

---

This is a reproduction of a library book that was digitized by Google as part of an ongoing effort to preserve the information in books and make it universally accessible.

Google™ books

<https://books.google.com>





## Harvard College Library



### FROM THE BRIGHT LEGACY

One half the income from this Legacy, which was received in 1880 under the will of

**JONATHAN BROWN BRIGHT**  
of Waltham, Massachusetts, is to be expended for books for the College Library. The other half of the income is devoted to scholarships in Harvard University for the benefit of descendants of

**HENRY BRIGHT, JR.,**  
who died at Watertown, Massachusetts, in 1686. In the absence of such descendants, other persons are eligible to the scholarships. The will requires that this announcement shall be made in every book added to the Library under its provisions.





W72  
+410  
O

# ACTS

OF

A GENERAL NATURE,

HARVARD  
UNIVERSITY  
LIBRARY  
ORDERED TO BE RE-PRINTED,

AT THE FIRST SESSION

OF THE

**Eighteenth General Assembly**

OF THE

**STATE OF OHIO,** —

BEGUN AND HELD IN THE TOWN OF COLUMBUS,

DECEMBER 6, 1819;

AND IN THE EIGHTEENTH YEAR OF SAID STATE.

==  
VOL. XVIII.

—:~:—  
PUBLISHED BY AUTHORITY.

—0000~0000—

**COLUMBUS:**

Printed at the Office of the Columbus Gazette,  
By P. H. OLMSTEP.

.....  
1820.

US 25518.1.55

~~✓ 0 Dec 1, 34~~

Bright fund

25518.1.55  
0 Dec 1, 34

## CHAPTER I.

***AN ACT to enable the holders of land, within this state to perpetuate testimony relative to their lands.***

Decaying or perishing corners how perpetuated,	1	Depositions, surveys, &c. to be recorded,	-	4
Duty of surveyor,	ib	Record to be good evidence,	-	5
Last corners how established,	2	Surveyors fees,	-	6
Duty of justices,	ib	Chain carriers &c. their fees,	-	ib
Duty of surveyor,	ib	Recorders fees,	-	ib
Notice to be given of taking depositions,	3	Expenses by whom paid,	ib	

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That it shall be lawful for any person or persons, their agent or attorneys, owning or being interested in any tract or tracts of land, within this state, any corner or corners of which shall or may be in a decayed or perishable condition, to call on the surveyor of the county, where the land lies to make a survey thereof, and cause to be planted by the person applying for the survey, at each of such decayed corners, a stone or post, noting particularly the situation and condition of the original corner trees called for in the original survey; and also of all places of notoriety, over or by which the lines of said survey may pass; and the surveyor shall make out a plat, and certificate of such survey or surveys, under his hand, noting the names of the chainmen, marker and other persons present at the planting of any corner stone or post as aforesaid, and noting also the variation from the original lines, at the time of making such survey.

**Sec. 2.** *Be it further enacted,* That when the corner or corners of any such survey shall have been or

may hereafter be destroyed, it shall and may be lawful for the owner or owners, their agent or attorney, of any such survey, or of other lands, the title of which may be affected by the loss of such corner, to call on two disinterested justices of the peace, of the county in which the land may be situated, whose duty it shall be to attend on the ground where it is intended to establish such corner or corners, at such time as the applicant shall appoint, either of which justices shall have power, and they are hereby required to issue their warrant to any constable, or other fit person to execute the same, to cause to come before them such witness or witnesses, as well without as within their county, as the person demanding such warrant or other person interested may require; and the said justices are hereby authorised to examine said witness or witnesses, on oath or affirmation, touching the existence and situation of such corner or corners, or any other matter in relation to the entry or survey of such land, and take the same in writing, which shall be signed by the deponent or deponents, and certified and signed by the justices, who shall deliver the same to the county surveyor, who shall be present at the taking of such depositions; and in making a survey of the land and planting stones or posts at the corners, agreeably to the first section of this act, shall have reference to and be governed by the deposition or depositions taken by the justices aforesaid, and shall specify the same in his certificate of survey, in which shall also be mentioned, the names of the persons present at the planting of any corner stone or post as aforesaid.

*Sec. 3. Be it further enacted,* That previous to taking any deposition as aforesaid, notice shall be given at least twenty days to the owner or owners, their agents or attorneys, if known, who have adjoining lands; and if the owner or owners, their agents or attorneys are not known, or reside out of this state, the applicant shall, in some public newspaper printed in

the state, give notice of his intention to take depositions at a certain time and place, at least sixty days previous to the time of taking such depositions, in which notice a description of the adjoining lands shall be given, evidence of which notice shall be produced to the justices, previous to their taking any depositions as aforesaid, and the justices shall so endorse on the back of the deposition or depositions.

**Sec. 4.** *Be it further enacted,* That any county surveyor making surveys under the provisions of this act, shall record the plat and certificate thereof in a book to be by him provided for that purpose, and deliver the original, with any deposition taken as provided for in this act, and committed to their care, to the recorder of the county, who shall record all such plats and certificates and depositions in a book to be by him provided for that purpose; and shall on demand deliver the originals to the person at whose instance such survey was made or depositions taken.

**Sec. 5.** *Be it further enacted,* That the plat and certificate of any county surveyor made, or depositions taken, agreeably to the provisions of this act, or a certified copy thereof from the recorder's or surveyor's office, shall be good evidence in any court of law or equity within this state, in any cause wherein the title of any land to which they may apply may be affected: *Provided,* That the deposition or depositions of witnesses, recorded as aforesaid, shall only be received when the witnesses are dead or without the jurisdiction of the court.

**Sec. 6.** *Be it further enacted,* That county surveyors shall receive for services performed under this act, at the rate of three dollars per day, and for making out and recording plats and certificates, the same fees that are allowed for similar services in other cases; chainmen and markers shall be allowed seventy-five cents each per day, justices of the peace one dollar each per day, and each witness one dollar per day;

and if said witness reside out of the county in which such corner or corners may be situate, and which he is summoned to establish by his testimony, such witness shall be allowed the sum of one dollar for every twenty-five miles he may be required to travel, in going from and in returning to his place of residence; and recorder the same fees as are allowed for similar services in other cases, all of which expenses shall be paid by the person or persons applying for such survey and depositions, who may recover from the persons owning the adjoining land that may be benefited by the perpetuation of such testimony, their equal proportion of the expense incurred in obtaining such evidence.

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

**JOSEPH RICHARDSON,**  
*Speaker of the House of Representatives.*  
**ROBERT LUCAS,**  
*Speaker of the Senate.*

January 25, 1819.

---

## CHAPTER II.

### ***AN ACT for the incorporation of religious societies.***

Publication to be made		}	Lot may be surveyed and	
ten days, - - -	1		recorded, - - -	4
Officers to be elected,	2	}	Annual elections to be	
Officers to take an oath,	3		first Monday of May,	5
Property restricted,	ib	}	Repealing clause, -	6

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio.* That every religious society or denomination of christians within the state of Ohio, of not less than twenty members are hereby authorised to assemble themselves together, at their usual place of holding public worship, giving at least ten days notice of the time and purpose of holding such meeting, by having the same proclaimed when assembled for public worship and by putting up written notice in a conspicuous

place where worship is usually held, at least ten days before the time of holding such meeting.

**Sec. 2.** *Be it further enacted,* That every religious society, when assembled together, as is provided by the first section of this act, may proceed to elect such number of officers or trustees as shall be consistent with the rules, regulations, usages or canons of such religious society or denomination of christians, designating them by such name or appellation as shall be agreeable to such religious society, and conformably to the rules, regulations, usages, and canons thereof; and said officers or trustees so chosen shall hold their offices for one year, and until their successors are chosen and qualified, agreeable to the rules, canons, &c. of such religious society; and such officers or trustees, so chosen and qualified, when they shall have given such religious society a name, shall immediately certify the same, together with the name of the township in which the meeting was held, under their hands and seals, to the clerk of the court of common pleas of the county in which said township lies; and it is hereby made the duty of said clerk to record the same in a book to be kept by him for that purpose, and shall when requested give a certificate of such record, under his seal of office; and for each record or certificate, he shall be entitled to demand and receive fifty cents from those requiring the same.

**Sec. 3.** *Be it further enacted,* That the aforesaid officers or trustees, when thus elected, shall, before entering on the duties of their offices, take an oath or affirmation, faithfully to discharge the same; and after being thus qualified, they shall, to all intents and purposes, be a body corporate in law, with perpetual succession and full power to do all and every act necessary to a body corporate, for the purposes hereby intended, which are to enable such religious society or denomination of christians, to hold in fee simple, or for any lesser estate, any tract or tracts of land, on which

to erect such buildings as may be necessary for their religious worship, or for their burial ground, or any donation made to such society, which shall be disposed of agreeable to the will of the donor or donors : *Provided*, The whole quantity of lands held by any one society does not exceed twenty acres.

Sec. 4. *Be it further enacted*, That any lot or part of a lot of land obtained by any religious society by purchase or donation, and set apart for the sole purpose of a burial ground, may be by them surveyed and platted, carefully noting its extent and situation and be recorded by the recorder of the county in which the same is situated ; which lot or burying ground, if it be occupied as such at the time of recording, shall never afterwards be sold, transferred, conveyed or used for any other purpose or purposes whatever.

Sec. 5. *Be it further enacted*, That it shall be the duty of the regular members of said societies, after they have become incorporated to meet annually, on the first Monday of May, at the usual place of holding public worship, and elect their officers or trustees, to serve for the ensuing year ; *Provided*, That any future legislature of this state, may make such alterations to this act, as they may think necessary.

Sec. 6. *And be it further enacted*, That the act, entitled " An act for the incorporation of religious societies," passed January seventh, eighteen hundred and seventeen, be, and the same is hereby repealed.

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

JOSEPH RICHARDSON,  
*Speaker of the house of Representatives.*  
 ROBERT LUCAS,  
*Speaker of the senate.*

February 5, 1819.

## CHAPTER III.

***AN ACT to provide for the safe keeping of persons that may be reprieved by the governor.***

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That whenever the governor may deem it expedient, and proper to reprieve any person under sentence of death, upon any condition whatsoever ; the condition upon which such reprieve is granted shall be specified in the warrant, and the person accepting of such conditional reprieve, shall subscribe such acceptance upon the warrant containing the conditions of reprieve, in the presence of two witnesses who shall attest the same, and such witnesses shall go before the clerk of the court where such sentence is recorded and shall prove the same ; and such clerk shall thereupon record the warrant of reprieve, together with the acceptance and proof thereof, in the journals of the court; a transcript of which record, shall at all times thereafter be evidence for and against the person accepting such conditional reprieve.

**Sec. 2.** *Be it further enacted,* That if in any case of reprieve, the governor shall deem it expedient and proper to confine the person so reprieved in the penitentiary, it being so specified in the warrant, the sheriff or other officer, having the person so reprieved in his custody, shall convey him or her to the penitentiary, in the same manner as other convicts are directed by law to be conveyed, and the keeper of the penitentiary shall receive such person together with the warrant of reprieve, and shall proceed with such convict as such warrant may direct ; and the expenses of transporting such person to the penitentiary, shall be allowed and paid out of the state treasury as in other cases.

**Sec. 3.** *And be it further enacted,* That if any person reprieved according to the first section of this act,

shall violate the conditions upon which such reprieve is granted, such person shall be proceeded against as in other cases, of persons escaping from prison, charged with or convicted of crimes.

DUNCAN M'ARTHUR;

*Speaker of the House of Representatives.*

ABRAHAM SHEPHERD,

*Speaker of the Senate.*

January 27, 1818.

## CHAPTER IV.

*AN ACT levying a tax upon sales at auction in certain cases.*

Three per cent. tax on sales of foreign goods,	1	{	yearly to the county treasurer, - - -	ib.
Court of common pleas to appoint auctioneers annually, - - -	2		Penalty for neglect, - - -	ib.
Auctioneer to give bond &c. for his performance, - - -	ib.		The sale of certain articles not to be affected by this act, - - -	
Clerk to issue license, - - -	ib.		Penalty on persons for a breach of this act, - - -	ib.
Auctioneers fees, - - -	3		Tax on sales at auction how applied, - - -	5
To make return quarter				

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That a tax of three per cent. upon the nett amount of the proceeds of sales at auction within this state, of all goods, wares and merchandize, the growth, produce or manufacture of any foreign country, except as herein after excepted, shall be levied and collected in the manner and for the purposes herein after mentioned.

Sec. 2. *Be it further enacted,* That the court of common pleas in every county in this state at their first session after the taking effect of this act, and at their first session in each and every year thereafter, may appoint one or more discreet persons in their res-

pective counties who will accept the same, an auctioneer, who shall continue in office until the period of the next annual appointment, and who shall give bond with two or more sufficient securities in the sum of five thousand dollars, payable to the county treasurer, and his successors in office, conditioned, that such auctioneer will well and truly do and perform all the duties, and pay over all the monies required of him by this act; and the auctioneer thus appointed upon the execution of the bond aforesaid, shall pay to the treasurer, the sum of twenty dollars for the use of the county, and shall take his receipt therefor, together with a certificate, that bond has been given according to law; and upon producing such receipt and certificate to the clerk of the court of common pleas, the clerk shall give such auctioneer a license authorising him to make sales at auction, until the period of the next annual appointment: *Provided*, That no penalties shall be inflicted, in any case under the provisions of this act where the judges of any county shall not think proper to make such appointment.

*Sec. 3. Be it further enacted*, That every auctioneer appointed agreeably to the provisions of this act shall be allowed for all sales at auction by him made, a sum not exceeding eight per cent. for all sums under one hundred dollars; a sum not exceeding six per cent. for all sums of one hundred dollars and upwards; and every auctioneer appointed under the provisions of this act shall in every year on the first Mondays of January, April, July and October, render to the treasurer of the county in which he is appointed, a statement upon oath, of the amount of his sales, at what time and for whom made, within the last preceding three months, and shall pay to the treasurer three per cent. upon the whole amount of such sales, and shall take his receipt therefor, which he shall lodge with the commissioners of the county and take their receipt therefor; and if any person appointed an auctioneer un-

der this act, shall fail to make the statement and payments by this section required, such auctioneer shall forfeit the penalty of his bond, and the amount thereof shall be recovered of such auctioneer and his securities, in a suit to be brought in the name of the treasurer to whom the same was given or his successors in office, as the case may be, and applied for the same purpose as the tax raised by this act is directed to be applied.

**Sec. 4. *Be it further enacted,*** That if any person within this state shall sell at auction any article of the growth, produce or manufacture of any foreign country, except at sales of insolvents, estates, sales by executors or administrators, sales under executions or at sales upon plantations of stock and farming utensils, without having obtained a license as this act directs, every person so offending, shall for every such offence forfeit and pay the sum of five hundred dollars, to be sued for in an action of debt, in the name of the state of Ohio, before the court of common pleas of the proper county, and recovered and applied for the same use as the tax by this act levied, is directed to be applied.

**Sec. 5. *And be it further enacted,*** That one third of all sums of money raised by way of tax under this act upon sales at auction within any incorporated town shall be paid by the county treasurer, to the treasurer of such incorporation, and all the residue of monies raised by way of tax, or otherwise recovered under the provisions of this act shall be paid into the state treasury, and set apart to constitute a fund to be applied by the legislature in giving premiums for the best specimens of fabricks manufactured within this state, under such regulations as may hereafter be provided by law.

This act to take effect and be in force from and after the first day of May next.

**DUNCAN McARTHUR,**  
*Speaker of the House of Representatives,*  
**ABRAHAM SHEPHERD,**

January 30, 1818.

*Speaker of the Senate.*

## CHAPTER V.

*AN ACT dispensing with proof in certain cases.*

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That upon plea of non est factum offered by the person charged as the obligor or grantor of a deed or plea of non assumpsit or nihil debet offered by the person charged as the maker of any promisory note, it shall not be necessary for the plaintiff to prove the execution of the deed or note upon which such suit is brought, unless the party offering such plea shall make affidavit of the truth thereof; and when any person other than the grantor or obligor of such deed or the maker of such promisory note shall be defendant, the same rule shall be observed as to proof, unless the defendant at the time when either the aforesaid pleas shall be offered, shall make affidavit that he or she believes the deed, on which the action is founded is not the deed of the party charged as the obligor or grantor thereof, or that the promisory note was not subscribed by the party charged as the maker thereof.

**Sec. 2.** *And be it further enacted,* That this act shall take effect and be in force from and after the first day of May next.

**THOMAS KIRKER,**  
*Speaker of the House of Representatives.*  
**ABRAHAM SHEPHERD,**  
*Speaker of the Senate.*

**January 24, 1817.**

## CHAPTER VI.

*AN ACT to provide for the incorporation of towns.*

Two-thirds of the house holders in any town may petition the court of common pleas to be incorporated, -	1	oath, - - -	ib
Proceeding of the court on such petition, -	2	Manner of filling vacancies, - - -	ib
Further proceedings on such petition, -	3	Powers & duty of trustees, -	ib
Petitioners to pay fees, -	ib	Duty of recorder, -	ib
Transcript to be filed in the office of the secretary of state and then recorded, - -	4	Each person to work one day on the streets, -	ib
Fees for recording &c. -	ib	Dogs, hogs and geese may be taxed, -	ib
Preamble to the letters of incorporation, -	5	Tax on real estate regulated, - -	ib
Qualifications of electors, -	ib	An assessor supervisor &c. may be appointed, -	ib
Annual election when holden, - -	ib	Duty of successor, -	ib
What officers to be elect'd. -	ib	A day of appeals to be published, -	ib
Their continuance in office -	ib	Powers and duty of the president, -	ib
Elections how conducted, -	ib	Powers and duty of the town marshal, -	ib
Persons refusing to qualify their place to be filled, -	ib	Fines how recovered and disposed of, -	ib
May hold property, &c. -	ib	Manner of collecting tax off non-residents lots, -	ib
Manner of commencing suits against the corporation, - -	ib	Continued, -	ib
Proceedings thereon, -	ib	Receipts &c. to be published annually, -	ib
May have a seal, -	ib	Duty of the supreme court in case the corporation exceeds their powers, -	6
Town marshal &c. to be appointed and take an		Provision for towns already incorporated, -	7

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That the householders in any town within this state laid out and the plat thereof recorded according to law, and containing within the limits of said plat forty householders or upwards may obtain letters of incorporation in the following manner; a petition

shall be presented to the court of common pleas of the county wherein such town is situate on the first day of the term, setting forth the name and situation of such town, by whom laid out and when recorded, the exact number of householders within the same, and containing also a particular description of the limits and boundaries of said town, whether comprised in one or more plats, which petition shall be subscribed by two-thirds of the householders within said town, and shall pray that the same may be incorporated according to law.

**Sec. 2.** *Be it further enacted,* That the court at the term when such petition is presented shall cause the same to be recorded upon their journals, and shall make an order that the clerk post up a copy of such petition at the court-house door at least thirty days before the next term, and shall moreover cause the sheriff to make proclamation on the first day of the term when such petition is presented, that the householders of the town in the petition named have presented a petition praying that measures may be taken for the incorporation of the same.

