, shall petition the superior court of the county wherein such mortgaged property may be, stating the same, and the amount of his, her or their demand, and describing such mortgaged property, and the court shall grant a rule that the principal, interest and cost shall be paid into court within twelve months thereafter, which rule shall be published in one of the public gazettes of this State, at least once in every month until the time appointed for payment, or served
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served on the mortgager or his special agent, at least six months previous to the time the money is directed to be paid, and unless the principal interest and cost be so paid, the court shall give judgment for the amount which may be due on such mortgage, and order the property mortgaged to be sold in such manner as is prescribed in cases of executions, and the money shall be paid to the mortgagor or his attorney; but where there shall be any surplus the same shall be paid over to the mortgagor or his agent. And in case of any dispute as to the amount due on any mortgage, if the mortgagor shall appear within the time prescribed by this act, and make affidavit that he hath made payments which have not been credited on the said mortgage, or that he is entitled to set-offs which in equity ought to be allowed, the court shall appoint one or more fit person or persons to audit and liquidate the same, but either party shall be entitled to a new trial therefrom, which shall be tried in like manner as shall be prescribed for the trial of appeals in other cases.

MORTGAGES OF PERSONAL PROPERTY.

XVIII. And be it further enacted, That mortgages of personal property shall be foreclosed in the following manner: Any person or persons holding a mortgage on personal property, and wishing to foreclose to the same, shall make application to one of the judges of the superior, or justices of the inferior courts, and make affidavit before him, of the amount of principal and interest, due on such mortgage, which affidavit shall be annexed to such mortgage, and thereupon the clerk of the superior or inferior courts shall issue execution as on a judgment, which execution being delivered to the sheriff, it shall be his duty to levy on the property wherefoever the same may be found, and after advertising the same in one or more of the public gazettes of this State at least sixty days, the sheriff shall set up and expose the same to sale, and the money arising from such sale shall be first applied to discharge the amount due on such mortgage and all legal costs, and the surplus if any to be paid to the mortgagor. Provided always, That if any dispute shall happen as to the sum due on any mortgage that it shall and may be lawful for the said judge or justices of the inferior courts on affidavit, to order such sale to be postponed, the mortgagor giving bond with good and sufficient security in double the sum sworn to be due, for returning such property when called for by the sheriff, which bond shall be assignable by the sheriff to the mortgagor, who may sue and recover thereon, but the jury shall be sworn to give at least twenty-five per cent. damages, in case it shall appear that such application was intended for delay only. And in all cases where application has been heretofore made to the inferior courts for the foreclosures of mortgages of personal property, it shall and may be lawful, and they are hereby required to proceed to the foreclosure thereof, in like manner and order as herein pointed out for the foreclosure of mortgages on personal property.

WITNESSES.

XIX. And be it further enacted, That where the attendance of any person shall be required as a witness in any of the courts aforesaid, in any case depending therein, it
it shall be the duty of the clerks of the said courts respectively, on application to issue writs of subpœna directed to the persons whose attendance shall be required, where such persons reside within the county in which such cause may be depending, which writ of subpœna shall express the cause, and the party at whose suit it shall be issued, and shall be served on such witnesses at least five days before the court to which it shall be returnable; and which writ shall be served by a sheriff, constable or some private person, and the return of a sheriff or constable of such service, or the affidavit of any private person, shall be sufficient evidence that such subpœna was duly executed.

XX. And be it further enacted, That where it shall appear in manner aforesaid, that a witness in any cause shall have been duly summoned, and such witness shall fail to appear, it shall be the duty of the court, on motion, to issue an attachment against such defaulting witnesses, returnable to the next court, and shall fine such witnesses in a sum not exceeding three hundred dollars, unless he or she shall make a sufficient excuse for such non-attendance, which shall be judged of by the court, but shall nevertheless be subject to the action of the person at whose suit such witnesses shall have been summoned, for any damage which he, she or they may have sustained by reason of such non-attendance.

XXI. And be it further enacted, That when a subpœna shall be served on any witness in conformity to this act, it shall be the duty of such person so summoned, to attend from time to time until the cause in which such witnesses shall have been summoned is tried, or be otherwise discharged by the court.

XXII. And be it further enacted, That on the last day of the attendance of any witnesses, in each term, it shall and may be lawful on application of such witnesses, to exhibit his account for attendance against the person or persons at whose suit he or they may have been summoned, and the judge or presiding justice shall examine and certify the same under his hand, which shall be countersigned by the clerk, whereupon such account so certified, shall have the force and effect of an execution, and may be levied by the sheriff or constable, according to the amount thereof, off the goods and chattels of such party, in like manner as in cases of other executions: provided nevertheless, That where any witnesses shall claim and levy, for more than is really due, such witnesses shall forfeit and pay to the party injured four times the amount of the sum so unjustly claimed.