**Sec. 3.** *Be it further enacted,* That at the term next after presenting the petition, the court shall proceed to examine the truth of the facts therein stated, and if the same are found to be true, the court shall cause an order to be entered upon their journals specifying that the matters alledged in the petition are satisfactorily proved; and thereupon the clerk shall make out a correct transcript of the petition and of all the orders made thereon, which he shall certify under the seal of the court, and the president of the court shall examine such transcript and certify thereon that the same is correct, which transcript shall be delivered to some one of the petitioners who shall pay the clerk therefor such fees as the court shall direct.

**Sec. 4.** *Be it further enacted,* That the petitioners shall cause such transcript to be filed in the office of secretary of state, and if the secretary shall find the same

duly made out and certified in the manner herein before provided, he shall thereupon grant, under the seal of the state, letters of incorporation to such town, which letters he shall record in a book to be kept in his office for that purpose; and the petitioners shall pay the secretary of state for making out such letters and also for recording the same, such fees as are allowed by law for the recording of deeds, and from the time of recording such letters of incorporation, the town in such letters named shall be considered a corporate town for every intent and purpose in the said letters specified.

*Sec. 5 Be it further enacted,* That the letters of incorporation so to be granted by the secretary of state, except so far as is necessary to set forth the name, limits and boundaries of the town, and the county in which it is situate, and also the name of the secretary of state and the date of such letter, shall be in the words and figures following: Whereas the householders in the town of \_\_\_\_\_ in the county of \_\_\_\_\_

having complied with the provisions of the act of the general assembly entitled an act to provide for the incorporation of towns; and having filed in the office of the secretary of state, the documents required by the above recited act—therefore to all to whom these presents shall come, be it known, that the tract of land described in the following boundaries, beginning at \_\_\_\_\_

and situate in the county of \_\_\_\_\_ is hereby declared a town corporate and shall henceforth be distinguished by the name of \_\_\_\_\_ and shall be subject to and governed by the following rules and regulations, subject to such alterations as the legislature may at any time think proper to make.

*Art. 1.* The white male persons above the age of twenty-one years who have been residents in said town at least twelve months before the day of election, and who in other respects possess the qualifications of electors for members of the general assembly shall meet at such place in said town as they may appoint

on the first Saturday in March annually after the date of these presents, between the hours of ten in the morning and four in the afternoon, and then and there elect a president, recorder and five trustees, who shall either be freeholders or householders in the manner herein after provided, who shall be a body corporate and politic, with perpetual succession, to be known and distinguished by the name of the president, recorder and trustees of the town of \_\_\_\_\_ and who shall hold their respective offices until the next annual election, and until their successors are elected and qualified.

*Art. 2.* At the election in said town two judges and a clerk shall be appointed viva voce by the electors present, the said judges and clerk shall take an oath or affirmation faithfully and impartially to discharge the duties of their office, and shall preside at, and conduct the said election; at all subsequent elections the president and trustees, or any two of them, shall be judges and the recorder clerk. At the close of the poll the ballots shall be counted by the judges and the statement publicly declared, and a fair record thereof made by the clerk, who shall notify the persons elected thereof, within five days after the day of election, and the persons so notified shall take the proper oath or affirmation, to support the constitution of the United States and of this state, and also an oath of office.

*Art. 3.* If any person elected president, recorder or trustee as aforesaid, shall neglect or refuse to qualify by taking the necessary oaths, within the time prescribed, after being duly notified of his election, those of the said president, recorder or trustees, who have been qualified, shall proceed to fill the vacancy occasioned thereby, and the person they may elect shall serve until the next annual election.

*Art. 4.* The president, recorder and trustees and their successors in office shall be capable to acquire, receive, hold and convey any estate, real or personal,

for the use of said town, the clear annual income of which shall not exceed three thousand dollars; and shall be capable in law by the name aforesaid, of suing and being sued, of pleading and being impleaded, answering and being answered unto, in any suit or action, in any court within this state.

*Art. 5.* When any suit shall be commenced against the said corporation the service shall be by a proper officer, leaving an attested copy of the original process with the recorder ten days before the return thereof; and if the said corporation shall fail to enter their appearance upon the return of such process in due form of law, the court from which said process issued may proceed to compel such appearance by writ of distringas according to the forms and usages of law.

*Art. 6.* The president, recorder and trustees shall have one common seal for the use of the corporation, which they may alter at their discretion.

*Art. 7.* The president, recorder and trustees shall appoint a town marshal, a collector and a treasurer, who shall hold their offices for one year. The marshal, collector and treasurer shall take the proper oath of office, and also an oath to support the constitution of the United States and of this state, and shall give bond for the faithful discharge of the duties of their respective offices, in such sum and with such security as the president, recorder and trustees may require.

*Art. 8.* The president, recorder and trustees shall fill all vacancies that may happen in their own body, between the periods of the annual election, and the appointments so made shall continue until the next annual election, and no longer.

*Art. 9.* The president, recorder and trustees, any four of whom the president or recorder being one, shall be a quorum to do business, shall have power and authority to pass and publish all such laws and ordinances as to them shall seem necessary for regulating the streets, alleys and highways and for cleansing, raising,

paving, draining, turnpiking or otherwise keeping the same in repair. They shall also have power to require the owners of in lots in said town to pave or gravel the side walks in front thereof. They shall have power to establish and regulate markets, to establish an assise of bread, to provide for the abatement of nuisances, for the cleansing of chimnies and for the extinguishment of fires within said town. They shall have power to impose reasonable fines upon all persons transgressing the laws, ordinances and regulations which they may adopt, and they shall have power to pass all such laws and ordinances relative to the good government of said town not in contravention of the laws of the United States or this state, as they may deem necessary.

*Art. 10.* The laws, ordinances and regulations made and established by the president, recorder and trustees shall be kept by the recorder who shall record them in a book to be provided for that purpose, and no such law, ordinance or regulation shall take effect or be in force until it shall have been published and made known either by publication in a newspaper or by posting up copies thereof in the most public place in said town for at least ten days.

*Art. 11.* The president, recorder and trustees shall have power to require every able bodied male person above the age of twenty-one years, who may have resided three months in said town to perform annually one days work on the streets or highways, under the direction of a supervisor or such other officer as may be appointed to superintend the improving and preserving the streets and highways. They shall also have power to levy and collect a tax on dogs, hogs and geese owned or kept by the householders or other resident in said town and suffered to run at large therein, and upon all property that is or may be subject to taxation for county purposes; but no tax upon dogs, hogs or geese shall exceed one dollar per head;

no tax upon real estate shall exceed one half of one per cent. upon the value thereof and no tax on personal property shall exceed the amount that may by law be assessed upon the same for county purposes.

*Art. 12.* The president, recorder and trustees may appoint assessors of property, supervisors of streets and alleys, clerk of the market and all such other subordinate officers as they may deem necessary to execute and carry into effect the laws, ordinances and regulations which they may adopt for the good government of the town, all of whom may be removed from their offices by the president, recorder and trustees at pleasure.

*Art. 13.* A time shall be prescribed for the assessor or assessors to return their estimate of taxable property, and a copy of the assessment to the recorder, who shall file the same and publish a day of appeal to be held by the president, recorder and trustees, where all persons who may suppose themselves aggrieved by the assessment shall be heard, and such order shall be taken thereon as may seem fit.

*Art. 14.* The president shall be a conservator of the peace within the limits of the town, and shall have all the powers of a justice of the peace therein, both in civil and criminal cases. He shall keep a docket, upon which he shall minute down his proceedings, and shall be governed in all things appertaining to his duties as a justice of the peace. by the laws defining and regulating the duties of the justices of the peace, he shall be entitled to the same fees as a justice of the peace, and an appeal shall lie from his judgment to the court of common pleas of the county of . and upon such appeal bond shall be given, and the like proceedings had as may at any time be required by law, upon appeals from the judgment of a justice of the peace.

*Art. 15.* The marshal shall serve all process issued by the president, and in execution of process the

marshal shall have the same power, shall be governed by the same regulations and shall be entitled to demand the same fees as may by law be provided for and allowed to constables in like cases.

*Art. 16.* All fines incurred for transgressing any of the laws, ordinances or regulations of the president, recorder and trustees, shall be recovered by action of debt prosecuted at the suit of the treasurer, before the president and applied in aid of the taxes of the town, and in all cases where the president shall render judgment, an appeal shall lie to the court of common pleas as in other cases.

*Art. 17.* Where the owners of unimproved lots do not reside within the limits of the town, and the tax assessed upon such unimproved lot is not paid within the time prescribed by the ordinances or bye-laws assessing the tax, a penalty of one hundred per cent. upon the amount of each years tax shall be incurred, and the corporation shall have a lien upon such lot for the tax and penalties that may be due thereon, and the owner and any subsequent purchaser of such lot shall be liable for the amount thereof, but when the tax and penalties due amount to one half the valuation of such lot, the president, recorder and trustees may direct the collector to make sale of the same, to raise the tax and penalties so due thereon, and the collector shall convey the same to the purchaser in fee simple, but no sale shall take place until the time and place of sale, the number of the lot and the amount due thereon shall be advertised for at least six weeks in some public newspaper printed in said town or county, and if there be no newspaper therein, then in the first nearest newspaper.

*Art. 18.* No lot shall be sold for a less sum than the tax and penalty due thereon with the expenses of sale, and where a lot shall sell for a greater sum than the tax and penalty due, the overplus shall be paid into the treasury of the corporation for the use and benefit

of the owner of such lot, and to be paid to him or her upon application, by order or otherwise. No sale of any lot for taxes and penalties shall prejudice the rights of infants, persons in captivity, feme coverts, idiots or lunatics, provided they pay into the treasury of the corporation the whole amount of tax and penalties within one year after their disability is removed, together with the tax collected after the sale and the interest thereon, which shall be returned to the person or persons who paid the same.

**Art. 19.** An account of the receipts and expenditures of the incorporation shall be annually published by the Recorder for the information of the citizens.

In testimony whereof and in conformity to law, I  
secretary of state have caused these  
letters to be made patent and have hereto set my hand  
and affixed the seal of the state at Columbus this  
day of                      anno domini.

Sec. 6. *Be it further enacted,* That if the president, recorder and trustees of any town incorporated under this act, shall take upon themselves to exercise any power or authority not warranted by their letters of incorporation, or to use their funds for any purpose not herein allowed, the supreme court shall have power and jurisdiction to stay all such proceedings of the said president, recorder and trustees by writ of injunction or prohibition in such case and in such manner as may be conformable to the forms and usages of law.

**Sec. 7. And be it further enacted, That all towns now incorporated by law, may obtain letters of incorporation under the provisions of this act, and from the time of obtaining such letters the original act of incorporation of such town shall be taken and deemed to be**

of no force or effect so far as may respect the subsequent proceedings of said town.

**THOMAS KIRKER,**  
*Speaker of the House of Representatives.*  
**ABRAHAM SHEPHERD,**  
*Speaker of the Senate.*

January 7, 1817.

## CHAPTER VII.

***AN ACT*** defining the duties of persons taking up estray animals, and securing to the owners boats and other water crafts found going adrift.

Landholders may take up		{	claimed, - - -	5
estrays, - - -	1	{	Proviso, - - -	ib
Duty of persons taking up		{	Offences how punished,	6
estrays, - - -	2	{	Boats may be taken up,	7
Duty of justices, - -	ib	{	Proviso, - - -	ib
Clerk's duty, - -	ib	{	When owner proves prop-	
erty, - - -		{	erty, - - -	8
Taker up to deposit fees		{	When appraisement does	
with justice, - -	ib	{	not exceed 10 dollars,	9
Proviso, - - -	ib	{	When over ten dollars,	ib
Taker up not a landholder		{	Neglect how punished,	10
how to proceed, - -	3	{	Township treasurer to pay	
When original owner		{	over monies, - -	11
proves property, - -	4	{	Proviso - - -	ib
When owner and taker up		{	Repealing clause - -	12
disagree, - -	ib	{		
When estrays are not		{		

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That it shall be lawful for any person holding land in this state, by deed, title, bond or lease, for one or more years, and being in possession thereof to take up any estrays running at large, within the township where such taker up resides: *Provided,* That no person shall be allowed to take up any neat cattle

or hogs after the first day of April, and before the first day of November, annually.

Sec 2. *Be it further enacted,* That every person taking up any estray or estrays, shall advertise the same in writing, within five days, at three public places, within the township where the taker up resides, giving an accurate description of the marks, brands, color, size and supposed age of such estray or estrays; and if no person shall claim and prove his or her right to such estray or estrays, within twenty days after such advertisement, the taker up shall go before a justice of the peace within the township, and make oath where he found such estray or estrays, and that he hath neither trimmed, docked nor altered the brands or marks of such estray or estrays, or suffered the same to be done, whilst such estray was under his care; and the said justice shall issue an order to two respectable freeholders, or householders to be named in such order, commanding them forthwith to view and appraise such estray or estrays, and to return to him, upon oath or affirmation, their appraisement, with a true and accurate description of the marks, brands, size, color and supposed age of such estray, and the taker up shall give notice of such order to the parties therein named; and upon the return being made of the appraisement and description as aforesaid, such justice shall record the same in a book to be by him provided for that purpose, together with the names of the taker up and appraisers, and transmit such appraisement, within fifteen days, to the clerk of the court of common pleas of the county, who shall record the same in his estray book, and file the original in his office; and in all cases where the estray shall be a horse, mare or gelding, it shall be the duty of such justice, within twenty days after he shall have received such return from the freeholders or householders as aforesaid, to transmit a certified copy thereof, by post or otherwise, to some printer within the state, with a request to such printer to insert the same in his newspa-

for three weeks successively; and the taker up of such estray shall deposit with such justice the sum of one dollar, to be paid by the justice to the printer who may publish the same and also, the sum of twenty-five cents for the expense of conveying the copy aforesaid to the printer; and in all cases, the taker up of any estray as aforesaid shall pay to the justice, for his services under this act, the sum of fifty cents, and also deposit with him the sum of twenty-five cents, to be transmitted by such justice to the clerk of the court of common pleas, with the appraisement aforesaid, for his services under this act: *Provided*, That if two or more estrays of the same species shall be taken up by one person at the same time, they shall be included in the same entry, and in such case the justice and clerk aforesaid shall receive no more than for one of such species; and the clerk shall cause a list of all estrays, with the descriptions thereof given as aforesaid, to be affixed at the door of the court house on the first day of the court next holden after such returns have been made to his office.

**Sec. 3.** *Be it further enacted*, That it shall be lawful for any person to take up any estray found running at large, without any settlement of this state; and the taker up of any such estrays, shall forthwith go before the nearest justice of the peace, and make oath where he found such estray, and that he hath neither trimmed, docked nor altered the brands or marks thereof; and if the taker up be a freeholder or householder within the county where such justice resides, then the justice and the taker up shall be governed by the rules and regulations prescribed in the preceding section of this act; but if it shall appear to the satisfaction of such justice, that the taker up is not a resident of the county, and a freeholder or householder as aforesaid, he shall rule the taker up to give sufficient security to such justice, for the safe keeping and delivery of such estray, agreeably to the provisions of this act, and on producing

such security, the justice shall make a record thereof in his estray book, and proceed in the same manner as if such estray had been taken up by a freeholder or householder ; but if the taker up should fail or refuse to give such security, the justice shall issue his warrant to any constable of the township, to take into his charge, or deliver to any freeholder or householder who will take charge of such estrays, and proceed in the same manner as if such estray or estrays had been taken up within the settlement.

**Sec. 4.** *Be it further enacted,* That the owner or owners of any estray or estrays, taken up as aforesaid, on making satisfactory proof of his or their right thereto, before any justice of the township within one year after such taking up, shall be entitled to demand and receive such estray or estrays, with the increase, if any, having first paid as a reward to the taker up, for each horse kind, the sum of one and a half dollars ; for every head of neat cattle, fifty cents ; for every sheep, hog or goat, above six months old, twelve and a half cents, together with the legal fees paid by the taker up, and reasonable charges for keeping such estrays ; but if the taker up and the owner should disagree on the sum to be paid for keeping as aforesaid, it shall be lawful for either party to apply to a justice of the peace, within the township, to nominate three disinterested householders, whose duty it shall be to make such allowance for keeping such estrays, as to them shall appear just, and forthwith to certify the same, under their hands to such justice, upon oath or affirmation, and if the owner shall fail or refuse to pay the sum so adjudged, together with the fees and reward aforesaid, within forty days thereafter, it shall be lawful for the taker up to deliver such estray or estrays to any constable of the township, who shall, after giving ten days notice, by advertisement at three of the most public places within the township, of the time and place of sale, proceed to sell the same, for ready money, to the highest bidder, to satisfy the costs

and charges aforesaid ; and the constable, after paying to the taker up the fees, reward and charges aforesaid, and deducting one dollar for his own fee, shall pay the remainder to the owner of such estrays.

Sec. 5. *Be it further enacted*, That when the appraised value of any estray or estrays taken up as aforesaid, does not exceed five dollars, and no person shall appear within one year after such taking up, and prove his right thereto, the right of such estray or estrays shall be vested in the taker up ; but if the valuation shall exceed five dollars, and no owner appear as aforesaid, within one year, the taker up shall apply to the justice to whom the return was made of the appraisement, marks, brands, size, color and supposed age of such estray or estrays, for a copy of such return, which said justice is hereby required to give from his estray book, which copy the taker up shall forthwith deliver to a constable of the township ; and the constable shall immediately advertise such estray or estrays for sale, at three public places in the township, mentioning the time and place of sale, which shall be ten days from the time of advertising, and which sale shall be between the hours of ten o'clock A. M. and four o'clock P. M. at which time and place the taker up shall deliver such estray or estrays to the constable, and take his receipt therefor, and transmit the same to the township treasurer ; and the constable shall proceed to sell the same to the highest bidder, upon a credit of nine months, to be given to the purchaser for the amount of what such property sells for more than will pay the expense of taking up, posting and keeping, which expense shall be ascertained in the manner directed by the fourth section of this act, and also reserving for his fee, the sum of one dollar ; and it shall be the duty of said constable, after paying the above expenses and fees, to take an obligation from the purchaser for the balance due, with one or more sufficient securities, resident within the township, payable to the township treasurer or his successor in of-

find, and deliver the same to the said treasurer, for the use of the township in which the estray is taken up; and each treasurer, to whom bond is given as aforesaid, is hereby authorised and empowered to sue for, recover and receive for the purposes aforesaid, all monies due thereon: *Provided always*, That when any property is sold as aforesaid, and the owner shall claim the same within three years, and prove his, her or their right thereto, to the satisfaction of a justice of the peace of the proper township, the justice shall issue his order to the treasurer, requiring him to sign over the obligation to such claimant for his use, or pay over the money, if paid into the treasury, on such bond, and the treasurer shall pay over the same accordingly.

**Sec. 6.** *Be it further enacted*, That if any person taking up any estray as aforesaid, shall sell the same, abuse or suffer it to be abused, either by working, riding, neglecting to feed, or in any other manner, so that such estray shall in consequence thereof die or be lessened in value, either take or cause such estray to be taken out of the township more than two days at any one time, or shall, by his or her neglect, suffer such estray to escape; and any person who may knowingly purchase any estray or estrays, contrary to the provisions of this act, the person so offending shall be liable to the action of the party injured, and upon conviction thereof, shall pay the full amount of damages sustained, and the costs of suit. If any person, who may have taken up any horse, mare or gelding, shall in any manner work or use the same, such person shall be debarred from receiving any compensation for keeping such estray.

**Sec. 7.** *Be it further enacted*, That it shall be lawful for any person finding any boat or other water craft gone or going adrift within this state, or any of the waters adjoining thereto, to take up and secure such boat or craft, and if no person shall claim and prove

his right to such boat or craft within thirty days thereafter, the taker up shall cause such boat or craft to be viewed by two freeholders of the township, who shall, after viewing the same, give a description thereof in writing, together with the value of such boat or craft, and certify the same under their hands, which certificate the taker up shall deliver within five days to some justice of the peace within the township, who shall make a record thereof in his estray book, and the taker up shall, at the same time, pay to the justice the sum of twenty-five cents for his service, and deposit the sum of twenty-five cents in the hands of said justice, to be by him transmitted, together with the certificates aforesaid, within fifteen days, to the clerk of the court of common pleas, and the clerk shall enter the same in his estray book and file the original in his office: *Provided always*, That if the taker up is not a freeholder or householder within the county, the justice may, if he shall deem it necessary, rule him to give security, as in the case of estray animals taken up under this act; and on neglect or refusal to comply with such rule, the justice may take such boat or craft into his own possession, or deliver it to any freeholder of the township who will take charge thereof, and in either case the justice or person taking charge thereof shall pay to the taker up the reward allowed by this act, and proceed in the same manner as is required of the person taking up such craft.

**Sec. 8.** *Be it further enacted*, That the owner of such boat or craft, on proving his right thereto, within the time hereinafter limited, and paying to the taker up for each perogue, flat or keel boat, the sum of two dollars; for each Kentucky or Orleans boat, the sum of five dollars, and for each skiff or canoe, the sum of seventy-five cents, together with the fees allowed by this act, shall be entitled to demand and receive such boat or craft taken up as aforesaid.

**Sec. 9.** *Be it further enacted,* That if the 'appraised value of such boat or craft does not exceed ten dollars, and no person shall appear within two months after the taking up thereof, and prove his right thereto, the right of such boat or craft shall be vested in the person taking up the same; but if the value shall exceed ten dollars, and the owner does not appear and prove his right thereto within two months, then the taker up shall deliver the same to any constable of the township, and take his receipt therefor, and the constable shall proceed to advertise, sell and pay over the money arising therefrom, in the same manner as is directed in the case of estray animals by the fifth section of this act; and the owner of such boat or craft sold as aforesaid, shall be entitled to receive the amount thereof out of the township treasury, in the same manner as is provided by the said section in the case of estray animals.

**Sec. 10.** *Be it further enacted,* That if any person shall neglect to perform the duties required by this act, or shall do any thing contrary thereto, such person shall forfeit and pay a sum not exceeding one hundred dollars, nor less than one dollar, to be recovered by action of debt before any court having cognizance thereof. It is hereby made the duty of each township treasurer to sue for, collect and pay over all monies arising by virtue of any forfeiture incurred by this act, for the use of the township, and shall moreover be liable to the action of the party injured.

**Sec. 11.** *Be it further enacted,* That the several township treasurers shall pay over all monies in their hands belonging to the treasury, and also deliver all books, and all bonds deposited in their hands, to their successors in office: *Provided.* That in all cases where estrays have been heretofore sold in any of the townships, and the money paid into the township treasury, such money shall be forfeited for the use of the township, in case the same has been paid into the treasury,

two years previous to the taking effect of this act; and the several treasurers are hereby directed to pay all such monies on the orders of the trustees of their proper townships, any law to the contrary notwithstanding.

*Sec. 12. And be it further enacted,* That the act, entitled "An act defining the duties of persons taking up estray animals, and securing to the owners, boats and other water crafts found going adrift," passed the nineteenth day of February, Anno Domini, one thousand eight hundred and five, and the act, entitled "An act to amend an act, entitled An act defining the duties of persons taking up estray animals and securing to the owners, boats and other water crafts found going adrift," passed January the twenty-fourth, Anno Domini, one thousand eight hundred and seven, be, and the same are hereby repealed.

This act shall take effect and be in force from and after the first day of June next.

**EDWARD TIFFIN,**  
*Speaker of the house of Representatives.*  
**DUNCAN M'ARTHUR,**  
*Speaker of the senate.*

January 22, 1810.

## CHAPTER VIII.

***AN ACT*** supplementary to the act defining the duties of persons taking up estray animals.

Township treasurer to furnish justices with a book for estrays,	1	{	ing out of office,	-	ib
Duty of justice when go-			Provision in case of new townships being set off,	2	

*Sec. 1. Be it enacted by the general assembly of the state of Ohio,* That from and after the passage of this act, it shall be the duty of the township treasurer in

each township within this state to furnish each justice of the peace within the same, at the expense of the township, with a book of sufficient size for the purpose of recording all estrays, the appraisement of which shall be returned to his office, and should the office of such justice become vacant by his term of service expiring, resignation or otherwise, he or his legal representative shall deliver the said book to the clerk of his township and it shall be the duty of such clerk to deliver over such book to the person who shall succeed said justice in office; whose duty it shall be to furnish a copy of such appraisement, in the same manner as if he had been in office at the time the return of such appraisement was made.

Sec. 2. *And be it further enacted,* That when any new township shall be set off within the bounds of which there shall be an estray or estrays, which agreeably to the act to which this is a supplement, ought to be sold, it shall be the duty of the justice to whom the return of the appraisement of such estray or estrays was made, or his successor in office to furnish a copy of such appraisement to the constable whose duty it would have been to sell such estray or estrays had not such new township been so set off, and the constable being furnished with such copy shall proceed to advertise and sell such estray or estrays agreeably to the provisions of the above recited act, and the proceeds of such sale after paying the incidental expenses, shall be paid into the treasury of the township, so set off for the use of such township, subject nevertheless to the provisions of the eleventh section of the act to which this is a supplement

**THOMAS KIRKER,**

*Speaker of the house of representatives.*

**ABRAHAM SHEPHERD,**

*Speaker of the Senate.*

**January 28, 1817.**

## CHAPTER IX.

*AN ACT pointing out the mode of trying criminals.*

Sheriff to call a court at the request of a prisoner in 3 days, -	1	the first term, -	11
Power and duty of examining court, -	2	Prisoners to be tried at their request or let to bail, -	12
Continued, -	3	A prisoner not tried at the second term to be set at liberty, -	13
Judges to send recognizance to clerk, -	4	Court to assign counsel to prisoners in certain cases	14
Prisoners in capital cases may elect to be tried by common pleas, -	5	Proceeding on indictment for treason, -	15
Clerk of common pleas to certify up proceedings to supreme court, -	6	Proceedings when a prisoner refuses to answer on being arraigned and called upon to plead, -	16
Prisoner may challenge 23 jurors, -	7	Criminal cases to be tried in the county where offence committed except in certain cases, -	17
Prisoner to be furnished with a copy of indictment and panel, -	8	Proceeding when venire is changed, -	18
Prosecuting attorney may challenge jurors, -	9	Continued, -	19
Manner of empanelling a jury, -	10	Continued, -	20
Prisoners to be tried at			

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That when any person shall have been committed to jail for an offence and wishes to be liberated, at his or her instance the sheriff shall forthwith give the associate judges, the clerk and prosecuting attorney (if such prosecuting attorney resides within the county) at least three days notice of the time of holding the examining court, unless the judges, prosecuting attorney and clerk shall agree to attend such court on shorter notice; and the judges having met and heard the witnesses, shall determine whether the prisoner ought to be discharged, admitted to bail, or remanded to jail if the offence be not bailable; and the

said examining court shall have power to adjourn from day to day for the trial of such prisoner.

**Sec. 2.** *Be it further enacted,* That if the judges upon examination find the prisoner guilty of a bailable offence, they shall recognize him or her with such security as may be deemed sufficient to appear at the next court of common pleas and in case the prisoner fails to give security, he or she shall be remanded to jail, and in all cases where the prisoner is found guilty, it shall be the duty of the judges to recognize the witnesses on the part of the state, to appear at the next court of common pleas, on the first day of the court, to testify against the prisoner.

**Sec. 3.** *Be it further enacted,* That the examining court, provided the prisoner fails to give security, shall instruct their clerk to enter in the proceedings in what sum and with what number of securities he or she shall be recognised; and it shall be competent for any judge of the supreme court or court of common pleas, at any time thereafter, to liberate such prisoner upon his or her giving such security as was required by the examining court.

**Sec. 4.** *Be it further enacted,* That when a judge shall have recognised a prisoner under the provisions of the third section of this act, he shall forthwith transmit to the clerk of the court of common pleas the recognisance so taken, and also issue a warrant directed to the jailor requiring him to liberate the prisoner so recognised.

**Sec. 5.** *Be it further enacted,* That when a person charged with the commission of an offence, the punishment of which is death, has heard the indictment read, he or she shall be at liberty to declare whether he or she elect to be tried in the court of common pleas, and if the prisoner prefers being tried in the court of common pleas, it shall be the duty of the clerk thereof, at the instance of the prosecuting attorney, to make out a venire facias, directed to the sheriff, commanding him

to summon thirty-six good and lawful men of the county, having the qualifications of electors, being householders, to appear forthwith before said court, which court is hereby required to hear and adjudicate on such indictment according to law.

Sec. 6. *Be it further enacted*, That when a person indicted for an offence, the punishment of which is death, does not elect to be tried in the court of common pleas, the clerk thereof shall truly record the indictment, and forthwith make out a certified transcript of the same with the proceedings of the court on such indictment, under the seal of his office, and deposit such transcript with the original indictment in the office of the clerk of the supreme court, which clerk shall record the same, and the supreme court shall proceed to trial and judgment in the same manner as if such indictment had been found therein, and the clerk of the supreme court, at the instance of the prosecuting attorney, shall make out a venire facias, directed to the sheriff, commanding him to summon, at least three days before the sitting of the supreme court, (if so many days intervene) thirty-six good and lawful men of the county, having qualifications of electors, being householders, to appear before the said court on the first day of the term, and said sheriff shall return a panel of their names.

Sec. 7. *Be it further enacted*, That every person indicted for an offence, the punishment of which is death, and who has pleaded not guilty, shall be admitted peremptorily to challenge twenty three of the jury and no more.

Sec. 8. *Be it further enacted*, That a copy of the indictment and a copy of the panel of the jury, returned by the sheriff, shall be delivered to every person who may be indicted for an offence, the punishment of which is death, at least twelve hours before the commencement of the trial.

**Sec. 9.** *Be it further enacted,* That each prosecuting attorney and person indicted shall have the liberty of challenging for cause, the validity of which the court shall try.

**Sec. 10.** *Be it further enacted,* That the juror summoned as is herein before provided, or such of them as appear and be not challenged, together with so many other good and lawful men of the by-standers, having the qualifications as aforesaid, as will make up the number of twelve, or if the whole array be challenged, twelve of such by-standers, having the qualifications aforesaid, as may not be challenged, shall be a lawful jury for the trial of a prisoner.

**Sec. 11.** *Be it further enacted,* That a person indicted for a capital offence and who elects to be tried in the court of common pleas, shall be tried at that term of the court at which such election is made, and at the first term of the supreme court, after such person may decline being tried in the court of common pleas, unless the court should discover good reason for postponing the trial until the next term.

**Sec. 12.** *Be it further enacted,* That when any prisoner, committed for any offence, the punishment whereof is capital, shall apply to the court the first day of the term, by petition or motion, and shall desire to be brought to his or her trial before the end of the term, and shall not be indicted in that term, unless it appear by affidavit that the witnesses against him or her cannot be produced in time, the court shall set him or her at liberty upon his or her giving bail in such sum as they shall think reasonable to appear before them at a day to be appointed of the succeeding term.

**Sec. 13.** *Be it further enacted,* That every person charged with a crime, who shall not be indicted before or at the second term after he or she shall have been committed or let to bail, unless the attendance of the witnesses against him or her appeared to have been prevented by such prisoner, shall be discharged from

his or her recognisance or imprisonment, if he or she be detained for that cause only, and if he or she be not tried at or before the third term after his or her examination before the judges or arrest, he or she shall be discharged.

Sec. 14. *Be it further enacted*, That the court before whom any person shall be tried upon indictment is hereby authorised and required to assign to such person, if not of ability to procure counsel, such counsel not exceeding two, as he or she shall desire, to whom such counsel shall have free access at all reasonable hours.

Sec. 15. *Be it further enacted*, That no evidence shall be admitted or given against any person of an overt act of treason, that is not expressly laid in the indictment.

Sec. 16. *Be it further enacted*, That if any person be indicted for any offence whatever against this state, and shall on being arraigned or called to answer to the matter charged in such indictment, stand mute, a jury shall forthwith be empannelled to try and say whether the person so standing mute, stands mute obstinately and on purpose, or by the providence and act of God; and if they retain their verdict that such person stands mute by the providence and act of God, the court shall cause him or her to be remanded to prison, and shall not proceed against him or her until he or she shall have recovered therefrom; but if the jury return their verdict that the person so standing mute stands mute obstinately and on purpose, then the court shall cause to be entered upon the indictment against such person the plea of not guilty, and also shall cause the like plea of not guilty, to be entered when any person indicted as aforesaid shall refuse to plead or answer to such indictment; and in all such cases shall proceed upon his or her trial in like manner and in all respects as if he or she had voluntarily pleaded the same plea thereto, except that such person so standing mute obstinately

and on purpose, or refusing to plead or answer as aforesaid, shall not be admitted to make any challenge to the jurors.

**Sec. 17.** *Be it further enacted,* That all criminal cases shall be tried in the county where the offence was committed, unless it shall appear to the court that a fair and an impartial trial cannot be had, in which case the supreme court may direct the criminal to be tried in an adjoining county.

**Sec. 18.** *Be it further enacted,* That when the venire is changed to an adjoining county, the clerk of the supreme court thereof after having received the original indictment and a certified transcript of the proceedings thereon, shall issue a venire facias in the same manner as is contemplated by the sixth section of this act; and the trial shall be conducted in all respects as if the offender had been indicted in the county to which the venire is changed: *Provided always,* That the costs accruing from a removal of the venire shall be paid by the county in which the offence was committed.

**Sec. 19.** *Be it further enacted,* That when a court has ordered a change of venire they shall issue a warrant directed to the sheriff commanding him safely to convey the prisoner to the jail of the county where he or she is to be tried, which jailor is hereby required to receive and commit to jail the prisoner so transferred.

**Sec. 20.** *And be it further enacted,* That when a change of venire is allowed, the court shall recognise the witnesses on the part of the state to appear before the next court to be holden in the county in which the prisoner is to be tried.

This act shall take effect and be in force from and after the first day of June next: *Provided,* That all persons guilty of offences committed before the taking effect of this act shall be tried according to the laws in

force at the time such offence or offences was or were committed.

**MATTHIAS CORWIN,**  
*Speaker of the House of Representatives.*  
**PETER HITCHCOCK,**

*Speaker of the Senate.*

February 26, 1816.

## CHAPTER X.

**AN ACT** supplementary to the act, entitled "*An act pointing out the mode of trying criminals.*"

Any judge may let persons confined to bail in certain cases,	1	Proceedings when the venue is changed,	ib
How to proceed thereon,	ib	Duty of the supreme court in pronouncing sentence in certain cases,	4
The judge to return the recognisance by him taken, &c.	2	Witnesses fees in criminal cases,	5
Duty of the clerk of the supreme court to issue venire facias in certain cases,	3	Witnesses fees how paid;	ib
Duty of supreme court to empanel grand jury,	ib	Sheriff to pay the traverse jury in criminal cases,	6
		Grand jurors fees and how paid,	7
		Repealing clause,	8

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That when any person shall be confined in any jail within this state charged with the commission of any bailable offence, whether he or she be committed by warrant under the hand and seal of any judge or justice of the peace, or whether he or she be committed by the sheriff or coroner by virtue of a capias upon indictment found, it shall be lawful for any judge of the supreme court, president of the court of common pleas within his proper circuit, or associate judge within his proper county to admit such person to bail upon sufficient security in such sum as the judge may consider

sufficient to ensure the appearance of the accused at the proper court to answer the offence wherewith he or she may be charged, and for the purpose of taking such surety any judge by special warrant under his hand and seal, may require the sheriff or jailor to bring such accused person before him at the court house of the proper county, at such time as in said warrant the judge may direct.

*Sec. 2. Be it further enacted,* That when any judge shall admit any accused person to bail under the first section of this act, he shall return the recognisance by him taken to the clerk of the court of common pleas of the county wherein such accused person may be committed for trial and recognised to appear, and shall issue his warrant to the sheriff or jailor, commanding him to discharge such accused person out of custody which warrant it shall be the duty of the sheriff or jailor to obey.

*Sec. 3. Be it further enacted,* That in all cases where a person is or shall be committed to the prison of any county within this state charged with an offence the punishment of which is death, and the supreme court should commence its session in said county prior to the court of common pleas after such commitment, it shall be the duty of the clerk of the supreme court for such county to issue a writ of venire facias to the sheriff, commanding him to summon sixteen persons having the qualifications of grand jurors to attend the supreme court as a grand jury; and the supreme court shall cause such jurors to be empannelled and sworn as a grand jury; and the same proceedings shall be had against such prisoner as are usually had before courts for the indictment and trial of persons accused of crimes, and in all cases when the venue shall be changed for the trial of a criminal prosecution, the original indictment and transcript of the proceedings shall be sent to the clerk of the court in which the trial is to be had and if the same be sent to the clerk of a court of common pleas,

such clerk shall proceed thereon as if the indictment had been originally found in that court.

**Sec. 4. *Be it further enacted,*** That in all cases where any person or persons indicted either in the supreme court or court of common pleas for an offence, the punishment of which is death shall be tried in the supreme court and found guilty of a lesser offence, the punishment of which is not death, the supreme court shall nevertheless proceed to pronounce against such convict the sentence affixed by law to the offence whereof he or she may be found guilty; any thing contained in the fourth section of the act, entitled "an act to organise the judicial courts and regulate their practice" to the contrary notwithstanding.

**Sec. 5. *Be it further enacted,*** That witnesses summoned by order of the prosecuting attorney or defendant, and attending on courts in criminal cases, shall be allowed the following fees, viz: those residing out of the county where the trial is to be had, the sum of one dollar per day for each day he or she shall actually attend the court under such summons, and one dollar for each twenty five miles travelling to and from said court and those residing within such county the sum of fifty cents per day for each days actual attendance under a summon as aforesaid to be paid out of the county treasury where the trial is had, upon the order of the commissioners of such county, and where a defendant is convicted of an offence, not punishable with death or confinement in the penitentiary, such costs shall be charged against the defendant in the bill of costs and collected and paid into the county treasury, and in all cases when any person is convicted of an offence punishable with death or confinement in the penitentiary, the costs of all the witnesses shall be charged in the bill of costs and paid in the same manner and from the same fund as other costs are paid in like cases.