And no party cast in any suit shall be taxed for more than the cost of two witnesses to any material point in any cause which shall be specially certified by the court trying the same, nor shall any party be allowed to tax costs for different witnesses to different material points, where the same witnesses shall be sufficient in the opinion of the court to prove such material points.

XXIII. And be it further enacted, That where any witnesses resides out of the State, or out of any county in which his testimony may be required in any cause, it shall be lawful for either party, on giving at least ten days notice to the adverse party, or his, her or their attorney, accompanied with a copy of the interrogatories intended to be exhibited, to obtain a commission from the clerk of the court in which the same may be required, directed to certain commissioners to examine all and every such witnesses or
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witnesses on such interrogatories as the parties may exhibit, and such examination shall be read at the trial on motion of either party.

SETTS-OFF AND SPECIALTIES.

XXIV. And be it further enacted, That in all cases of mutual debts and setts-off, where the jury shall find a balance for the defendant, such defendant may and shall enter up judgment for the amount, and take out execution in such manner as plaintiffs may do by this act: provided, such defendant shall at the time of filing his answer, also file therewith a true copy or copies of the subject matter of such setts-off; and where the plaintiff shall be indebted to the defendant on open account for dealings between themselves, and where the defendant shall hold and possess in his own right, by assignment, indorsement or otherwise according to law, any bond, note, bill or other writing, for money or other thing of the said plaintiff’s, such defendant shall, and may offer the same as setts-off, and on due proof shall be allowed the same.

XXV. And be it further enacted, That all bonds and other specialities, and promissory notes and other liquidated demands, bearing date since the ninth day of June one thousand seven hundred and ninety-one, whether for money or other thing, shall be of equal dignity, and be negociable by indorsement, in such manner and under such restrictions as are prescribed in the case of promissory notes. Provided, That nothing herein contained shall prevent the party giving any bond note or other writing from restraining the negociability thereof by expressing in the body thereof such intention.

VERDICTS AND JUDGMENTS.

XXVI. And be it further enacted, That in all cases where a verdict shall be rendered, the party in whose favor it may be, shall be allowed to enter and sign judgment thereon, at any time within four days after the adjournment of the court, at the clerk’s office, for the amount of such verdict and all legal costs recoverable thereon, and no execution shall issue on any verdict, until such judgment shall be entered, signed by the party or his attorney; and all the property of the party against whom such verdict shall be entered shall be bound from the signing of the first judgment; but where several judgments shall be of equal date, the first execution delivered to the sheriff shall be the first satisfied; provided always, That any party against whom such judgment shall be entered, may enter good and sufficient security, either in open court, or in the clerk’s office, within the time aforesaid for the payment of the judgment and costs within sixty days, and if such party shall not pay the same agreeably thereto, execution may issue against such party, and the security without any other proceeding thereon: and provided also, That in case either party shall be dissatisfied with the verdict of the jury, then, and in all such cases, either party may, within four days after the adjournment of the court in which such verdict was obtained, enter an appeal in the clerk’s office of such court, (as a matter of right) and if such verdict shall be obtained in the inferior court, it shall be the duty of the clerk thereof to transmit such appeal to the clerk of the superior court of the county in which such verdict shall be obtained, who shall enter the same on the appeal docket, which appeal shall be admitted and tried by a special
special jury—Provided, The person or persons so appealing shall previous to obtaining such appeal, pay all costs which may have arisen on the former trial, and give security for the eventual condemnation money, except executors and administrators, who shall not be liable to give such security, but if on hearing such appeal, it shall appear to the jury that the appeal was frivolous and intended for delay only, they shall assess damages to the party aggrieved by such delay, not exceeding twenty five per-centum on the principal sum which they shall find due; and such damages as shall be so assessed shall be specially noted in the verdicts of such jurors, and no person shall be allowed to withdraw an appeal after it shall be entered but by the consent of the parties. And in case of a jury committing a contumacy, or breaking up before giving in their verdict in any civil case, the court may declare the same a mis-trial, and shall fine each of the offending juror or jurors in a sum not exceeding one hundred dollars. And if any party, plaintiff or defendant, be hereafter non-suited or cast by reason of the neglect or misconduct of the attorney, who shall hereafter bring or be employed in such suit, in all such cases the said attorney shall pay all costs that may accrue thereby, and the court shall immediately enter up judgment accordingly for the same.

XXVII. And be it further enacted, That no confession of judgment shall hereafter be entered up, but in the county where the defendant or defendants may reside, or unless the cause hath been regularly sued out and docketed in the usual way as in other cases, nor until such cause be called in order by the court for trial.

XXVIII. And be it further enacted, That no verdict shall be received on any unliquidated demand where the juror have increased their verdict on account of interest, nor shall interest be given on any open account, in the nature of damages.

XXIX. And be it further enacted, That where any attorney shall institute a suit in any of the said courts, for and in behalf of any person who resides out of the State, or out of the county in which the plaintiff or plaintiffs may reside, such attorney shall be liable to pay all costs, in such manner as such plaintiff would be, were he, she or they resident in this State. And if any attorney shall retain any monies received by him after being ordered by the court to pay over the same to his principal, he shall be by the court, struck from the list of attorneys, and never after suffered to plead in any court of this State.