**Sec. 6. *Be it further enacted,*** That in all cases where an issue upon an indictment is tried by a jury,

the sheriff shall pay the jury, whether the defendant be convicted or acquitted; and the commissioners of the county shall refund the amount so paid to the sheriff upon the certificate of the clerk.

Sec 7. *Be it further enacted*, That grand jurors shall be allowed one dollar and fifty cents per day for every day of their attendance upon the duty of grand jurors, to be allowed by the commissioners upon the order of the court.

Sec. 8. *And be it farther enacted*, That all acts and parts of acts coming within the provisions of this act, be, and the same are hereby repealed.

THOMAS KIRKER,  
*Speaker of the House of Representatives.*  
 ABRAHAM SHEPHERD,  
*Speaker of the Senate.*

January 28, 1817.

---

## CHAPTER XI.

*AN ACT to amend the act providing for the incorporation of towns.*

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That the secretary of state be, and he is hereby authorised and required to procure a seal for his office, which shall be used by him in issuing letters patent for the incorporation of towns instead of the great seal of the state of Ohio, as required by the act to which this is an amendment, any thing in said act to the contrary notwithstanding.

THOMAS KIRKER,  
*Speaker of the House of Representatives.*  
 ABRAHAM SHEPHERD,  
*Speaker of the Senate.*

January 28, 1817.

## CHAPTER XII.

*AN ACT for the prevention of certain immoral practices.*

Sabbath breaking how punished, - - -	1	{ Exhibiting puppet shows punished by fine, - -	7
Selling spiritous liquors on the Sabbath day, how punished, - - -	2	{ Duty of justices of the peace, - - -	8
Interrupting religious societies how punished, - - -	3	{ Fines to be paid into the township treasury in 20 days, - - -	9
Persons swearing how punished, - - -	4	{ Officers neglecting to pay over fines how punished -	ib
Creating disturbances at elections, &c. how punished, - - -	5	{ To be prosecuted in ten days, - - -	10
Bullet playing how punished, - - -	6	{ Repealing clause, - -	11

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That if any person of fourteen years of age or upwards, shall be found on the first day of the week, commonly called Sunday, sporting, rioting, quarreling, hunting, fishing, shooting or at common labor, (works of necessity and charity only excepted) any person or persons so offending shall be fined in a sum not exceeding five dollars, nor less than one dollar : *Provided,* nothing herein contained shall be construed to extend to those who conscientiously do observe the seventh day of the week as the Sabbath, nor to prevent families emigrating from travelling; watermen from landing their passengers; superintendants or keepers of toll bridges from attending and superintending the same, or ferrymen from conveying over the waters, travellers or persons removing with their families on such days.

**Sec. 2.** *Be it further enacted,* That if any tavern-keeper or other person shall sell or barter any spiritous liquors on the first day of the week, commonly called

Sunday, (except to travellers on a journey) such tavern-keeper or other person so offending, shall be fined in a sum not exceeding five dollars.

Sec 3. *Be it further enacted*, That if any person shall at any time interrupt, molest or disturb any religious society, or any member thereof, when meeting or met together for the purpose of worship, or of performing any other duties enjoined on or appertaining to them, as members of such society, the person or persons so offending may be arrested and detained in custody, not exceeding six hours at any one time, and shall be fined in a sum not exceeding twenty dollars.

Sec. 4. *Be it further enacted*, That if any person of the age of fourteen years or upwards, shall profanely curse or damn, or profanely swear by the name of God, Jesus Christ or the Holy Ghost, each and every person so offending, shall be fined in a sum not exceeding one dollar, nor less than twenty-five cents for every such offence.

Sec. 5. *Be it further enacted*, That if any person or persons shall be found making or exciting any contention or disturbance at any tavern, court, election or other meeting of the citizens for the purpose of transacting or doing any business appertaining to or enjoined on them, the person or persons so offending, shall be fined in a sum not exceeding five dollars, nor less than fifty cents each, and if necessary, imprisoned until such meeting shall be ready to disperse: *Provided*, The time for which such person or persons may be confined shall not exceed six hours.

Sec. 6. *Be it further enacted*, That if any person or persons shall play bullets along or across any street, in any town or village within this state, or if any person or persons shall run any horse or horses within the limits of any such town or village, every person or persons so offending, shall be fined in a sum not exceeding five dollars nor less than fifty cents.

Sec. 7. *Be it further enacted*, That if any person or persons shall exhibit any puppet show, wire dancing

or tumbling within this state, and shall ask or receive any money or other property for exhibiting the same, every such person so offending, shall forfeit and pay for every such offence the sum of ten dollars, the one half for the benefit of the informer, and the other half for the use of the township in which such offence was committed.

*Sec. 8. Be it further enacted,* That every justice of the peace within his proper township, be and he here-by is empowered, authorised and required to proceed against and punish every person offending against the provisions of this act, upon view or hearing, may, or on information given on oath or affirmation, shall if need be, issue his warrant to bring the body of the accused before him, and shall, in a summary way, inquire into the truth of the accusation, and if guilty, shall enforce the penalty by this act annexed to the offence.

*Sec. 9. Be it further enacted,* That all fines collected under the provisions of this act, shall be paid into the township treasury, for the use of the township in which the offence shall have been committed within twenty days after collected; and if any officer fail to pay over such fines by him collected agreeably to the provisions of the foregoing act, such officer shall for every such neglect, forfeit and pay into the township treasury, double the amount of fines by him collected, to be recovered in a summary way, before any justice of the peace having cognizance of the same, at the suit of the township treasurer.

*Sec. 10. Be it further enacted,* That all prosecutions under the provisions of this act shall be commenced within ten days after the offence was committed.

*Sec. 11. And be it further enacted,* That an act, entitled "An act for the prevention of certain immoral practices," passed February ninth, eighteen hundred and nine, and an act entitled "An act to amend the act, entitled An act for the prevention of certain immoral-

al practices," passed February eighth, eighteen hundred and fifteen, be and the same are hereby repealed: *Provided*, That nothing in this section contained shall be so construed as to repeal the said recited acts, so far as relates to offences committed before the taking effect of this act.

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

**MATTHIAS CORWIN,**

*Speaker of the House of Representatives.*

**PETER HITCHCOCK,**

*Speaker of the Senate.*

January 3, 1816.

## CHAPTER XIII.

*AN ACT establishing the salaries of certain officers therein named.*

Salaries of officers,	-	1	Treasurer 700 dollars,	ib
Governor 1200 dollars,	ib		Members of assembly 3	
Secretary of state 800 dol-			dollars per day,	2
lars,	-	ib	Officers of assembly,	3
Supreme judges each 1200			Associate judges three	
dollars,	-	ib	dollars per day,	4
President judges each 1000			Prosecuting attornies,	5
dollars,	-	ib	Repealing clause,	6
Auditor 1200 dollars,	ib			

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That the several officers herein after mentioned, shall be entitled to receive for their respective services, the following sums annually (excepting such as are herein otherwise provided for) to commence from their several appointments and actually qualifying themselves according to law: To the governor the sum of twelve hundred dollars; to the secretary of state eight hundred dollars; to the judges of

the supreme court each, twelve hundred dollars; to the presidents of the courts of common pleas each, one thousand dollars; to the auditor of public accounts, twelve hundred dollars; to the state treasurer seven hundred dollars, to be paid quarterly, to wit: March the thirty-first, June the thirtieth, September the thirtieth, and December the thirty first.

**Sec. 2.** *Be it further enacted,* That each and every member of the senate and house of representatives shall be entitled to receive, for each and every day's attendance on the business of legislation, the sum of three dollars, and shall also be allowed three dollars for every twenty five miles of the estimated distance, by the most usual road, from his place of residence to the seat of the general assembly and returning from the same.

**Sec. 3.** *Be it further enacted,* That there shall be allowed to the clerk of the senate, and to the clerk of the house of representatives, each the sum of six dollars per day, for their services during the session of the legislature; and the door keeper of each house the sum of three dollars per day during the session of the assembly, to be paid out of the treasury of the state

**Sec. 4.** *Be it further enacted,* That the associate judges of the court of common pleas, for the several counties in this state, shall be allowed to receive three dollars for each day they shall attend courts, and eight cents per mile for travelling to and returning from court, to be charged once each term, which shall be paid out of the treasury of the proper county, upon the order of the commissioners.

**Sec. 5.** *Be it further enacted,* That the attorneys prosecuting for the state, in each county, shall be entitled to receive, each such sum as shall be allowed by the court of common pleas of the proper county, to be paid out of the county treasury on the order of the commissioners; and the said commissioners, on receiving a certificate from the clerk, of the sum allowed

by the court are hereby required to issue their order accordingly.

Sec. 6. *And be it further enacted*, That the act, entitled "An act establishing the salaries of certain officers therein named," passed February sixteenth, eighteen hundred and ten; the act, entitled "An act increasing the salary of the treasurer," passed February tenth, eighteen hundred and fourteen; and so much of any other act now in force, fixing the salaries of the officers named in this act, be and the same are hereby repealed.

This act shall take effect and be in force, so far as relates to the salary of the governor, from and after the eighth day of December next; and so far as relates to the other officers named in this act, from and after its passage.

MATTHIAS CORWIN,  
*Speaker of the House of Representatives.*  
PETER HITCHCOCK,  
*Speaker of the Senate.*

January 18, 1846.

## CHAPTER XIV.

### *AN ACT for appointing notaries public.*

Governor to appoint notaries public and fill vacancies, - - -	1	{ Notary to provide and keep a seal, - - -	3
Notaries to continue in office three years, - -	2	{ Devise thereof, &c. -	ib
To give bond to the governor and take an oath, -	ib	{ Fees allowed notary public -	4
		{ Repealing clause, - -	5
		{ Proviso, - - -	ib

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That it shall be the duty of the governor of this state to appoint and commission notaries public, in such towns or counties severally, as he may

deem necessary ; and to fill any vacancies which may happen in said appointments.

**Sec. 2.** *Be it further enacted,* That each notary public shall be entitled to hold his office for three years, if so long he behave well ; and previous to entering upon the duties thereof, he shall give bond to the governor, for the time being, in the penal sum of fifteen hundred dollars, conditioned for the faithful discharge of the duties of notary public ; and shall take an oath or affirmation, that he will discharge the same honestly and diligently, and without favor or partiality ; and each notary public thus appointed and qualified, shall use and exercise his office for such place as shall be expressed in his commission ; and due faith and credit shall be given to his protestations, attestations and other instruments of publication.

**Sec. 3.** *Be it further enacted,* That each notary public shall provide a notarial seal, with which he shall authenticate all his official acts ; on which seal shall be engraved the arms of this state and place of his office, which seal, together with the registers and official documents, shall not be liable to be seized on by any execution ; and in case of the death or removal of said notary, the aforesaid register and official documents shall be lodged in the office of the recorder of deeds in the proper county, for the use of his successor in office.

**Sec. 4.** *Be it further enacted,* That every notary public may demand and receive for every attestation, protestation, or other instrument of publication, under the seal of his office, one dollar ; and for recording in a book to be kept for that purpose, each attestation, protestation, or other instrument of publication, the sum of one dollar, which several sums shall be paid by the person or persons, at whose instance the services shall be performed.

**Sec. 5.** *And be it further enacted,* That an act, entitled "An act appointing notaries public," passed

February the twentieth, eighteen hundred and nine, an act amendatory thereto, passed February the twentieth, eighteen hundred and twelve, be and the same is hereby repealed: *Provided*, That nothing in this section contained, shall invalidate or affect appointments made, or acts done prior to the taking effect of this act.

This act to take effect and be in force from and after the first day of May next.

MATTHIAS CORWIN,  
*Speaker of the house of representatives.*  
PETER HITCHCOCK,  
*Speaker of the senate.*

February 7, 1816.

---

## CHAPTER XV.

### *AN ACT to prevent injury by dogs.*

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That if any dog or dogs shall kill or injure any sheep or lamb, the owner or harbinger of such dog or dogs shall be holden liable for all damages which may be sustained thereby, to be recovered at the suit of the party injured, before any justice or court having cognizance.

Sec. 2. *Be it further enacted*, That it shall be lawful for any person or persons forthwith to kill, wound or destroy any dog or dogs which may be found worrying or injuring any sheep or lamb.

This act to take effect and be in force from and after the first day of May next.

JOHN POLLOCK,  
*Speaker of the house of representatives.*  
THOMAS KIRKER,  
*Speaker of the Senate.*

December 24, 1814.

## CHAPTER XVI.

*AN ACT concerning non-resident graziers.*

Preamble.	§	with the clerk of the	
Persons grazing cattle to	§	comissioners,	2
pay a tax,	1	Duty of the clerk,	ib
Duty of persons coming	§	Penalty for neglecting to	
into the state to graze	§	enter cattle for taxation	8
cattle to enter them	§	How collected,	ib

WHEREAS, it hath been represented to the satisfaction of this general assembly, by sundry inhabitants of the county of Fayette, that they have sustained much injury from the practice of foreigners introducing large herds of cattle into the frontiers, for the purpose of grazing the same during the summer season, and that those persons generally are found on the grazing ground at a time when there is no legal provision for taxing the same—Therefore,

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That all and every person or persons, not resident in the state of Ohio, who shall hereafter bring into the state any herd, or number of cattle for the purpose of grazing the same, shall pay a tax for such cattle, to be assessed and collected in manner following.

**Sec. 2.** *Be it further enacted,* That it shall be, and it is hereby made the duty of all and every person or persons, non resident owners of any herd or herds of cattle grazing within this state, to enter the number of his or their cattle with the clerk of the county commissioners for taxation, together with security for the payment of the tax which may be assessed thereon; which entry shall be made within ten days after such cattle may have been brought in as aforesaid; and it is hereby made the duty of the clerk aforesaid, to deliver over the said list of cattle so entered to the commissioners, who shall levy a tax thereon, agreeably to

the act regulating county levies, and transmit the same to any collector in said county for collection, who shall be governed therein agreeably to the before recited act.

**Sec. 3.** *Be it further enacted,* That if any non-resident grazier as aforesaid, shall fail to enter or return his cattle, then and in that case it shall and may be lawful for any resident householder within said county to enter complaint against the party so offending, before any associate judge or justice of the peace in and for said county, who shall thereupon issue process against the party so offending, and shall (on due proof being made) fine the party or parties offending, in any sum not exceeding four times the proper tax on such cattle; and shall, upon judgment rendered, issue execution, collect the same, and pay it over to the county treasurer for the use of the county: *Provided,* That nothing contained in this act shall be so construed as to affect cattle the property of the United States.

This act to take effect and be in force from and after the first day of May next.

**JOHN POLLOCK,**

*Speaker of the house of Representatives.*

**OTHNIEL LOOKER,**

*Speaker of the senate.*

**February 7, 1814.**

## CHAPTER XVII.

### ***AN ACT concerning the three per cent. fund.***

Money how drawn from the treasury of the U. S.	1	{ Auditor and treasurer to report,	5
Duty of auditor in settling claims,	2	{ Auditor to report to the secretary of treasury U-	
Further duty of the auditor,	3	{ nited States,	6
Auditor to settle with the treasurer, &c.	4	{ Duty of the secretary of state,	7
		{ Repealing clause,	8

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That all sums of money that are, or hereafter may become due to this state from the treasury of the United States, for the purpose of laying out, opening and making roads within this state, shall be received on the order of the auditor in favor of the treasurer of this state, who shall receipt for the same, and stand charged in the auditor's office with the amount of such order.

**Sec. 2.** *Be it further enacted,* That all such evidences of demands for labor done, or services rendered, as by the laws heretofore in force, are required to be exhibited to the treasurer of state, shall hereafter be presented to the auditor, who shall audit the same, and issue bills for the amount thereof, payable out of the three per cent fund, and shall record such bills in books to be provided for that purpose, in the same manner that audited bills in other cases are recorded.

**Sec. 3.** *Be it further enacted,* That in auditing the accounts relative to the three per cent. fund, the auditor shall govern himself in all respects as the treasurer has been required to do, by the several laws appropriating the same.

**Sec. 4.** *Be it further enacted,* That the auditor shall settle with the treasurer, who is hereby requested to give information of all monies by him received on account of the three per cent. fund, and of all monies he may have paid out of the same, and shall deliver to the auditor, within twenty days after the taking effect of this act, all books and papers relative thereto, which may be proper for the auditor to have, and for which the auditor shall give a receipt, and charge the treasurer with the amount of any balance of the three per cent. fund, which may be found remaining in his hand.

**Sec. 5.** *Be it further enacted,* That it shall be the duty of the auditor and treasurer, to report their proceedings under this act, to each house of the general

assembly, on or before the fifth day of their annual session.

Sec. 6. *Be it further enacted*, That it shall be the duty of the auditor to report annually to the secretary of the treasury of the United States, an account of the application of the three per cent. fund.

Sec. 7. *Be it further enacted*, That the secretary of state be directed and required to forward to the secretary of the treasury of the United States, a copy of this act within thirty days after the taking effect thereof.

Sec. 8. *And be it further enacted*, That the act, entitled "An act directing the treasurer of state to transmit to the secretary of the treasury of the United States, an account of the application of the three per cent. fund," passed the fifteenth day of December, one thousand eight hundred and ten, and all other acts and parts of acts coming within the purview of this act, be, and the same are hereby repealed.

This act to take effect and be in force from and after the first day of May next.

JOHN POLLOCK,

*Speaker of the house of representatives.*

OTHNIEL LOOKER,

*Speaker of the senate.*

February 11, 1814.

## CHAPTER XVIII.

### *AN ACT for the prevention of gaming.*

Gaming debts made void and not recoverable,	1	recover the same,	25
Persons losing money &c. at any game, and paying the same, may recover the same in six months,	2	Persons sued compelled to answer in chancery,	3
If not sued for in 6 months any other may sue for &c.		Proviso,	ib
		Importers of cards how punished,	4
		Preamble,	5
		Penalty for playing or	

betting, - - -	ib	{	bles on their premises, 19
Continued, - - -	6		In what manner fines to be
Penalty for cheating &c.			recovered, - - - 11
in play, - - -	7		Proviso, - - - ib
Penalty for keeping billiard, A B C or E O tables, - - -	8		Indictment not to be quashed for informality, 12
Penalty on persons suffering gaming tables to be kept in their houses, 9		{	Explanation, - - - 18
Penalty on tavern keepers for suffering gaming ta-		{	This act to be given in charge to the grand jury 14
		{	Disposition of fines, 15
		{	Repealing clause, - 16

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That all promises, agreements, notes, bills, bonds or other contracts, mortgages or other securities, whatsoever after the taking effect of this act, when the whole or any part of the consideration of such promise, agreement, conveyance or security shall be for money or other valuable thing whatsoever won, laid or betted at cards, dice tables, tennis balls, or any other game or games whatsoever, or at any horse race, cock fighting, or any other sport or pastime, or on any wager whatsoever, or for the reimbursing or repaying any money lent or advanced at the time of such play, bet or wager, so to be betted or wagered, shall be utterly void, frustrate and of none effect, to all intents and purposes whatsoever, any law, usage or custom to the contrary notwithstanding.

**Sec. 2.** *Be it further enacted,* That if any person or persons whatsoever, at any time, by playing at any game or games whatsoever, or by betting on the hands or sides of such as do play at any game or games, shall lose to any one or more persons so playing or betting, any sum of money or other valuable thing, and shall pay or deliver the same or any part thereof; the person or persons so losing and paying or delivering the same shall be at liberty within six months next following, to sue for and recover the money or other valuable thing so lost and paid or delivered, or any part thereof, from

the respective winner or winners thereof, with cost of suit, by action of debt founded on this act; to be prosecuted in any court or before any justice of the peace in this state having jurisdiction thereof; in which action it shall be sufficient for the plaintiff to allege that the defendant is indebted to the plaintiff or received to the plaintiff's use the money so lost and paid, or converted the goods won of the plaintiff to the defendant's use, whereby the plaintiff's action accrued to him according to the form of this act, without setting forth the special matter; and in case the party so losing such money or other thing as aforesaid, shall not within the time aforesaid, bona fide, without covin or collusion, sue and with effect prosecute for the money or other thing so lost and paid or delivered, it shall and may be lawful to and for any other person or persons by any such action or suit as aforesaid, to sue for and recover the same with costs of suit, against any such winner or winners as aforesaid, to the use of the person or persons suing for the same.

*Sec. 3. Be it further enacted;* That every person who by virtue of this act shall or may be liable to be sued for monies or other things so won as aforesaid, shall be compelled to answer upon oath, such bill or bills in chancery preferred against him or them for discovering the money or things so won at play as aforesaid: *Provided however,* Upon discovery and repayment of the money or other things so to be discovered and repaid as aforesaid. the person or persons discovering and repaying the same with cost shall be acquitted, indemnified and discharged from any further or other forfeiture, punishment or penalty which he or they may have incurred by playing for or winning such money or other thing so discovered and repaid.

*Sec. 4. Be it further enacted,* That if from and after the taking effect of this act, any person or persons whatsoever shall import or bring into this state any pack or packs of playing cards, every person so offending

shall forfeit and pay for every pack of playing cards so imported or brought into this state, not more than twenty nor less than five dollars; and every person in whose possession any pack or packs of playing cards shall or may be found, after the taking effect of this act, shall be taken and considered as an importer within the meaning of this act, unless such person can prove that such pack or packs of playing cards were in his possession previous to the taking effect of this act.

**Sec. 5.** And to prevent gaming at ordinaries and other public places, which must often be attended with quarrels, disputes and controversies, the impoverishment of many people and their families, and the ruin of the health and the corruption of the manners of youth, who upon such occasions often fall in company with lewd, idle and dissolute persons, who use this way of maintaining themselves. *Be it further enacted,* That if any person or persons shall at any time play in any ordinary, tavern or race field, or in any booth, arbor or out house, connected with such tavern, ordinary or race field, or at other public place, at any game or games whatsoever, except games of athletic exercise, or shall bet on the hands or sides of such as do play as aforesaid, every person or persons, upon conviction thereof, shall forfeit and pay a sum not exceeding seventy nor less than ten dollars, and shall be bound to their good behavior, with sufficient security, in the sum of seventy dollars, for the term of twelve months; and if any person or persons shall give such security, and afterwards, within that time, shall play or bet for any money or other valuable thing whatsoever, such playing or betting shall be deemed a breach of good behavior, and a forfeiture of their cognisance given for the same.

**Sec. 6.** *Be it further enacted,* That if any person, by playing or betting at any game or wager whatsoever, at any time, shall lose or win to or from another,

any sum of money or other article of value, the loser and winner shall each on conviction be fined in a sum not less than ten dollars nor more than seventy dollars, and shall moreover be bound to his or her good behavior for one year.

*Sec. 7. Be it further enacted,* That if any person or persons whatsoever do, or shall, at any time or times, by fraud, shift, cozenage, circumvention, deceit, unlawful device, or evil practice whatsoever, in playing at or with cards, dice or any other game or games, or in or by bearing a share or part in the stakes, or wagers or adventures, or in or by betting on the sides or hands of such as do or shall play, win, obtain or acquire to themselves any sum or sums of money or other valuable thing or things whatsoever, every person so winning by such ill practice, and being thereof convicted, upon indictment, shall be fined not less than fifty dollars, nor more than five hundred dollars, and shall moreover be bound to his good behavior in such sum and with such security as the court may approve, for the term of one year.

*Sec. 8. Be it further enacted,* That all and every keeper or keepers, exhibitor or exhibitors of either of the gaming tables, commonly called A B C or E O tables, billiard tables or farro bank, or any other gaming table or bank of the same or like kind, under any denomination whatsoever, shall, on conviction thereof, be fined in a sum not less than fifty dollars nor more than two hundred dollars for every such offence, and shall moreover find security for his or their good behavior, for the term of one year, in the sum of five hundred dollars; and if he or they shall afterwards, within that time, keep or exhibit either of the said gaming tables or banks, or other gaming tables or banks, under any denomination whatsoever, or shall play at any game or games prohibited by this act, such keeping, exhibiting or playing shall be deemed a breach of good behavior, and a forfeiture of the recognisance given for the same.

**Sec. 9.** *Be it further enacted,* That if any person or persons shall suffer the game of billiards or any of the games commonly called A B C, E O or farro bank or any other gaming table or bank of the like kind, under any denomination whatsoever, to be played in his or her house, or in any out house, booth or arbor of which he or she at the time has the care or possession; every person or persons so offending shall, on conviction, forfeit and pay a sum not less than fifty dollars, nor more than two hundred dollars.

**Sec. 10.** *Be it further enacted,* That if any keeper or keepers of a tavern, ordinary or other house of public resort, shall suffer any game or games prohibited by this act to be played at or within such tavern, ordinary or other house of public resort, or in any out-house appendant thereto, every such keeper or keepers shall, on conviction, forfeit and pay a sum not less than fifty dollars nor more than two hundred dollars; and if any licensed tavern keeper shall be convicted of suffering such gaming in his or her house, he or she, in addition to the penalty hereby imposed shall, moreover, forfeit his or her license for keeping such tavern, and shall not be re-licensed, as a tavern keeper, for one year from the date of such conviction.

**Sec. 11.** *Be it further enacted,* That all fines and forfeitures imposed by this act, shall be recoverable by indictment in any court of common pleas within this state, or before a justice of the peace where the fine cannot exceed the sum of seventy dollars; but any person considering himself or herself aggrieved by the judgment of any such justice convicting such person of any of the offences mentioned in this act, may appeal to the next court of common pleas to be holden for the county wherem such conviction may happen: *Provided,* The person or persons so appealing shall within ten days after such conviction, enter into recognisance before such justice in the sum of one hundred dollars, with one or more sufficient securities in a like

sum, conditioned that the defendant will make his personal appearance before the court of common pleas, to which such appeal is taken, on the first day of the next succeeding term thereof, and not depart from said court without the leave thereof; and as soon as such recognisance shall have been entered into, such justice shall cause to come before him all the material witnesses on the part of the state, who shall severally be recognised in the sum of fifty dollars each, conditioned that they appear before the court to which such appeal is taken, on the first day of the succeeding term thereof, and not depart from such court without the leave thereof; and on such appeal, such other and further proceedings shall be had by indictment and trial of such offender, as in other cases.

**Sec. 12.** *Be it further enacted,* That no indictment for any of the offences mentioned in this act shall be quashed, or judgment thereon arrested for any supposed defect or want of form: *Provided,* Sufficient be set out therein to enable the court to render judgment thereon, according to the very right and justice of the case.

**Sec. 13.** *Be it further enacted,* That this act shall be so construed, in all courts of justice, as to advance the remedies hereby provided, and to suppress the mischiefs hereby prohibited.

**Sec. 14.** *Be it further enacted,* That the presiding judge, in all the courts of common pleas within this state, shall constantly give this act in charge to the grand juries of their courts, at the time such grand juries shall be sworn.

**Sec. 15.** *Be it further enacted,* That all fines and forfeitures imposed by the authority of this act, shall be collected and paid over, as other fines are, to the treasurer of the proper county, within twenty days after the collection thereof, to be applied to county purposes.

**Sec. 16.** *Be it further enacted,* That all acts and parts of acts coming within the purview of this act, shall be and the same are hereby repealed: *Provided,* That nothing in this act contained shall be so construed as to repeal any acts or parts of acts relating to offences committed or done before the commencement of this act.

**Sec. 17.** *And be it further enacted,* That this act shall commence and be in force from and after the first day of June next.

**JOHN POLLOCK.**

*Speaker of the House of Representatives.*

**OTHNIEL LOOKER,**

*Speaker of the Senate.*

**January 4, 1814.**

## CHAPTER XLX.

### ***AN ACT*** allowing and regulating writs of replevin.

In what cases property may be replevied,	1	Proceedings when plaintiff fails to execute a bond,	ib
Manner of obtaining a writ of replevin,	2	Penalty on officers for neglect of duty,	ib
Form of a writ of replevin	3	Proceedings on the return of the writ,	5
Duty of officer in executing said writ of replevin,	ib	Duty of court in rendering judgment,	ib
Officer to take bond from plaintiff before he makes deliverance of property,	4	Goods taken in attachment may be replevied,	6
Condition of said bond,	ib	Persons making a false affidavit how prosecuted,	7
Bond to be returned with the writ,	ib		

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That every person shall have right to replevin his goods or chattels, which shall be unlawfully taken from his possession, and detained, (or which shall be distrained, attached or seized, unless

it be upon execution after judgment, or in payment of taxes, fines or amercements) in the manner herein provided.

**Sec. 2.** *Be it further enacted,* That if any person shall wrongfully take the goods or chattels of another from his possession and detain the same, the owner thereof may, by himself or his agent or attorney, file a precipe with the clerk of the court of common pleas for a writ of replevin, which precipe shall contain a description of the property to be replevied, and shall also file therewith an affidavit stating, that the goods and chattels described in such precipe were taken from his possession, and are now wrongfully detained by the defendant, and that he has good right to the possession thereof, and that said goods and chattels were not taken in execution, nor for the payment of any tax, fine or amercement; and any writ of replevin, issued without such affidavit, shall be quashed at the cost of the clerk who issued the same; and such clerk, as well as the plaintiff or plaintiffs shall, moreover, be liable in damages to the party aggrieved.

**Sec. 3.** *Be it further enacted,* That upon filing such precipe and affidavit, the clerk shall issue a writ of replevin, directed to the sheriff or coroner of the same county, commanding him to cause to be replevied, to A. B, the plaintiff, the same goods or chattels named in such precipe and affidavit, and to summon the person who took them to appear at the next court of common pleas, to be held in his county, to answer the plaintiff of the taking and unjust detention of the same; and it shall be lawful for the sheriff or other officer to break open any house, stable, out house or other building, in which such property is concealed, to replevy the same, having first made demand of such property, and of entrance into such building, and being refused.

**Sec. 4.** *Be it further enacted,* That every sheriff or other officer before he makes deliverance to the plaintiff of any goods or chattels, taken by virtue of any writ

of replevin, shall take of the plaintiff, in the name and for the benefit of the defendant, a bond, with two or more responsible persons of the county as sureties, in treble the value of the goods and chattels replevied, (which value shall be ascertained by the oath of two or more creditable disinterested persons, whom the sheriff or other officer shall swear truly to assess the value thereof) conditioned that the plaintiff appear at the court to which the writ is returnable and prosecute his suit to effect, and pay all costs and damages which shall be awarded against him. which bond the sheriff or other officer shall return with the writ, for the security and benefit of the defendant; and if the plaintiff shall neglect or refuse to cause such bond to be executed as aforesaid, within twenty-four hours from the taking of such goods or chattels, by virtue of such writ, the sheriff or other officer shall return such goods or chattels to the defendant; and if any sheriff or other officer shall deliver any property, taken by writ of replevin, to the plaintiff, or detain the same from the defendant without taking such security, or shall take insufficient security he shall be liable in damages to the defendant.

*Sec. 5. Be it further enacted,* That on the return of every writ of replevin, the suit shall be subject to the same usages and rules of practice as in other cases; and if the plaintiff become nonsuit, or on trial the jury find the defendant not guilty of unlawfully taking the goods or chattels from the possession of the plaintiff, or find that such goods and chattels belonged to the defendant, the value of such goods and chattels shall be ascertained by the jury, and the court shall render judgment for the defendant, for the value so found, with fifty per cent. damages, and interest from the time of their being replevied; but if the jury find that the defendant did unlawfully take and detain such goods and chattels, and that they were the property of the plaintiff, they shall assess adequate damages for such detention.

**Sec. 6.** *Be it further enacted,* That in case any goods or chattels shall be taken in attachment, the defendant in such attachment may have the same replevied to him upon making affidavit as aforesaid, agreeable to the circumstances of the case, and giving bond, with sufficient surety, to the officer from whom the same shall be replevied, in double the value thereof, conditioned to pay to such officer on demand, the full value of such property, in case judgment shall be rendered against him on such attachment.

**Sec. 7.** *And be it further enacted,* That if any person shall knowingly make a false affidavit, for the purpose of replevying any goods or chattels, not repleviable by the provisions of this act, he shall be liable to be indicted therefor and, upon conviction thereof, shall forfeit and pay the sum of one hundred and fifty dollars; one half to the party aggrieved, the other half to the use of the county where such offence shall have been committed

This act to take effect and be in force from and after the first day of June next.

**JOHN POLLOCK,**  
*Speaker of the house of representatives,*  
**THOMAS KIRKER,**  
*Speaker of the senate.*

January 22, 1813.

## CHAPTER XX.

***AN ACT for the better security of toll bridges within this state.***

Penalty for defacing or destroying list of rates of toll posted up, -	1	}	Penalty for driving cattle &c. over toll bridges contrary to the direc- tions of the owners,	3
Penalty for galloping over toll bridges, -	2		Proviso, -	4

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That if any person shall wilfully deface, obliterate or destroy the letters, figures or other characters, in any written or printed list of the rates or tolls affixed or posted up in any place upon any toll bridge within this state, for the information of passengers and others, every person so offending shall forfeit and pay to the owner or owners of such toll bridge, where such injury was done, any sum not exceeding fifteen dollars, nor less than five dollars, to be recovered at the suit of the owner or owners of such toll bridge, before any justice of the peace in the township in which such offence may be committed, for the use of the overseers of the poor of such township, for the support of the poor therein.

**Sec. 2.** *Be it further enacted,* That if any person shall ride or drive over any such bridge in a gallop, every person so offending shall forfeit and pay to the owner or owners of such bridge, any sum not exceeding five dollars, to be sued for, recovered and applied as is provided in the first section of this act: *Provided,* That such person has been warned by the owner or owners of the penalty attending such offence.

**Sec. 3.** *Be it further enacted,* That if any person shall drive over any such bridge, at one time, any drove of cattle or horses in greater numbers than the owner or owners of such bridge shall permit and allow, such person or persons being warned by such owner or owners of the number of cattle or horses permitted or allowed to be driven over such bridge at any one time, every person so offending shall forfeit and pay to the owner or owners of such bridge, any sum not exceeding twenty dollars, to be sued for, recovered and applied as is provided by the first section of this act.

**Sec. 4.** *And be it further enacted,* That nothing in this act contained shall be construed to take away from the owner or owners of such bridge any action for dam-

ages which, without this act they might have had  
against any person for any injury done to such bridge.

**JOHN POLLOCK,**

*Speaker of the House of Representatives.*

**THOMAS KIRKER,**

*Speaker of the Senate.*

February 4, 1815.

## CHAPTER XXI.

### *AN ACT to prevent destroying timber.*

First quality of timber named,	1	Justices of the peace to have cognisance,	2
Penalty for destroying it,	ib	Appeals allowed,	ib
Second quality named,	ib	Repealing clause,	3.
Penalty for destroying it,	ib		

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio.* That if any person shall cut, fell, box, bore or destroy any white or black walnut; black, white, yellow or red oak; poplar or white wood; wild cherry; white or blue ash; yellow or black locust, chesnut, coffee, pine, cedar, or sugar tree or sapling, growing on land belonging to any other person or persons, without having first obtained permission from the owner or owners of such land, his, her or their representative, agent or attorney, every person so offending shall forfeit and pay to the owner or owners of the land, for every tree or sapling aforesaid, a sum not less than fifty cents nor more than twenty dollars; and every person who shall in like manner offend, in cutting, felling, boxing, boring or destroying any tree or sapling, other than those above named, shall forfeit and pay, for every such tree or sapling, a sum not less than twelve and a half cents nor more than five dollars.

Sec. 2. *Be it further enacted*, That if any person shall commit any of the trespasses enumerated in the first section of this act; and when such trespass does not exceed seventy dollars, any justice of the peace of the township where such trespass was done, shall have cognizance thereof, and shall hear and determine the same as in other cases, whether the defendant shall claim title to the land or not, but an appeal in usual form and manner may be had from the final judgment of the justice in such case.

Sec. 3. *And be it further enacted*, That a law to prevent destroying of timber, passed January eleventh, one thousand eight hundred and five, be and the same is hereby repealed.

This act shall take effect and be in force from and after the first day of May next.

JOHN POLLOCK,

*Speaker of the House of Representatives.*

THOMAS KIRKER,

*Speaker of the Senate.*

January 4, 1815.

## CHAPTER XXII.

*An act to perpetuate evidence of the original field notes of the Miami purchase.*

Preamble,		Recorder's fees,	ib
Three commissioners named,	1	Copies of the record to be good evidence in court,	3
Their duty,	ib	Commissioners to take an oath,	4
When to meet,	2	To be allowed two dollars per day,	ib
May send for persons and papers,	ib	Witnesses how compensated,	5
To make record of field notes in a book and certify the same which shall be recorded,	ib		

Whereas, It has been represented to this legislature that the original field notes of the survey of the tract of land commonly called the Miami purchase, situate between the two Miami rivers, have been accidentally destroyed by fire, and that great inconveniences have arisen and are likely to arise in consequence thereof; and also, that there are correct copies of the said field notes now in the possession of sundry persons residing on or near the said lands, which copies are in a perishable condition: Therefore, for the purpose of perpetuating the evidence of the said field notes, and for removing the inconveniences aforesaid,

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That John R. Gaston, of the county of Hamilton, James Heaton, of the county of Butler, and William C. Schenck, of the county of Warren, be, and they are hereby appointed commissioners for the purpose of collecting and perpetuating evidence of the original survey made under the direction of John Cleves Symmes, by authority of the government of the United States, of the tract of land commonly called the Miami Purchase, being the same tract of land that was conveyed by the United States to John Cleves Symmes, and his associates, by letters patent, bearing date on or about the fourth day of September, in the year of our Lord one thousand seven hundred and ninety-four.