ARBITRATION.

XXX. And be it further enacted, That in all matters submitted to reference by parties, in a suit under a rule of court, or other agreement in writing signed by the parties judgment shall be entered up by the party in whose favor the award is given, and execution shall issued for the sum awarded to be paid as they respectively become due, and to be levied on the property of the party against whom the judgment shall have been entered up, and such other proceedings shall be had thereon by the court, as in cases of judgments entered up on verdicts of juries: Provided, That no judgment shall be entered on an award, where it shall appear any other cause or causes stand on the docket of the court against the defendant, or defendants undetermined, before the cause in which a rule or other agreement in writing for arbitration is entered.

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EXECUTIONS.

XXXI. And be it further enacted, That all executions shall be issued and signed by the clerks of the several courts in which judgment shall be obtained, and bear test in the name of one of the judges or presiding justices of such courts, and shall be directed to all and singular the sheriffs of this State, and may be levied on the estate, both real and personal, of the defendant or defendants, or issued against the body of the defendant at the option of the plaintiff; which execution shall be of full force until satisfied, without the same being obliged to be renewed on the court roll from year to year as heretofore practiced.

And where the defendant shall point out any property on which to levy the execution being in the hands and possession of any person, not a party to such judgment, the sheriff shall not levy thereon, but shall proceed to levy on such property as may be found in the hands and possession of the defendant, who shall nevertheless be at liberty to point out what part of his property he may think proper, which the sheriff shall be bound to take and sell first—Provided, The same is in the opinion of the sheriff sufficient to satisfy such judgment.

XXXII. And be it further enacted, That in all cases where execution shall issue illegally, and the person against whom such execution may be, shall make oath thereof, and shall state the causes of such illegality, such sheriff shall return the same to the next term of the court out of which the same issued, which court shall determine thereon at such term. And where any sheriff shall levy an execution on property claimed by any person, not a party to such execution, such person shall make oath to such property, and it shall be the duty of the sheriff to postpone the sale or further execution of the judgment, until the next term of the court from whence the execution issued, and such court shall cause the right of property to be decided on by a jury at the same term, unless special cause be shewn to induce the court to continue the same for one term and no longer: Provided, The person claiming such property, or his attorney, shall give bond to the sheriff, with security in a sum equal to the amount of the execution, conditioned to pay to the plaintiff all damages which the jury on the trial of the right of property may assise against him in case it should appear that such claim was made for the purpose of delay; and every juror on the trial of such claim shall be sworn in addition to the oath usually administered to give such damages, not less than ten per cent as may seem reasonable and just to the plaintiff against the claimant, in case it shall be sufficiently shewn that such claim was intended for delay only; and it shall be lawful for such jury to give verdict in manner aforesaid, by virtue whereof judgment may be entered up and execution issue against such claimant: And provided also, The burthen of the proof shall lay with the plaintiff in execution.

XXXIII. And be it further enacted, That no sales in future shall be made by sheriffs of property taken under execution, but on the first Tuesday in each month, and between the hours of ten and three in the day; and it shall be the duty of the sheriffs to give thirty days notice in one of the public gazettes of the State, of all sales of lands and other property executed by him, and also advertise the same in three of the most public places in the county where such sales are to be made, and shall give a full and complete description.
discription of the property to be sold, making known the name of the defendant, and the person who may be in possession of the property, except horses, hogs and cattle, which may be sold at any time by the consent of the defendant; and in which case it shall be his duty to give the plaintiff ten days notice thereof, and also to advertise the same in three or more of the most public places in the county where such property may be, at least ten days before the sale.

CLERKS.

XXXIV. And be it further enacted, That the clerks of the several courts in this State, shall copy into a book of record, all the proceedings in all civil cases in the said courts respectively, which entry of record shall be made within forty days after the determination of any cause; and the said clerks shall be allowed the sum of ten cents for every hundred words of recording such proceeding, to be taxed in the bill of cost. And the said clerks shall also keep regular and fair minutes of all the proceedings in any of the said courts, which shall be signed by the judge of the superior, or presiding justices of the inferior courts; (as the case may be) prior to the adjournment from day to day.

XXXV. And be it further enacted, That the clerks of the said superior and inferior courts, hereafter to be appointed, shall before they enter upon the duties of their appointments, and after being commissioned by the governor, take the following oath before one of the judges of the superior courts, or a justice of the inferior court of the county: “I do solemnly swear (or affirm) that I will truly and faithfully enter and record all the orders, decrees, judgments, and other proceedings of the superior (or inferior) court of the county of , and all other matters and things which by law ought by me to be recorded, and that I will faithfully and impartially discharge and perform all the duties required of me, to the best of my understanding.” And shall also enter into bond with one or more good and sufficient securities to the governor for the time being, in the sum of three thousand dollars, conditioned for the faithful discharge of the duties required of them: And the said clerks shall in virtue of their offices be justices of the peace, so far as to administer all oaths appertaining to the business of their office.