Sec. 2. *Be it further enacted,* That the said commissioners or any two of them, shall hold their first meeting at the town of Cincinnati, in the county of Hamilton, on the first Monday of March next, and to adjourn from time to time, and to such place or places as they may judge most convenient; public notice of which first meeting shall be given by said commissioners in at least three newspapers printed in said purchase, at least twenty days previous to said meeting; and the said commissioners when met shall have power and authority to send for persons and papers, and to

collect all the copies within their knowledge of the field notes of the original survey of the Miami Purchase, made under the direction of John Cleves Symmes as aforesaid, and to examine witnesses on oath or affirmation, which they or either of them are hereby authorised to administer, touching the validity and correctness of said copies; and so far as the said commissioners shall obtain satisfactory proof that the copies received by them are true and correct copies from the original field notes of the said original or first survey, they shall cause them to be entered in a book to be provided for that purpose, and shall annex thereto their certificate, that they have been received and adjudged by them to be genuine copies of the original field notes of the said original or first survey; and it shall be the duty of the commissioners to cause the said copies to be recorded in the records of deeds of the county in which the lands, to which the said copies relate, may respectively lie; and it is hereby made the duty of the recorder to receive and record the same, and forthwith to return the said book to the commissioners, for which services they shall be allowed such fees as the said commissioners may deem just and reasonable, to be paid by the treasurer of their respective counties on the order of the said commissioners.

*Sec. 3. Be it further enacted,* That certified copies of the records, so made as aforesaid, shall be admitted as legal evidence in all courts of judicature in this state, in all cases where the original field notes aforesaid would be legal evidence.

*Sec. 4. Be it further enacted,* That the said commissioners, before they enter on the duties of their office, shall take and subscribe an oath or affirmation faithfully to discharge the duties by this act reposed in them, according to the best of their skill and judgment, a copy of which oath or affirmation shall be entered in the book herein before mentioned, by the person administering the same; and each of the said com-

Commissioners shall be allowed the sum of two dollars per day, for each and every day he may be employed in discharging the duties imposed by this act, to be paid out of the treasuries of the counties of Hamilton, Butler and Warren, in proportion to the quantity of Symmes' purchase contained in each of the three aforesaid counties respectively.

Sec. 5. *And be it further enacted*, That the commissioners aforesaid shall allow to any person or persons who may, under the provisions of this act, furnish them with true and genuine copies of the original field notes as aforesaid, such compensation as they may deem reasonable, to be paid from the county treasury of the proper county; and where any person is called upon to give evidence before said commissioners, at the request of a party interested, such witness shall receive the same compensation as is allowed to witnesses testifying in the courts of this state, to be paid by the person or persons at whose request he is called.

JOHN POLLOCK,

*Speaker of the House of Representatives.*

OTHNIEL LOOKER,

*Speaker of the Senate.*

January 5, 1814.

## CHAPTER XXIII.

**AN ACT** declaring the law in certain cases of actions upon covenants real, and for other purposes.

Preamble	§	out proper authority, sub-	
Grantee may have action in	§	jected as aforesaid	ib.
certain cases	1	Manner of proceeding in	
Persons selling lands with-	§	such cases	3
out title subject to suit,	2	Proviso	ib.
Agents selling lands with-	§		

Whereas, It is represented to this general assembly, that doubts are entertained whether any action can be

sustained by the grantee in a deed of bargain and sale for the conveyance of lands against the grantor in such deed, upon the common covenant of general warranty, before such grantee shall have been evicted from the possession of the lands so granted or conveyed; and, whereas, it is essential to right and justice that such doubts be removed: Therefore,

*Sec. 1. Be it enacted & declared by the general assembly of the state of Ohio,* That the grantee, or his or her heirs, in all deeds of bargain & sale for the conveyance of lands, containing the common covenants of general warranty, shall and may maintain an action of covenant against the grantor in such deed, his heirs, executors or administrators, upon such common covenant of general warranty, in the same manner that such grantee, or his or her heirs might have done, had such deed contained also a covenant of seizin on the part of the grantor; and such action may in like manner be commenced before the grantee, or his or her heirs have been evicted, and shall be supported by the same evidence; and the plaintiff shall be entitled to recover the same quantum of damages as in the case of action brought upon a covenant of seizin.

*Sec. 2. Be it further enacted,* That if any person shall sell and convey, by any deed of conveyance or assurance containing covenants of either general or special warranty, any tract of land having at the time of such sale and conveyance no title either in law or equity to the land so sold & conveyed, such vender knowing at the time of sale that he had no title either in law or equity to the land so as aforesaid sold & conveyed; or if any person shall sell or convey any tract of land as agent or attorney in fact for any other person, not being legally authorised so to do, it shall and may be lawful for the purchaser to have and maintain an action upon the case for deceit, against the grantor, in such deed, or such pretended agent or attorney in fact, in which action the plaintiff shall recover against the defendant the full va-

lue of the lands so sold and pretended to be conveyed, together with the value of the improvements thereon, both to be estimated at the time of action brought.

Sec. 3. *And be it further enacted*, That in all cases where suit shall be brought on any deed, bond, article of agreement, or any other written contract, given or entered into for the sale or conveyance of land, or any action on the case, by virtue of the second section of this act, the plaintiff may sue out his summons in the county in which such lands lie, be or are situate, directed to the sheriff or coroner (as the case may be) of any other county in which the defendant in such suit may be or reside; and the sheriff or coroner to whom the same may be directed, shall serve and return such summons to the court that issued the same, and such court shall in all respects proceed thereon as if the defendant resided in their proper county: *Provided however*, That no judgment by default shall be taken in any such cause, until the next succeeding term after such summons shall be returned executed.

JOHN POLLOCK,

*Speaker of the House of Representatives.*

THOMAS KIRKER,

*Speaker of the Senate.*

January 2, 1850.

## CHAPTER XXIV.

**AN ACT** for the appointment of certain officers therein named.

Sheriffs may appoint depts	1	Duty of deputy recorder	6
Duty of deputy-sheriffs	2	Deputies may be removed	
Clerks of courts may appoint deputies,		by principal	7
Power and duty of deputy clerks	3	The auditor may appoint a chief clerk, who shall give bond	8
Recorders may appoint deputies	4	Duty of chief clerk	9
	5	Compensation of chief cl'k.	10

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That the sheriff of any county within this state, may at any time after the passing of this act, appoint one or more deputies by warrant under him, authorising said deputy to perform all and singular the duty appertaining to the office of sheriff, within his respective county; and the sheriff shall be answerable for all misconduct or neglect of his deputy, whose official acts shall be performed in the name of the sheriff by his deputy.

**Sec. 2.** *Be it further enacted,* That every deputy appointed under the provisions of this act, shall take an oath or affirmation, (as the case may be) before some person authorised to administer the same, faithfully to perform the duty of deputy sheriff, a certificate of which said appointment, it shall be the duty of such deputy to file in the office of the clerk of the court of common pleas of said county, previous to his entering on the duties of his office.

**Sec. 3.** *Be it further enacted,* That the clerks of the supreme courts, and courts of common pleas, within this state, may at any time from and after the passing of this act, appoint each of them one deputy clerk, to be approved of by their respective courts, whose duty it shall be to perform all and singular the duties appertaining to the office of clerk, in case of the disability or absence of the clerk of said court for which he is appointed.

**Sec. 4.** *Be it further enacted.* That all deputy clerks appointed under the provisions of this act, in the supreme court, or court of common pleas, before he enters upon the duties of his office, shall take an oath, or make affirmation (as the case may be) before some person legally authorised to administer the same, faithfully to perform the duty of deputy clerk of said court to which he is appointed; a certificate of which appointment shall be made out for him, signed by the clerk, with the seal of the said court thereto annexed; and

all official acts of the deputy clerk, so as aforesaid appointed, shall be as valid in law as if done by the clerk himself.

**Sec. 5.** *Be it further enacted,* That each recorder in this state, be and the same is hereby authorised to nominate, and, with the approbation of the court of common pleas of the county, appoint one deputy, who shall have power to transact all the duties properly appertaining to the office of recorder.

**Sec. 6.** *Be it further enacted,* That the recorder may take such bond from his deputy, for the faithful performance of the duties of deputy recorder, as he may think fit; and thereupon the deputy shall take an oath faithfully to perform the duties of deputy-recorder, a record of which appointment and oath of office shall be made in court.

**Sec. 7.** *Be it further enacted,* That deputies shall be subject to be removed at the pleasure of the recorder, and shall during their continuance in office, be subject to the seventh section of the act, entitled "An act providing for the recording of deeds, mortgages, and other instruments of writing."

**Sec. 8.** *Be it further enacted,* That the auditor may at any time appoint a chief clerk, who shall continue as such during the pleasure of the auditor; and previous to said clerk entering on the duties of his appointment, he shall give bond with two or more securities, to be approved of by the auditor, in the penal sum of ten thousand dollars, payable to him in his private capacity, conditioned for the faithful performance of all and singular the duties of his appointment as are or may be required by law.

**Sec. 9.** *Be it further enacted,* That the auditor shall at the time of making the aforesaid appointment, give to the said clerk a certificate thereof, under the seal of office, which said certificate shall be evidence of his appointment, and the chief clerk shall in case of absence or inability of the auditor, act, do, and

perform all the duties appertaining to the auditor of state.

Sec. 16. *And be it further enacted, That there shall be allowed to the aforesaid clerk, the sum of six hundred dollars per annum to be paid quarterly out of the state treasury upon the order of the auditor.*

**DUNCAN M'ARTHUR,**

*Speaker of the house of representatives.*

**ABRAHAM SHEPHERD,**

*Speaker of the senate.*

January 30, 1818.

## CHAPTER XXV.

***AN ACT for the proving and recording wills and codicils, defining the duties of executors and administrators; the appointment of guardians and the distribution of insolvent estates.***

Males of 21 and females of 18 years of age may devise, real or personal estate by will signed & attested by 2 witnesses,	1	Rules concerning non-cupative wills,	5
Widow's dower not to be prejudiced by any will,	2	When they shall be of any force,	6
Proviso as to relinquishment of dower,	ib	Persons subscribing his name as a witness to a will when a devise is given to him, how to proceed,	7
A will may be cancelled by testator,	3	Manner of proving wills in general,	8
When children born after will made it is void,	ib	When the validity of wills is contested, time and manner of proceeding	9
Child or children absent and reported to be dead, or born after executing will and not provided for to succeed to an equal portion as other children,	4	Evidence on contest,	10
Proviso,	ib	When witnesses to a will, &c. presented for probate reside out of the county or state their depositions how taken & certified,	11
Further proviso,	ib		

Copies of wills, &c. proven in other states may be proven and recorded in this state, &c.	12	Proviso, Administrators, &c. take an oath and give bond with security,	25
Executors entitled to probate,	13	Conditions of bond,	ib
Where no executors named or refuse to serve, administration to be granted by the court,	ib	When a will is proven after letters granted the administrator to deliver over letters, &c. to executors,	ib
Persons holding the will of a testator may be compelled to produce it,	14	On refusal the court to compel the delivery,	ib
When executors refuse to act, court to appoint administrators,	15	The court may appoint an administrator pro tempore in certain cases,	26
Executors may sell and convey land devised to be sold,	16	Bond of an executor, &c. to be given to the county treasurer,	27
Executors and administrators to be sworn,	17	Not to be void on the first recovery,	ib
Form of oath,	ib	Executors, &c. to sell personal property at public sale,	28
Executors power before probate,	18	What notice to be given,	ib
Wills to be recorded,	19	Proviso in favor of widow,	ib
Appeals may be taken on trial of contested wills,	20	List of sale to be returned to clerks office,	29
When personal estate is insufficient the court may direct real estate to be sold to pay debts,	21	Compensation of executors, &c.	ib
Power of executors,	22	Duty of executors or administrators after paying debts, &c.	30
Court to appoint and grant letters of administration to the nearest of kin to persons dying intestate,	23	To assign to widow one third,	ib
Proviso,	ib	Proviso if no children,	ib
Power and duty of administrators in general,	24	Further proviso,	ib
Proviso in favor of the widow,	ib	Court on application to appoint three persons to set off widow's dower,	31
Accounts of estate to be settled in 12 months,	ib	Their compensation,	ib
Executors, &c. to give public notice to creditors to exhibit their accounts in one year,	ib	Administrators, &c. for neglect may be removed by court,	32
		Others to be appointed.	ib
		Court may direct the sale of real estate if the personal property is insuf-	

ufficient after deducting the widow's thirds, &c.	33	of full age others minors may have partition on application to court,	39
Proceedings when an estate is declared insolvent,	ib	When lands will not admit of partition, court may direct the sale thereof,	40
Persons suing executors during the time allowed for settlement not to recover cost,	ib	Six weeks notice of sale to be given,	ib
When real estate is to be sold court to appoint 3 appraisers, who shall take an oath,	34	Credit may be given,	ib
Their duty and compensation,	ib	Proviso as to securing the payments,	ib
Notice of sale to be given six weeks,	ib	Widow's dower to be set off,	41
May be sold for cash or a limited credit,	ib	The widow to inherit where no heirs lineal or collateral,	42
Proviso,	ib	In case of widows death the course of descent,	ib
Court may require security of executors, &c. for selling land,	35	Persons dying without heirs their property vested in the overseers of the poor,	43
A deed to be made to the purchaser,	ib	Persons having purchased lands of the U. S. and dying intestate proceedings thereon,	44
Court of common pleas to appoint guardians to minors,	36	Proviso,	ib
Power and duty of guardians,	ib	Persons dying intestate before completing payment on lands, the same may be sold in certain cases,	45
To give bond with security	ib	Administrators to render an account to court,	46
Proviso as to minors living out of the estate, &c.	ib	Suits may be commenced and sustained on bonds given by executors or administrators,	47
Further proviso regulating the sale of lands,	ib	Duty of court of common pleas in granting letters of administration,	48
Minors may choose guardians or the court may appoint,	37	Executors or administrators from any other state may sue and be sued in this state,	49
Persons dying in another state having property in this, the administrator may sell, &c. under the direction of the court,	38	Proviso as to descents,	ib
Persons dying intestate having lands in several counties within this state leaving heirs some			

Executors or administrators may appeal from one court to another,	50	{ required,	51
Associate judges to hold special sessions when		{ Their compensation,	ib
		{ Repealing clause,	52
		{ Proviso,	ib

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That every male person aged twenty-one years or upwards, and every female person aged eighteen years and upwards, being of sound mind, shall have power at his or her will and pleasure, by last will and testament in writing to devise all the estate, right, title and interest in possession, reversion or remainder which he or she hath, or at the time of his or her death shall have of, in or to lands, tenements, hereditaments, annuities or rents charged upon or issuing out of them; also all goods and chattels of any and every denomination whatsoever, so as such last will and testament be signed by the testator, or some person for him or her, in his or her presence, and by his or her direction, and at the same time be attested by two or more credible disinterested witnesses subscribing their names in his or her presence.

**Sec. 2.** *Be it further enacted,* That there shall be saved to the widows of testators, their dower in such lands, tenements, hereditaments, rents or annuities which shall not be prejudiced by any devise thereof; and the rights and lawful claims of the creditor or creditors of any devisor shall not be impaired by any devise made agreeably to the first section of this act; *Provided however,* That if such widow shall prefer to relinquish her right of dower and claim under the will, and shall make known such her election to the court of common pleas of the proper county, within six months from the time of the decease of the testator, her right of dower in the estate of the testator shall be thereby barred.

**Sec. 3.** *Be it further enacted,* That any last will or devise so made, or any clause thereof shall be re-

vokable by the testator's destroying, cancelling or obliterating the same, or causing it to be done in his or her presence or by subsequent will, codicil or instrument of writing made as aforesaid; or where the testator had no child at the time of executing such last will or codicil, and shall afterwards have a child or children, in either case such last will or codicil shall be void and of none effect, and the estate of the decedent shall descend according to the act regulating the course of descents and distribution of intestate estates.

*Sec. 4. Be it further enacted,* That where a testator or testatrix at the time of executing his or her last will or codicil as aforesaid, has a child or children absent, and who is or are reputed to be dead, or where a testator or testatrix, at the time of executing his or her last will or codicil as aforesaid, shall have a child or children born, and shall afterwards have a child or children who is or are not provided for in such last will or codicil, in either case the child or children who was or were absent and reported to have been dead at the time of executing such last will or codicil, and the child or children born after executing such last will or codicil, shall succeed to the same portion or share of the testator's or testatrix's estate as he or she would have been entitled to, if such testator or testatrix had died intestate; towards raising which portion the devisees and legatees shall contribute proportionally out of the part devised or bequeathed to them by such last will or codicil: *Provided,* That any such child or children who has or have received any share or portion of the testator or testatrix's estate by way of advancement, shall bring the same into hotch potch before he or she shall be entitled to any portion of such estate, as in this section is herein before provided: *Provided also,* That nothing contained in this act shall be so construed as to preclude any devisor from disinheriting any child, by positively expressing his intention in his last will or codicil.

**Sec. 4. *Be it further enacted,*** That no verbal will shall be valid in law, unless it be made in the last sickness of the deceased, and be proved by two credible disinterested witnesses that the testator was of sound mind and memory, and that he did at the same time call on some person present to take notice or bear testimony that such was his will or words to the like import.

**Sec 6. *Be it further enacted,*** That after six months have elapsed from the time of speaking the pretended testamentary words, no testimony shall be received to prove a verbal will, nor shall such will be valid unless it be committed to writing within six days after making the same and subscribed by the witnesses proving the same, nor shall such will be proven within twenty days after the death of the testator nor until the widow and nearest kin, if any be found within the county, have had notice to contest the same if they please.

**Sec. 7. *Be it further enacted,*** That if any person shall subscribe his or her name as a witness to a will or codicil, wherein any bequest or devise is given to him or her, if the will cannot be otherwise proved, the bequest or devise shall be void, and such witness shall be allowed and compelled to appear and give testimony on the residue of the will or codicil in like manner as if no such bequest or devise had been made; but if such witness would have been entitled to any share of the testator's estate in case the will were not established, so much of said share shall be saved to him or her as shall not exceed the bequest or devise bequeathed to him or her.

**Sec. 8. *Be it further enacted,*** That before any written will or codicil can be considered valid in law, it shall be presented to the court of common pleas for probate, and be proved by at least two of the subscribing witnesses, who shall be able to declare on oath or affirmation that they were present when the testator or testatrix signed and acknowledged the same, or when some person signed it by the request of the testator or

testatrix, and that they believed the testator or testatrix to be of sound mind, memory and judgment at the time of signing and acknowledging such last will or codicil.

Sec. 9. *Be it further enacted*, That if any person interested shall within two years afterwards appear and by his or her bill in chancery contest the validity of the will, an issue shall be made up whether the writing produced be the last will of the testator or testatrix or not, which shall be tried by a jury, whose verdict shall be final between the parties, saving to the court the power of granting a new trial for good cause as in other trials; but if no person appear in that time the probate shall be forever binding, saving also to infants, married women and persons absent from the state, or of insane mind, or in captivity the like period after the removing of their respective disabilities.

Sec. 10. *Be it further enacted*, That in all such trials by jury the certificate of the oath of the witnesses at the time of the first probate shall be admitted as evidence to have such weight as the jury shall think it deserves.

Sec. 11. *Be it further enacted*, That it shall be lawful for the court of common pleas aforesaid, when any will or codicil is presented for probate, and any witness attesting the same shall reside out of the county or state, or shall be unable to attend and testify in open court, to issue a commission or commissions annexed to said will and directed to the presiding judge of any court of law, or to any notary public, mayor or other chief magistrate of any city, town, corporation or county, or to any other person authorised to take depositions where such witness or witnesses may be found, authorising the taking and certifying his, her or their attestation or attestations; if the person to whom any such commission shall be directed, shall certify in the manner such acts are usually authenticated by him, that the witness or witnesses personally appear-

ed before him, and by oath or affirmation proved said will or codicil agreeably to the provisions of the eighth section of this act, then such oath or affirmation shall have the same operation, and the will or codicil be recorded in the like manner as if such oath or affirmation had been made in the court from whence the commission issued.

Sec. 12. *Be it further enacted,* That authenticated copies of wills or codicils proved according to the laws of any state or territory of the United States, relative to any estate within this state, may be offered for probate in the court aforesaid, in the county where such estate shall lie, the court aforesaid may admit to record any such authenticated copies, and such copies so admitted to record, shall be good and valid in law in like manner as wills made in this state are declared to be, but such will or codicil shall be liable to be contested, and controverted in the same manner as the original might have been.

Sec. 13. *Be it further enacted,* That all or any of the persons named as executors in any such will or codicil, shall after the copy thereof has been admitted to record in manner aforesaid, be entitled to a probate of said will in the same manner as if the original will had been proved in said court, and when there shall be no executor named in such will, or when all the executors therein named refuse executorship, the court shall have the same power to hear and determine the right of administration and to grant letters of administration with the will annexed as if the original will had been proved in court.

Sec. 14. *Be it further enacted,* That if the court aforesaid shall be informed that any person hath a will or codicil of a testator in his or her custody, such court may summon such person and by proper process compel him or her to produce the same.

Sec. 15. *Be it further enacted,* That if the executors named in any will shall all refuse or neglect to act, or if no executor or executors be named in said

will, the court having jurisdiction as aforesaid, may receive the probate of the will or codicil, and grant letters of administration with the will annexed to the person to whom administration would have been granted if there had been no will or codicil of the deceased.

**Sec. 16.** *Be it further enacted,* That the sale and conveyance of lands devised to be sold, shall be made by the executors or such of them as shall undertake the execution of the will, if no other person be thereby appointed for that purpose, or if the person so appointed shall refuse to perform the trust, or die before he shall have accomplished it; but if none of the executors named in such will shall qualify or after they have qualified shall die before the sale and conveyance of such lands, then in those cases the sale and conveyance thereof shall be made by such person or persons to whom administration of the testators estate, with the will annexed shall be granted.

**Sec. 17.** *Be it further enacted,* That before granting a certificate of the probate of any will or codicil, the executor or executors, administrator or administrators with the will annexed, (as the case may be) shall in open court take the following oath or affirmation, to wit: "You do swear (or affirm, as the case may be) that this writing contains as far as you know or believe, the true last will and testament of the within named \_\_\_\_\_ and that you will well and truly perform the same by paying first his debts, and then the legacies contained in said will, as far as his goods, chattels and credits will extend, and the law charge you, and that you make a true inventory of all the said goods, chattels and credits, as also a just account when thereto required."

**Sec. 18.** *Be it further enacted,* That the power of the executors over their testator's or testatrix's estate before the probate of the will, is not hereby restrained, but they shall be permitted to transact such business

as may appear necessary, subject however to the inspection of the court.

Sec. 19. *Be it further enacted*, That all original wills shall be recorded, and shall also remain in the clerk's office of the court wherein they are respectively proved, except during the time they may be in the supreme court, having been removed thither for inspection by certiorari or otherwise, after which they shall be returned to the said office.

Sec. 20. *Be it further enacted*, That appeals may be had from any decision of the court of common pleas to the supreme court when any will or any other matter thereunto relating has been contested where the sum or matter in controversy exceeds two hundred dollars in value, and the supreme court shall proceed in all respects on said appeal as the court having original jurisdiction.

Sec. 21. *Be it further enacted*, That when it shall appear to the executor or executors of any last will and testament that the personal estate of his, her or their testator is not sufficient to pay and satisfy the demands against the said estate, he, she or they shall make known the same to the court of common pleas in a convenient time, who upon satisfactory proof thereof shall grant to the executor or executors power to proceed and settle up said estate by selling any or all the real estate of his, her or their testator, in the same manner and under the restrictions as is herein after pointed out in case of intestate estates.

Sec. 22. *Be it further enacted*, That the executors of executors shall be vested with all the powers and rights, and be subject to the same claims and demands in relation to the estate of which these testators were executors, as these testators in their life were vested with or subject to.

Sec. 23. *Be it further enacted*, That when any person dying intestate shall leave real or personal property to the amount of one hundred dollars, the court

of common pleas in the county wherein such intestate had his last place of residence, shall grant letters of administration to the person or persons nearest of kin to the deceased on application; but if the nearest of kin will not accept, then the next nearest of kin who will accept; and if no person of kin will accept, the court shall appoint an administrator or administrators who will serve; but if no application be made to the court, and they be well informed that the estate of the deceased exceeds the value of one hundred dollars, the court shall cause the person of kin, if any there be within the county known to the court, to come before them and show cause, if any there be, why letters of administration should not be granted, and if they do not appear at the next term of the court of common pleas of the proper county and shew cause or agree to administer, then the court shall appoint a proper person or persons and grant to him or them letters of administration: *Provided however*, That in case any person should die intestate in this state, leaving property to a less value than one hundred dollars, the court of common pleas of the proper county may upon application of any creditor of such intestate grant letters of administration as is before provided in this section.

**Sec. 24.** *Be it further enacted*, That letters of administration shall empower and direct the administrator or administrators to have all the goods and chattels of the deceased, so far as shall come within his or their knowledge, except the wearing apparel of the deceased which shall in all cases go to the widow, if any there be, appraised by three freeholders of the county, under oath or affirmation, who shall be appointed by the court and named in said letters, which freeholders having well and truly appraised all the goods and chattels of the deceased which shall be presented to them, a true and accurate inventory thereof signed by the appraisers, and also a true and accurate statement of the debts due and owing to the estate so far as known to

the administrator or administrators, shall by him, her or them be returned to the clerks office of said court within three months: *Provided*, The appraisers as aforesaid shall allow the widow such provisions or other property as they shall think reasonable for the support of herself and children twelve months from the time of the death of the intestate, which shall not be returned in the inventory; and he, she or they shall moreover adjust and settle up the accounts within twelve months from the date of such letters; and executors or administrators with the will annexed of any last will or codicil shall be governed by the provisions of this section so far as relates to the goods and chattels of the deceased not otherwise disposed of in said will or codicil, and the executor or executors, administrator or administrators on receiving such letters, shall by advertisement inserted and continued for four weeks successively, in one of the public newspapers printed in this state, notify the creditors of such estate to exhibit their accounts legally proven within one year: *Provided however*, That for good causes shewn the court may extend the time for adjusting and settling the accounts as aforesaid for any period not exceeding three years from the date of such letters.

**Sec. 25.** *Be it further enacted*, That the court when they grant letters of administration, shall cause the administrator or administrators to take an oath or affirmation to discharge with fidelity the duties of an administrator according to law, and shall likewise require them to give bond with two or more sufficient sureties (respect being had to the value of the estate) conditioned for the faithful performance of the duties required of him, her or them by law; and if it shall afterwards appear to the court that any last will and testament was made by the deceased, and the executor or executors therein named shall prove the same agreeably to law, and request letters testamentary thereon, then the court shall require the administrator or administrators to deliver such letters of

administration, together with his or their proceedings thereon to the satisfaction of the court, and on delivery thereof to the court he or they shall thereupon be released from such bond, but if such administrator or administrators after being legally notified as aforesaid, to come forward and deliver up their letters of administration, shall refuse or neglect so to do, then the court shall by decree which shall be entered on record stay all further proceedings under such letters of administration, and shall likewise oblige such administrator or administrators to give over all such assets, monies, papers and accounts as may be in his or their possession belonging to such estate into the hands of the executor or executors appointed under the will, and the court may allow in these cases to such administrator or administrators, on the delivery of their papers, such compensation for their services while acting under the letters of administration as may appear to them just and reasonable.

Sec. 26. *Be it further enacted,* That during any contest about a will, or during the infancy or absence out of the state of any executor or executors, or until a will which once existed, but is destroyed or secreted shall be produced or established, or for any other good cause, the court may appoint a proper person or persons as administrator or administrators who shall act until the disability or other obstacle as aforesaid shall be removed; and the administrator or administrators so appointed, shall in all respects proceed and govern themselves as is required of other administrators appointed under this act, with or without a will annexed (as the case may be) except that the oath and bond required of them to be taken and given shall be varied as the circumstances may require.

Sec. 27. *Be it further enacted,* That the bond of administration or the bond given by the executor or executors shall be drawn payable to the treasurer of the county for the time being and filed in the clerk's office, and shall not become void upon the first recovery, but may

be put in suit and prosecuted from time to time for the benefit of any party injured by a breach thereof, until the whole penalty be recovered thereon.

**Sec. 28.** *Be it further enacted,* That the executor or executors, administrator or administrators shall in all cases where such sale may be necessary, sell the personal property not devised or bequeathed, at public vendue, after at least fifteen days notice having been given in some newspaper of general circulation throughout the county, or by advertisement set up in at least five public places in the county where such sale is to take place, unless otherwise agreed on by the creditors and heirs or legatees: *Provided,* That the widow, if any there be, may keep such part of the household furniture and other personal property as she may think proper at the valuation made by the appraisers, she securing the payment thereof to the executor or executors, administrator or administrators if thereunto required to his or their satisfaction, receipting therefor as a part or in full satisfaction of her legacy or portion (as the case may be) and shall moreover be entitled to her wearing apparel, one bed and bedding without being obliged to account for it as a part of her husband's estate.

**Sec. 29.** *Be it further enacted,* That the executors or administrators shall in all cases of sales of the property of the deceased, return a true and accurate statement of the same to the court or clerks office as aforesaid; and the court shall allow the executor or executors, administrator or administrators any sum not exceeding six per cent. on the amount of the estate by them settled, and such other charges thereon as they may deem just and reasonable, to be paid out of the estate.

**Sec. 30.** *Be it further enacted,* That it shall be the duty of the administrator or administrators after all just debts, funeral and other incidental expenses allowed by the court shall have been fully paid, to set off and assign to the widow of the deceased if any there be, one

third part of all the remaining balance of the personal estate by her to be held as her proper estate: *Provided*, The deceased shall have left any legitimate child or children of his body, but in case the deceased shall not have left any legitimate child or children as aforesaid, then in that case the widow shall be entitled to all the balance of such personal estate as aforesaid: *Provided nevertheless*, That although the deceased shall have left legitimate children, yet if the whole amount of the personal estate after paying all debts and incidental expenses as aforesaid, after setting off provisions or other property for the support of the widow and children, agreeably to the twenty-fourth section of this act, doth not exceed four hundred dollars, the widow shall then be entitled to receive and hold one half of such personal estate as her own property to be set of in manner aforesaid.

Sec. 31. *Be it further enacted*, That when any widow shall apply to the court to have her dower set off, the court shall appoint three disinterested men to view the lands, tenements or hereditaments, who being duly sworn or affirmed, as the case may be, shall set off to the widow her dower in such manner as shall be just and lawful, and the court shall allow to them for their services such compensation as shall be reasonable to be paid out of the estate of the deceased.

Sec. 32. *Be it further enacted*, That if any executor or executors, administrator or administrators shall neglect or refuse to comply with the duties enjoined on him, her or them by this act, or shall waste the estate of the testator or intestate, it shall be lawful for the court granting letters of administration, testamentary or certificate of probate, upon complaint made by any person or persons interested, to remove such executor or executors, administrator or administrators, upon good cause shewn, and proceed to appoint others in the manner pointed out by this act, or as near as the nature of the case will admit.

**Sec. 33.** *Be it further enacted,* That if on return made to the court it shall appear to their satisfaction that after deducting the widow's wearing apparel, one bed and bedding, the expenses of the last sickness, funeral charges, and the costs of administration there is not personal property sufficient to pay all the demands against said estate, they shall after setting to the widow her dower, direct the administrator or administrators to sell under the restrictions herein after prescribed, so much of the real estate of the deceased, as shall be sufficient to discharge all such demands, after the money arising on the sales of the personal property has been applied thereto; and if on said returns it shall appear to the court that after setting off to the widow her dower and wearing apparel, and deducting the expenses of the last sickness, funeral charges, the costs of administration, that said estate is insolvent, it shall be the duty of said court after setting off to the widow her dower as aforesaid, to direct the remainder thereof to be sold; and the executor or executors, administrator or administrators shall proceed to sell the same, and immediately after the expiration of one year, as allowed by the twenty fourth section of this act for creditors to exhibit their accounts, the said executor or executors, administrator or administrators shall make out an accurate statement of the amount of monies in his or their hands and of what remains due belonging to said estate, and also an accurate statement of the debts against said estate and make return thereof to the court at their next session, and the court shall make an estimate of what the money belonging to the estate will pay on the dollar upon the whole of the demands against said estate, and it shall be the duty of the executor or executors, administrator or administrators immediately to pay out the money in his or their hands to the several creditors in proportion to the sum due to each, and in like manner continue to make payments as money shall be collected by them, and make

report of his or their proceedings thereupon to the court from term to term; and no costs shall be recovered on any suit commenced against any executor or executors, administrator or administrators within the time allowed by the court for the settlement of the estate of the testator or intestate, nor shall any execution be issued on a judgment recovered in consequence of the commencement of such suit within the time aforesaid, and in case such estate should prove insolvent, such judgment creditor shall not receive any other or greater proportion of his demand against the estate than the other creditors thereof.

**Sec. 34.** *Be it further enacted,* That when it shall be made to appear to the satisfaction of the court, that it is necessary to sell real property for the discharge of debts, as specified in the preceding section, that they shall appoint three disinterested men to view the lands, tenements or hereditaments so to be sold, who being first duly sworn shall set off to the widow (if any) her dower, in such manner as shall be just and lawful, and return to the court a statement of the value of the remainder of such lands, and the court shall allow to them for their services such compensation as shall be reasonable, to be paid out of the estate of the deceased; and the court shall direct the executor or executors, administrator or administrators to proceed to sell either the whole or a part (as they may think proper) of such real estate, after giving notice of the time and place of sale, by advertising the same in at least five public places in the county, and in some newspaper of the most general circulation within the county, at least six weeks successively; and such lands, tenements or hereditaments, shall be sold to the best advantage, either for cash or a limited credit, the purchaser securing the payment of the instalments as they become due, but no credit shall in this case extend beyond the period of three years: *Provided,* That any such tract of land with the improvements thereon do not sell for less

than two-thirds, and any tract without improvements not less than one half of its appraised value ; and the executor or executor administrator or administrators after making sale as aforesaid and discharging all debts and demands against said estate, shall pay over all the balance (if any) into the hands of the heirs or guardians.

**Sec. 35.** *Be it further enacted,* That the court may require, if they deem it necessary, of any executor or administrator to whom they grant the privilege of selling real property, what security they may think proper to secure to the creditors or heirs, the money arising from such sales, respect being had to the value thereof, and the executor or executors, administrator or administrators, shall by deed duly executed, convey to the person purchasing the property so sold, which deed shall vest the title in the purchaser as completely as though it had been conveyed by the deceased in his life time.

**Sec. 36.** *Be it further enacted,* That the court of common pleas shall have power, whenever they conceive it necessary, to appoint guardians to all minors within their county, and on good cause shewn to authorise guardians to sell all or part of the property, whether real or personal, of their ward or wards, and direct the manner of securing the money arising on such sales to said ward or wards, and likewise to authorise any guardian heretofore chosen or appointed, to sell the whole or a part of the estate, real or personal of his ward or wards, and to direct the manner of securing the money arising therefrom to said ward or wards ; which said guardians shall in every case give bond with sufficient security to the acceptance of the court, to discharge with fidelity the trust reposed in them, before entering on the discharge of the same, and for rendering an accurate statement of their transactions, with a just account of the profits arising, and deliver up the same to the court at such time as they

may require ; and the court may allow to such guardians what compensation they may think proper for the service by them performed : *Provided*, That minors living out of the state and owning lands within the same shall be entitled to the benefits of this section : *Provided*, his, her or their guardian or guardians shall give such security as shall be approved of by the court : *Provided also*, That in the sale of real property that guardians so appointed shall be governed by the same regulations as are required of administrators in the sale of real property in the case of insolvent estates : *And provided also*, That no sale of real estate shall be made under the provisions of this section, unless the court shall be satisfied that such sale is necessary for the support or education of such ward or wards, nor shall any sale in such case extend further than may be required for the purpose aforesaid.

*Sec. 37. Be it further enacted*, That when there are minors as aforesaid, males above fourteen and females above twelve years of age, or when any minors for whom the court have appointed guardians to the age aforesaid, such minors may severally choose guardians such as the court shall approve ; and if such minors do not come before the court and choose guardians after being notified by the court so to do, the court shall appoint guardians for them as aforesaid.

*Sec. 38. Be it further enacted*, That whenever any person, living in any other state or territory shall die, having property in this state, and the administrator appointed in such state or territory, shall produce to the court of common pleas in the county where such property lies, a regular executed and authentic certificate of such appointment from the judge or court by whom such letters testamentary were granted, and that it is necessary for the payment of the debts of the deceased, that all or part of such property should be sold, the court shall grant to such administrator, liberty

to sell the whole or part of such property as they shall see fit, and direct the mode thereof.

**Sec. 39.** *Be it further enacted,* That if any person shall die intestate, possessed of lands, tenements or hereditaments, situate within one or more counties in this state, leaving heirs, some of whom are minors and others of full age, and one or more of said heirs who are above the age of twenty-one years, shall prove to the satisfaction of the court, that he, she or they are lawful heirs of the intestate, and that the said intestate did not leave any last will or testament in which he or she hath devised such lands, tenements or hereditaments or any part thereof, and such heirs of full age as aforesaid shall petition the said court of common pleas within that county in which said premises or a greater part thereof are situate, praying for his, her or their equal proportion of such estate to be set off and assigned to him, her or them, such court if they are well satisfied in the proof aforesaid, and are of opinion that the petition is reasonable, shall appoint three disinterested and judicious men of the county, who after taking an oath or affirmation faithfully and impartially to discharge the trust reposed in them, shall take a surveyor to their assistance, and proceed to view and make partition of such real estate, if in their opinion it will conveniently divide without injuring or impairing the value thereof, by assigning and setting off to the widow, if any there be, one third part of such premises, and to each heir an equal part of the remainder of such real estate, taking into view the value thereof, as well that assigned to the widow as that to the heirs, and set off and assign to each heir, his, her or their proportion according to the value thereof.

**Sec. 40.** *Be it further enacted,* That when in the opinion of the men appointed and qualified according to the requisition of the preceding section, such lands, tenements and hereditaments are so situate that they will not admit of division as aforesaid, without mate-

fully injuring and reducing the value thereof, and they shall make return to the court under their hands to that effect, the court shall order and direct the administrator or administrators, or the survivor or survivors of them to sell such estate at public vendue to the highest bidder, having previous to such sale given six weeks notice by advertising the same in at least five public places in the county. and in one or more of the newspapers printed within this state, and in circulation within the county or counties where such premises are situated, setting forth the time and place when such sale will be made, and such administrator or administrators are hereby authorised and empowered to give such credits and divide the amount of the purchase money of such sale into such instalments as they shall deem most advantageous to the widow and heirs of such intestate: *Provided*. That in all cases where credits are given as aforesaid, the purchaser or purchasers shall enter into bond with sufficient securities, for the faithful performance and payment of such purchase money according to the condition of such sale, and all expenses arising under this act shall be adjudged of and settled by the court.