XXXVI. And be it further enacted, That no clerk of a court or other person employed in his office shall act as an attorney, in his own name, or the name of any other person, or be allowed to plead or practice in such courts, during the time he shall be employed in such office. And that the same person may be clerk of the superior and inferior court of the same county. Provided, That nothing herein contained shall extend to prevent any officer of the court from prosecuting or defending any suit to which he is a party.

LAW DEPARTMENT.

XXXVII. And be it further enacted, That it shall be the duty of the State’s attorney and solicitors, or one of them, to prosecute all delinquents for crimes, and other offences cognizable by the said courts, and all civil actions in which this State shall be concerned,
A. D. 1795. No. 633. concerned, and to give advice or opinion in writing to his excellency the governor, in questions of law, in which the State may be interested. And in case it should so happen, that neither the State's attorney or solicitors or either of them can attend the said courts, then the judge presiding, may, and he is hereby authorized and required to appoint some attorney at law, to prepare and prosecute the indictments and other business of the State; and such person so appointed shall be entitled to the same fees and emoluments therein, as the State's attorney or solicitors would have been entitled to.

XXXVIII. And be it further enacted, That the clerks of the superior courts of the respective counties, shall procure from the tax collector of such county, and furnish to the court (within two months) a list of persons liable and qualified to serve as grand and petit jurors agreeable to the qualifications herein after prescribed; and all free male white citizens above the age of twenty-one years and under sixty years, are declared to be qualified and liable to serve as petit jurors for the trial of all civil causes, for recovery of debts or damages to any amount whatsoever; but no person shall be capable of being a juror for the trial of treason, felony, breach of the peace, or any other cause of a criminal nature, or of any estate of freehold, or of the right or title to any lands or tenements, in any court of record within this State, who shall not be qualified to vote at elections for members of the legislature, and if any person not qualified as aforesaid, shall be returned on any jury, he shall be discharged on the challenge and proof thereof, of either of the parties to such suit, or on his own oath of the truth thereof: Provided, That no exception against any juror, on account of his qualification, shall be allowed after he is sworn.

XXXIX. And be it further enacted, That the clerks of the several courts are required in presence or under the direction of the judge or judges of such court, to regulate and correct the several jury lists annually, by particularly specifying, in distinct columns, the persons most able, discreet and qualified as herein mentioned to serve as grand jurors; which list, so corrected, shall be committed to the safe keeping of the clerks of such courts respectively; and the clerks of such courts shall immediately after receiving such lists, fairly enter the same in a book for that purpose, to be provided by such clerk (at his own expense) distinguishing in separate columns the persons selected to serve as grand jurors, and those for the trial of civil and criminal causes as aforesaid; and the names of the persons so selected, shall be written on separate pieces of paper, and put into the different apartments of a jury box, to be provided by the clerk at the public expense, in the construction and manner herein after prescribed, to wit: There shall be an apartment in the said jury box, marked number one, in which shall be placed the names of all the persons selected to serve as grand jurors; and another apartment marked number two, into which shall be placed the names of all the persons selected for the trial of civil and criminal causes as aforesaid; which box shall be kept locked, and no jury shall be drawn or impaneled, but in the presence of one or more of the judges and clerks of the court; nor shall any clerk
clerk of the court, or other person having the custody of the jury box, presume on any pretence whatsoever to open the said jury box, transpose or alter the names, except it be in the presence of the judge or justices officially attending for the purpose of drawing jurors, or correcting the lists, under penalty of being dealt with in the manner herein pointed out for malpractice in office.

XL. And be it further enacted, That the said judge or justices and clerk of the court, or person having custody of the key, shall previous to the adjournment of any superior court, or at least two months prior to the sitting of the next court, cause to be drawn out of the apartment of the said box marked number one, not less than twenty-three or more than thirty-six names as grand jurors; and out of the apartment marked number two, not less than forty-eight or more than seventy-two names as petit jurors for the trial of civil and criminal causes as aforesaid; which names so drawn shall after an account is taken of them, at each term or time of drawing, be carefully rolled up again, and deposited in the two other apartments to be provided in such jury box, marked number three and four, to wit: The names of the grand jurors in the division number three, and the names of the petit jurors in the division number four; and when all the names shall be drawn out of the apartments number one and two as aforesaid, they shall then commence drawing from the apartments number three and four, and return them into the numbers one and two, and so on alternately.

XLI. And be it further enacted, That no grand jury shall consist of less than eighteen or more than twenty-three, but twelve may find a bill, or make a presentment, and that the names of the several jurors to be drawn as aforesaid, shall immediately after they are drawn out, be entered by the clerk on the minute book of such court; and if it shall so happen, that from any unavoidable circumstance the judge shall not attend at the time appointed for holding the superior court of any county, he shall nevertheless attend in person for the purpose of drawing jurors, or shall transmit to the justices of the inferior court of such county a request in writing, that they or any two of them attend at the clerk's office, on some convenient day, at least two months preceding the next term, for the purpose of drawing grand and petit jurors in manner herein before directed, and the said judges of the superior courts are declared to be responsible for the legal and regular drawing of juries in the respective circuits in which they may reside: And in case of such unavoidable circumstance specially stated by any judge of the superior court, the said justices or any two of them shall, and are hereby required to conform to such requests, by attending and drawing juries agreeably to this act:

Provided nevertheless, That where juries have already been drawn in any county for the next term under the late judiciary act, such juries shall stand over and be considered as the legal juries under this law.

XLII. And be it further enacted, That the clerk of the court shall annex a panel of the jury containing the names of the persons drawn to serve on the grand inquest exactly transcribed from the minute book, to the precept for summoning such grand jury; and shall also annex another panel containing the names of the persons drawn as petit jurors, for the trial of civil and criminal causes, exactly transcribed as aforesaid, to the precept for summoning the petit jurors, in the mandatory part of which precept

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Petit jurors.

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shall be written the words following, viz. "The several persons named in the pannel hereunto annexed," which precept with the several panels annexed as aforesaid, shall be delivered by the clerk of the court within three days after the drawing of such juries as aforesaid, to the sheriff of the county or his deputy.

XLIII. And be it further enacted, That the sheriff or his lawful deputy for the time being, upon the receipt of any precept for summoning grand or petit jurors, shall cause the several persons whose names are written in the panel thereunto annexed, to be served with a summons at least ten days before the sitting of the court for which they are drawn and impannelled; which summons shall be in the following words, or words to that effect: "By virtue of a precept to me directed, you are hereby commanded to appear before the judge of the superior court, at the next superior court, to be held at the court house in and for the county of on the day of at ten o'clock in the forenoon of that day, to be sworn on the grand jury, (or as a juror for the trial of civil and criminal causes then and there depending, as the case may be)," which shall be signed by the sheriff or his lawful deputy for the time being; which sheriff or lawful deputy aforesaid, shall make return of all such precepts, in each of which he shall set forth the names of all such persons as shall have been summoned by virtue of such writs or precepts, and the time when they were summoned, and also the names of the persons whom he may not have summoned, together with the reasons why they were not summoned, on pain of being fined by the court.

XLIV. And be it further enacted, That the clerk of the court shall make due entry in the minute book of such court of the appearance of all jurors, and shall likewise enter and make report of the names of all such as shall make default in appearing; that if any person who shall be drawn, impannelled, summoned and returned to serve as jurors at any court as aforesaid, shall neglect or refuse to appear, or after appearance shall refuse to serve, or shall abscond himself without leave of the court, then and in that case, it shall be lawful for the court to fine such person, if a petit juror, in a sum not exceeding twenty dollars, and if a grand juror, in a sum not exceeding forty dollars, unless such juror shall shew good and sufficient cause of excuse, to be made on oath before any justice of the peace, and filed in the clerk's office of such court, within forty days after opening the said court; the merits of which excuse shall be determined by the next succeeding court; and when from challenge or otherwise there shall not be a sufficient number of jurors to determine any civil or criminal cause, the court may order the sheriff or his deputy, to summon by-standers or others, qualified as herein before required, for the trial of such cause or causes, sufficient to complete the panel; and when the sheriff or his deputy are disqualified from acting in the manner herein expressed, jurors shall be summoned by the coroner, or such other disinterested person as the court may appoint.

XLV. And be it further enacted, That the oath to be administered to petit jurors in civil cases, shall be in the form following: "You (A. B.) shall well and truly try the cause depending between the parties at variance, and a true verdict give according to evidence: So help you God."
SHERIFFS.

XLVI. And be it further enacted, That the sheriffs of the several counties shall attend the superior and inferior courts in the respective counties when sitting, and by themselves or deputies execute throughout the counties all writs, warrants, precepts and processes directed to them, and issued under the authority of any judge or justice of the said superior or inferior courts or the clerk of either of the courts; and the said sheriffs or their deputies shall have power to command all necessary assistance in the execution of their duty, and to appoint, as there shall be occasion, one or more deputies; and before any sheriff shall enter upon the duty of his appointment and being commissioned by the Governor, he shall be bound for the faithful performance of his duty, by himself and his deputies, before any one of the said judges, to the Governor of the State for the time being, and to his successors in office, jointly and severally, with two good and sufficient securities, inhabitants and freeholders of the county to be approved of by the justices of the inferior court, or any three of them, in the sum of twenty thousand dollars; and the said bond shall remain in the office of the clerk of the superior court of such county, and may be sued for by order of the said court, for the satisfaction of the public or persons aggrieved by the misconduct of the sheriff or his deputy, and the said sheriff shall take and subscribe the following oath, before one of the judges of the superior, or justices of the inferior courts, and the same shall be entered on the minutes of the said court, before such sheriff shall enter on the duties of his office, to wit: "I do solemnly swear (or affirm as the case may be) that I will faithfully execute all writs, warrants, precepts and processes directed to me as sheriff of the county of , and true returns make, and in all things well and truly, and without malice or partiality, perform the duties of the office of sheriff of , during my continuance in office, and take only my lawful fees: "So help me God."" And an oath to the same purport shall be taken by each of the deputies of the said sheriffs in like manner.

XLVII. And be it further enacted, That in case of the death of either the said sheriffs, the deputy or deputies, shall continue in office, unless otherwise specially removed, and execute the same in the name of the deceased, until another sheriff be appointed and qualified; and the defaults and misfeasance in office of such deputy or deputies in the mean time, as well before as after the death of such sheriff, shall be adjudged a breach of the condition of the bond given as before directed by the sheriff who appointed such deputy or deputies; and the executor or administrator of the deceased sheriff, shall have the like remedy for the misconduct or misfeasance, or default in office of such deputy or deputies during such intervals as he would be entitled to, (if the sheriff had continued in life and in the execution of his office) until his successor was appointed and sworn.

XLVIII. And be it further enacted, That the sheriff of each county shall at the expiration of his appointment, turn over to the succeeding sheriff, by indenture and schedule, all such writs and processes as shall remain in his hands unexecuted, who shall duly execute and return the same; and in case any sheriff shall neglect or refuse to turn over such processes in manner aforesaid every such sheriff so neglecting or refusing...
XLIX. And be it further enacted, That the sheriffs of the several counties in this State, shall have like powers and authorities, and they and their under-sheriffs and gaolers, constables and other officers belonging to the court, be liable to all actions, suits, penalties and disabilities whatsover, which they or either of them may incur for, or on account of the escape of prisoners, or for, or in respect of any other matter or thing whatsover, relating to, or concerning their respective offices, in the same manner as they have heretofore been liable by law in force in this State; and no sheriffs, under sheriffs, deputy, or other sheriff's officer shall act as an attorney at law, in his own name, or in the name of any other person, or be allowed to plead or practice in any of the courts of this State, during the time he is in such office.

L. And be it further enacted, That the sheriff shall be liable either to an action on the case, or an attachment for contempt of court, at the option of the party, wherever it shall appear that he hath injured such party, either by false returns, or by neglecting to arrest the defendant, or to levy on his property, or to pay over to the plaintiff or his attorney, the amount of any fines which shall be made under or by virtue of any execution, or any monies collected by virtue thereof.

LI. And be it further enacted, That if any sheriff or his deputy, or under sheriff, shall be guilty of extortion or other mal-practice in the execution of his office, upon complaint made on oath to the State's attorney or solicitors, it shall be the duty of such attorney or solicitor to exhibit a bill of indictment against the person so offending, who upon conviction thereof shall be fined by the court in double the amount which he may have extorted from any person, which shall be applied, one moiety to the injured person, and the other moiety to the use of such county, and shall likewise be removed from office, and suffer such other punishments as the law directs.

LII. And be it further enacted, Whenever the sheriff of any county within this State shall fail to make a return of all writs, executions and other process put into his hand, or shall fail or neglect to pay up all monies received on such executions on his being required by the court so to do, he shall be liable to an action as for contempt, and may be fined, imprisoned or removed from office, in the manner prescribed by the constitution.

SPECIAL POWERS OF SUPERIOR COURTS.

LIII. And be it further enacted, That the superior courts in the several counties, shall exercise the powers of a court of equity, in all cases where a common law remedy
medy is not adequate, to compel parties in any cause to discover on oath, all requisite points necessary to the investigation of truth and justice, to discover transactions between co-partners and co-executors, to compel distribution of intestate estates, and payment of legacies, and to discover fraudulent transactions for the benefit of creditors; and the proceedings in all such cases shall be by bill, and such other proceedings as are usual in such cases until the setting down of the cause for trial, and the courts shall order the proceedings in such manner, as that the same shall be ready for trial at furthest at the third term from the filing of such bill inclusive, unless very special causes be shown to induce the court to continue the same which shall not extend to more than four terms.

And all such bills shall be read and functioned by one of the judges, and a copy thereof served on the opposite party at least thirty days before the filing of such bill in court, and the party against whom such bills shall be filed, shall appear and answer to the same at the next court, and if he, she or they shall fail to do so, the facts in the said bill shall be taken pro confesso, and the court may proceed to decree as to justice shall appertain.

LIV. And be it further enacted, That where either party in any cause in any inferior court shall take exceptions to any proceedings on any cause, affecting the real merits of such cause, the party making the same shall offer such exceptions in writing, which shall be signed by himself, or his attorney, and if the same shall be overruled by the court, it shall and may be lawful for such party on giving twenty days notice to the opposite party or his attorney, to apply to one of the judges of the superior court, and if such judge shall deem the said exceptions to be sufficient, he shall forthwith issue a writ of certiorari directed to the clerk of such inferior court, requiring him to certify and fend up to the next superior court to be held in the said county, all the proceedings in the said cause, and at the term of the superior court to which such proceedings shall be certified, the said superior court shall determine thereon, and order the proceedings to be dismissed, or return the same to the said inferior court with order to proceed in the said cause.

LV. And be it further enacted, That the said superior courts shall have power to correct errors, and grant new trials, in any cause depending in any of the said superior courts, in such manner and under such rules and regulations as they may establish, and according to law, and the usages and customs of courts.

LVI. And be it further enacted, That when a cause shall be committed to a special jury, the oath to be administered shall be in the words following to wit: "You shall well and truly try the cause now depending between A. B. plaintiff, and C. D. defendant, and a true verdict give, according to equity and the opinion you entertain of the evidence produced to you, to the best of your skill and knowledge, without favor or affection to either party: So help you God." And the same oath to be administered to juries on appeals.

LVII. And be it further enacted, That in any cause which has arisen since the signing of the present constitution, or which may hereafter arise of a verdict of a special jury being given contrary to evidence and the principles of justice and equity, it shall and may
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may be lawful for the judge presiding to grant a new trial, before another special jury, in the manner prescribed by this act; Provided, That twenty days notice be given by the party applying for such new trial to the adverse party of his intention and the grounds of his application. And the said judge shall in all cases of application for new trials, or correction of errors, enter his opinion on the minutes of the court for his determination on each respective case.

L.VIII. And be it further enacted, That all new trials shall be had by a special jury to be taken from the grand jury list of the county, and struck in the presence of the court, in the following manner: The clerk shall produce a list of the original panel of grand jurors returned to the term in which such trial shall be had, from which the parties or their attorneys shall alternately strike out one until twelve shall remain, who shall forthwith be empanelled and sworn to try the cause; and in all cases the party applying for such new trial shall strike list; and in case of refusal in either to strike, on the calling the cause, the judge presiding shall order some officer of the court, or other person to proceed to strike the said jury in the same manner as the party refusing might or could have done.

And it shall be the duty of all persons summoned on the grand jury, to attend the courts for the purpose of determining such new trials, whether they be sworn on the grand jury or not.

LIX. And be it further enacted, That the judges of the superior courts shall meet at the seat of government annually on the second Monday in January, for the purpose of forming rules and regulations for the government, or more orderly proceeding in the said courts, for determining on such points as may be referred for arguments, and which may require an uniform decision, and to give their opinions on all constitutional questions which may be referred to them by the executive department; and the said judges or any of them shall have power to perpetuate testimony on such terms and in such manner as is usually practiced in courts of equity.

LX. And be it further enacted, That the said judges shall preside alternately in each of the said circuits or districts.

REPEALING CLAUSE AND PROviso.

LXI. And be it further enacted, That the act, entitled "An act to revise and amend the judiciary system of this State," passed at Louisville, on the ninth day of February, one thousand seven hundred and ninety seven, from the first to the sixty-seventh clause, inclusive, be and the same is hereby repealed: Provided nevertheless, and be it further enacted, That the said recited act shall continue in force so far as relates to proceedings which originated under it; and that any person or persons who has or have applied for an appeal, from any verdict rendered in any cause tried since the signing of the constitution, in either of the superior or inferior courts of any of the counties in this State, and offered to pay costs and give security agreeably to the said recited act, shall be, and they are hereby declared to be entitled to have such appeal entered on the appeal docket, of the superior court in the county where the first trial was had, on payment of costs and entering security, at any time prior to the first day of the next term in cases
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An Act to regulate Attachments in this State.

WHEREAS it is just and proper that provision should be made for the recovery of debts where the same cannot be done by the ordinary processes of law, therefore,

I. Be it enacted by the senate and house of representatives in general assembly met, and it is hereby enacted by the authority of the same, That in case of non-residence, or where both debtor and creditor shall reside without the limits of this State, it shall and may be lawful for such creditor by himself, his agent or attorney, to attach the property both real and personal which may be found in the State of such debtor, in the same manner and under the like restrictions as are or shall be usual in case of abounding debtors, or where the debtor alone resides out of the State.

II. And be it further enacted, That it shall and may be lawful for the judges of the superior or justices of the inferior court or any one of them, and also for any justice of the peace, upon complaint made on oath, that his debtor resides out of this State, or is actually removing without the limits of this State, or any county, or abandons or conceals himself or stands in defiance of a peace officer, so that the ordinary processes of law cannot be served on him, to grant an attachment against the estate of such debtor, or so much thereof as shall be of sufficient value to satisfy the plaintiff’s demand and costs, which attachment shall be directed to and served by the sheriff of the county where the property may be found, or his deputy or any constable, and it shall be the duty of such sheriff his deputy or any constable, to serve and levy the same upon the estate both real and personal, of such debtor, wherever the same may be found.
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  No. 634.

found, either in the hands of any person indebted to, or having effects of such debtor, and summon such person or persons to appear at the next court to be held for the said county, and to which the said attachment may be returnable, there to answer on oath what he is indebted to, or what effects of such party he hath in hand, or had at the time of levying such attachment, which being returned executed, the court may by order compel such person to appear and answer as aforesaid: And where any person in whose hands any debt or effect may be attached, shall deny owning any money to, or having in his hands any effects of such debtor, it shall be lawful for the plaintiff to traverse such denial, and thereupon an issue shall be made up, and the same be tried by a jury, and if found against such garnishee, he, she or they shall be subject to pay the plaintiffs such sums as shall be so found, and the court shall order judgment to be entered thereof against such garnishee as in other cases: Provided, That the said judge, or justice of the inferior court or justice of the peace before granting such attachment shall take bond and security of the party for whom the same may be granted, in double the sum to be attached, payable to the defendant, for satisfying and paying all costs, which may be incurred by the defendant in case the plaintiff suing out such attachment shall discontinue, or be cast in his suit, and also all damages which may be recovered against the said plaintiff for suing out the same; which bond shall be returned to the court to which such attachment may be made returnable, on or before the last day of the term; and the party entitled to such costs and damages may bring suit and recover thereon; and every attachment issued without such bond taken, or where no bond shall be returned as aforesaid, is hereby declared to be illegal, and shall be dismissed with costs: Provided always, That every attachment which may be issued as aforesaid, shall be attested by the judge of the superior, or justice of the inferior court, or justice of the peace, issuing the same, and be by the sheriff, or person authorized to serve the same, publicly advertised at the court house of the said county at least thirty days before the sitting of the court; and if any attachment shall be issued within thirty days of the next court, such attachment shall be made returnable to the court next after the expiration of the said thirty days and not otherwise; and all attachments issued and returned in any other manner than is herein before directed, shall be and the same are declared to be null and void; and all goods, chattels, lands and tenements subject to such attachments, shall be repelivable by appearance and putting in special bail, or by the defendants giving bond with good and sufficient security to the sheriff or other officer serving the same, which bond he is hereby empowered to take, compelling the defendants to appear at the court to which such attachments shall be returnable, and to abide by and perform the order and judgment of such court: Provided always, That all goods and effects attached and not releved as aforesaid, where the same shall appear to be of a perishable nature, on motion of the plaintiff or his attorney, the court, or if not in term time, the judge of the superior or any two or more of the justices of the inferior court, may and are hereby authorized and required to order a sale of such perishable property, and the monies arising from such sales shall be deposited in the clerk's office by the sheriff or other officer selling the same, to answer the demands of the plaintiff, (if established) and the balance,
balance, if any, after satisfying such demands and costs, shall by order of the said court be returned to the defendant or his attorney.

III. And be it further enacted, That if any attachment shall be returned executed, and the property attached shall not be releved as aforesaid, the subsequent proceedings thereon, shall be the same as an original process against the body of the defendant, where there is a default of appearance; and all such goods and chattles, lands and tenements not releved, shall after the plaintiff has establimshed his demand, be by order of the court fold and disposed of for, and towards the satisfaction of the plaintiff’s judgment in like manner as if the fame had been taken under execution; and where any attachments be returned, served in the hands of a third person, it shall be lawful upon his appearance and examination in the manner heretofore directed, to enter up judgment as against the original debtor, and award execution against such third person for the monies due by him to the absent debtor, and against such property or effects as may be in his hands or keeping, belonging to such debtor, or so much thereof as will be of value sufficient to satisfy the judgment and costs thereon.

IV. Ad be it further enacted, That where an absent debtor hath property lying in different counties, the same shall be liable to attachment, and an original and copies shall issue for each county where the property may be found, the whole to be returnable to the court from whence the first original issued:

V. And be it further enacted, That when the third persons as garnishees return debts due to the absent debtor, the court shall order the same sued for, and when recovered paid into the clerk’s office subject to the order of the court.

DAVID MERIWETHER, Speaker of the House of Representatives.
ROBERT WALTON, President of the Senate.

Assented to, February 7, 1799.

JAMES JACKSON, Governor.

Grand Juror’s Oath.*

"YOU shall diligently enquire, and true presentment make of all such articles, matters and things as shall be given you in charge. And of all other matters as shall come to your own knowledge, touching this present service. The (king’s) State’s council, your fellows, and your own, you shall keep secret: you shall present no person for hatred or malice; neither shall you leave any one unpresented for favor, or affection, for love or gain, or any hopes thereof; but in all things you shall present the truth, the whole truth, and nothing but the truth, to the best of your knowledge; So help you God."

* A Guide to the knowledge of the rights and privileges of Englishmen. p. 106.

APPENDIX.