**Sec. 41.** *Be it further enacted*, That unless the widow shall give her free consent to such sale, her dower shall be set off as is directed by the thirty-ninth section of this act, and the remaining part of the land alone shall be sold; and in all cases where lands of a person dying intestate shall be divided or sold agreeably to the provisions of this act, it shall be lawful for the men appointed by the court as aforesaid, to take into view and divide the whole of such lands and set off to the widow her dower in any one county or more, and in such manner as they may deem most advantageous and equitable.

**Sec. 42.** *Be it further enacted*, That if any man hath heretofore died, or shall hereafter die intestate, being at the time of his death an inhabitant of this state, possessed of real or personal property, leaving a widow

ow and having no lineal or collateral heir, the property of such deceased person, after the payment of all just claims against his estate, shall pass to and be vested in his widow ; and in case the wife of any man, being an inhabitant of this state, hath died or shall die intestate, leaving property of any kind, and having no lineal or collateral heir, such property after the payment of debts as aforesaid, shall pass to and be vested in the husband; and if any person who hath died or may hereafter die intestate, not being at the time of his or her death an inhabitant of this state, and having no lineal or collateral heir, shall leave real property situate within this state, such real property shall pass to and be vested in the husband, or wife, as the case may be, according to the provisions in this section before contained.

**Sec. 43.** *Be it further enacted,* That if any person an inhabitant of this state, hath died or may die intestate, possessed of any property, real or personal within this state, having no lineal or collateral heir, and if a male leaving no wife, or if a female leaving no husband, and if any person not an inhabitant of this state hath died or shall die intestate, possessed of real property lying within this state, having no lineal or collateral heir, and if a male leaving no wife, or if a female leaving no husband, then and in either case such property after payment of all just debts and demands shall pass to and be vested in the overseers of the poor, and their successors in office, for the use of the poor of the township or townships in which such property may be situate.

**Sec. 44.** *Be it further enacted,* That where any person has heretofore or hereafter may purchase any land from the United States, and die intestate previous to the payments heretofore being completed to the United States, the court of common pleas of the county wherein the land may lie, may on application authorise and direct the administrator or administrators of the estate of such intestate, to complete the payment of the ballance due to the United States, on such tract of land, out of

the assets in his or their hands belonging to such estate: *Provided*, The court to whom application may be made as aforesaid, shall be satisfied that completing the payment as aforesaid, would be advantageous to such estate.

Sec. 45. *Be it further enacted*, That when any person has heretofore or may hereafter die intestate (having purchased land as aforesaid) previous to the payment being completed therefor, and it shall be made appear to the satisfaction of the court that there are not assets in the hands of the administrator or administrators, after paying all just debts, funeral and other incidental expenses, sufficient to complete such payment, the court shall order such administrator or administrators to sell the same in all respects agreeably to the provisions of this act, who is hereby legally authorised and required (upon the order of the court aforesaid) to transfer and convey the title of such land to the purchaser or his legal representative, as fully and completely as such intestate might or could have done in his life time.

Sec. 46. *Be it further enacted*, That it shall be the further duty of the administrators to render a correct and accurate statement of all their proceedings with respect to the sales made as aforesaid, to the court from which such order issued, within four months after such sale may be made.

Sec. 47. *Be it further enacted*, That it shall be lawful for the courts of common pleas in the several counties in this state, and they are hereby directed in all cases where bonds have been given by executors or administrators to the said court respectively, for the faithful discharge of the several duties required of them by law, to take recognisance thereof where suit is brought on any of the said bonds in the same manner as if the said bonds had been given to any other person for the benefit of the party injured.

**Sec. 48.** *Be it further enacted,* That the several courts of common pleas within this state, are hereby authorised and required to grant letters of administration, as well in cases of persons dying or who have died out of this state, leaving rights and credits, or any estate real or personal, within this state, as in cases where such persons may die or may have died within this state, and under the same provisions, rules and regulations; and that they be so far considered the successors of the judges of probate, under the territorial government, as to authorise the suing in their name and prosecuting to final judgment and execution all bonds given to the said judges and their successors in office.

**Sec. 49.** *Be it further enacted,* That every executor or administrator who has been or shall hereafter be appointed within any of the United States or territories thereof, according to the laws of the state or territory within which such appointment may have been or hereafter may be made, shall be authorised by virtue thereof, to commence and prosecute any action or suit, either in law or equity, and shall be liable to be sued, either in law or equity, in any court of this state, having jurisdiction of the subject matter of such action or suit, in his or her capacity of administrator or executor, in the same manner and under the same regulations as any non resident may be permitted to sue or be sued: *Provided,* That nothing herein contained shall be so construed as to vary the course of descents, nor in any wise affect the title of any land within this state, unless an authenticated copy of such will or codicil be proved and recorded in this state, in the same manner as is provided in the twelfth section of this act.

**Sec. 50.** *Be it further enacted,* That all and every executor or executors, administrator or administrators, who may have given bond in this state agreeably to this act; shall be and hereby are authorised in all cases of an appeal from one court to another, by him,

her or them made, to prosecute the same without filing any bond to prosecute the said appeal to effect and abide the judgment thereon to be had.

Sec. 51. *Be it further enacted*, That it shall be at all times hereafter lawful for the judges of the court of common pleas, or any three of them, when required to convene for the purpose of granting letters of administration, taking probate of wills, or for transacting any other necessary business relative to the settlement of the estate of deceased persons; and the said judges shall be allowed for their services one dollar and fifty cents each per day, on such special meeting to be paid by the person or persons, at whose instance the court was convened, out of the estate of the deceased.

Sec. 52. *And be it further enacted*, That the act, entitled, "An act for the proving and recording wills and codicils, defining the duties of executors and administrators, the appointment of guardians and distribution of insolvent estates," passed February tenth, eighteen hundred and ten, and the acts supplementary to the above recited act, passed February nineteenth, one thousand eight hundred and ten, and February eighth, one thousand eight hundred and twelve, be and the same are hereby repealed: *Provided*, That nothing in this section contained shall be so construed as to repeal the above recited acts so far as relates to the estates of any deceased persons, where letters testamentary, or letters of administration may have been, or shall be granted prior to the taking effect of this act, but all business relative to said estates, shall be transacted and finally settled, as though this act had never been passed.

This act shall take effect and be in force from and after the first day of May next.

MATTHIAS CORWIN,

*Speaker of the house of representatives.*

PETER HITCHCOCK,

*Speaker of the senate.*

January 25, 1816.

## CHAPTER XXVI.

*AN ACT to amend the last named act,*

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That when the dower of any widow, shall be set off, under the forty-first section of the act to which this is an amendment, the remaining part of the land directed to be sold shall be considered as including the whole residue of the estate, as well the remainder after termination of the widow's estate, in the third part set off to her, as the other two thirds of the same, and shall be valued and sold accordingly.

**DUNCAN M'ARTHUR,**

*Speaker of the house of representatives.*

**ABRAHAM SHEPHERD,**

*Speaker of the senate.*

January 29, 1818.

## CHAPTER XXVII.

*AN ACT regulating the course of descents and distribution of personal estate.*

Real estate of persons dying intestate to descend in parcenary.	1	Alienage of ancestor, no bar to title by descent.	9
Course of descents,	ib	Bastards may inherit in certain cases,	10
Course of descents continued,	2	How bastards may be legitimated,	10
Continued,	3	One parcener may maintain waste against another,	11
Continued,	4	Goods and chattels how to descend,	12
Continued,	5	Dower saved,	ib
Continued,	6	Right of inheritance by courtesy saved,	13
When they shall take per capita,	7	Repealing clause,	14
When per stirpes,	ib		
When estate advanced it may be bro't into hotch potch,	8		

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That when any person shall die intestate having title to any real estate of inheritance, lying and being in this state, which title shall have come to such intestate by descent, devise or deed of gift from an ancestor, such estate shall descend and pass in parcenary to his or her kindred, in the following course : First—to the children of such intestate or their legal representatives : Second—if there be no children, or their legal representatives, the estate shall pass to the brothers and sisters of the intestate, who may be of the blood of the ancestor, from whom the estate came, or their legal representatives, whether such brothers and sisters be the whole or of the half blood of the intestate : Third—if there be no brothers and sisters of the intestate of the blood of the ancestor from whom the estate came, or their legal representatives, and if the estate came by deed of gift from an ancestor who may be living, the estate shall ascend to such ancestor : Fourth—if there be neither brother nor sister of the intestate of the blood of the ancestor from whom the estate came, or their legal representatives, and if the ancestor from whom the estate came be deceased, the estate shall pass to the brothers and sisters of the ancestors from whom the estate came, or their legal representatives ; and for want of such brothers or sisters, or their legal representatives, to the brothers and sisters of the intestate of the half blood, or their legal representatives, though such brothers and sisters be not of the blood of the ancestor from whom the estate came : Fifth—if there be no brothers and sisters of the intestate, or their legal representatives, the estate shall pass to the next of kin to the intestate of the blood of the ancestor from whom the estate came.

**Sec. 2.** *Be it further enacted,* That if the estate come not by descent, devise or deed of gift, but was acquired by purchase, by the intestate, it shall descend

to the children of the intestate and their legal representatives.

Sec. 3. *Be it further enacted*, That if there be no children, or their legal representatives, the estate shall pass to the brothers and sisters of the intestate of the whole blood and their legal representatives.

Sec. 4. *Be it further enacted*, That if there be no brothers or sisters of the intestate of the whole blood, or their legal representatives, the estate shall pass to the brothers and sisters of the half blood and their legal representatives.

Sec. 5. *Be it further enacted*, That if there be no brothers and sisters of the intestate of the half blood, or their legal representatives, the estate shall ascend to the father, if the father be dead, then to the mother.

Sec. 6. *Be it further enacted*, That if the father and mother be dead, the estate shall pass to the next of kin to and of the blood of the intestate.

Sec. 7. *Be it further enacted*, That where any of the before mentioned children, brothers, sisters, or their legal representatives, in the same degree of consanguinity or kindred, come into the partition of any real estate, they shall take per capita, that is to say by persons; but where one or more of them are dead and one or more living, the issue of those dead shall have a right to partition, and such issue, in such case, shall take per stirpes, that is to say, the share of their deceased parents.

Sec. 8. *Be it further enacted*, That where any of the children of the intestate or their issue shall have received from the intestate in his life time any real estate by way of advancement, and shall choose to come into partition with the other parceners, such advancement shall be brought into hotch potch with the estate descended.

Sec. 9. *Be it further enacted*, That in making title by descent, it shall be no bar to a party, that any ancestor through whom he derives his descent from the

intestate is or hath been an alien ; bastards also shall be capable of inheriting or of transmitting inheritance on the part of their mother in like manner as if they had been lawfully begotten of such mother.

Sec. 10. *Be it further enacted,* That where a man having by a woman one or more children, shall afterwards intermarry with such woman, such child or children, if recognised and acknowledged by him as his children shall be thereby legitimated ; the issue also in marriages deemed null in law, shall nevertheless be legitimate.

Sec. 11. *Be it further enacted,* That one parcener may maintain an action of waste against another, but no parcener shall have or possess any privileges over another in any election, division or matter to be made or done concerning lands which have descended.

Sec. 12. *Be it further enacted,* That if any person shall die intestate, leaving any goods, chattels or other personal estate, such goods, chattels or other personal estate shall be distributed agreeably to the foregoing course of descents, saving however, such rights which any widow may have to any portion of such personal estate.

Sec. 13. *Be it further enacted,* That nothing in this act shall be construed to affect the right any person may have as tenant by the courtesy, in any estate of inheritance, nor shall the right of dower claimed by any widow in any estate of inheritance be impaired in any wise whatever.

Sec. 14. *And be it further enacted,* That all laws and parts of laws now in force in this state, on the subject of descents, are hereby repealed.

This act shall be in force from and after the first day of May next.

**MATTHIAS CORWIN,**

*Speaker of the house of representatives.*

**PETER HITCHCOCK,**

*Speaker of the Senate.*

**December 30, 1815.**

## CHAPTER XXVIII.

*AN ACT allowing and regulating writs of attachment before justices of the peace.*

Justices to issue writs of attachment on affidavit,	1	less than 3 months, except of a perishable nature,	11
Duty of constable in executing writs of attachment,	2	Duty of justice in auditing claims apportioning money, &c.	12
Notice of issuing writ to be given,	3	Plaintiff not to discontinue suit when there is other claimants,	13
Constable may take bond for delivery of property,	4	Creditors to pay cost in certain cases,	14
Proviso,	ib	Appeals allowed,	ib
Constable to summon a jury of five men to try the right of contested property,	5	Defendant entering bail in 15 days to have stay of execution,	15
Persons may be summoned as garnishee in certain cases,	6	Proceedings when goods are attached,	16
Proceedings thereon,	ib	Attachments issued from court to supercede those issued by a justice,	17
Further proceedings when garnishee is summoned,	7	Proceedings thereon.	ib
Garnishee may be held to bail in certain cases,	8	Proviso,	ib
Justices to give judgment and issue execution in 30 days in certain cases,	9	Further proviso allowing justices to issue attachments against lands & tenements in certain cases,	ib
Proviso,	ib	Proceedings thereon,	ib
Justices to certify their proceedings to court,	10	Forms,	18
Goods taken by attachment not to be sold in		Repealing clause,	19

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio.* That every justice of the peace within this state, is hereby authorised and required (upon application made to him by any creditor, his agent or attorney, on oath or affirmation before the said justice, that his debtor absconds to the injury of his creditors, or that such debtor is not a resident in said county as

he verily believes) to issue an attachment under his hand and seal, directed to any constable of the proper county, requiring him to execute the same on the goods, chattels, rights, credits, monies and effects of the defendant within the county, and make return thereof within twenty days.

*Sec. 2. Be it further enacted,* That the constable in executing such writ of attachment, shall go to the place where the defendant's property is or may be found, and in the presence of at least two credible persons, declare that by virtue of the writ to him directed, he attaches the goods, chattels, rights, credits, monies and effects of said defendant, at the suit of such plaintiff in attachment; and the said constable shall take to his assistance two respectable freeholders, who, under oath or affirmation, which oath or affirmation the constable is hereby authorised to administer, shall make a true inventory and appraisement of the property so attached, which shall be signed by the said constable and freeholders, and returned with the writ; and the constable shall endorse on said writ, the time and manner of serving the same, and subscribe his name thereto; and such writ, when served, shall bind the property so attached from the time of executing the same.

*Sec. 3. Be it further enacted,* That any person taking out a writ of attachment from a justice of the peace, shall forthwith advertise, in three of the most public places in the proper county, or in some newspaper printed in the county, that an attachment has been taken out from such justice, against such absent or absconding debtor, and shall transmit to the justice a copy thereof, and shall produce to him satisfactory evidence of having advertised agreeably to the requisitions of this section, thirty days previous to rendering judgment.

*Sec. 4. Be it further enacted,* That the property attached shall be taken into the care of the said con-

stable, unless the garnishee or person in whose custody or possession the said property shall be found, shall enter into bond to the constable with two good and sufficient sureties within the county, in double the appraised value of such property, conditioned that such property, or the appraised value thereof, shall be forthcoming to answer the judgment on said attachment: *Provided*, That if the said property or any part thereof, shall be lost by unavoidable accident, said justice upon sufficient proof being made shall remit the value thereof to the person so bound.

**Sec. 5.** *Be it further enacted*, That if any constable, by virtue of a writ of attachment issued under this act, shall through ignorance or want of information, attach any goods, chattels, or effects which shall be claimed by any other person or persons, as his, her or their property, it shall and may be lawful for such constable, forthwith to summon and swear a jury of five men, who shall be freeholders in said county, to inquire into and try the right of property thereof; and if such jury shall find the right of property to be in the claimant, or any other person or persons than the defendant in such attachment, the said constable shall deliver such goods, chattels or effects, to the person or persons in whom the property of the same is found by the inquisition, or his or their agent; and the constable shall not be liable to any prosecution for having taken and attached such goods, chattels or effects; and all reasonable costs accruing by such inquest, shall be taxed by the justice and paid by the plaintiff in attachment; but if the right of property be found to be in the said defendant, then such costs shall be paid by the claimant; and in all cases where the right of property is disputed by any claimant, and a trial is had the decision thereon may be appealed from or taken up by certiorari to the court of common pleas, as in other cases of judgment.

**Sec. 6. *Be it further enacted,*** That if the plaintiff or other credible person, shall make oath or affirmation that he has good reason to believe, and does verily believe, that any person or persons (naming such person or persons) hath property (describing the same as nearly as may be) in his or their possession, belonging to the defendant in attachment; and if the said constable, making service of such writ of attachment, cannot come at the property of the defendant in attachment, in the hands and possession of such person, the said constable shall summon such garnishee, by leaving with him, or at his usual place of residence, a copy of such writ of attachment and a copy of the affidavit, together with a written notice to such garnishee, to appear before the said justice within five days, who shall give attendance accordingly, and make answer under oath or affirmation, to all questions that shall be put to him touching the property and credits of the defendant, in his hands and possession or within his knowledge; and from the day of such service, such garnishee shall stand accountable to the plaintiff in attachment, to the amount of the monies, property and credits in his hands, or due from him to the said defendant in attachment.

**Sec. 7. *Be it further enacted,*** That the suit instituted against such garnishee, shall be continued, without trial or decision, until the action against such defendant in attachment shall be determined; and if in such action nothing shall be found due from the defendant to the plaintiff, then the garnishee shall recover costs against the plaintiff although he may be indebted to the defendant in attachment, or have monies, goods, chattels or effects of such defendant in his possession; or if in such suit so instituted against the garnishee, the plaintiff shall be nonsuited, discontinued or judgment be had against him, the said garnishee shall recover costs; and if the plaintiff shall recover judgment against the defendant in such attachment, and the

garnishee shall deliver up to the constable, before judgment is had against him, all the goods, chattels, and other property in his possession, and shall also pay over to the said justice, all monies due from him to said defendant, then the costs which shall have accrued on such suit, against the garnishee, shall be paid out of the proceeds of the property attached and belonging to the defendant; but if the garnishee shall not appear, or if appearing, shall refuse truly to confess the matters alleged, and the plaintiff on trial shall recover judgment, the said garnishee shall pay costs.

*Sec. 8. Be it further enacted,* That if the plaintiff will make oath or affirmation, before the justice issuing said attachment, that he is in fear said garnishee will abscond, before judgment can be had, and that he verily believes such garnishee hath monies, goods, chattels or effects in his possession or is indebted to the said defendant, it shall be lawful for said justice to issue a warrant against such garnishee, or other person holding property of the said defendant, who shall be held to bail as in other civil cases.

*Sec. 9 Be it further enacted,* That upon return of said writ of attachment, if the creditor or creditors shall make sufficient proof of the debt due to him or them, and also of the goods, chattels, rights, credits, monies and effects in the hands of the garnishee, the said justice shall at any time after the expiration of thirty days, give judgment therein for the said plaintiff or plaintiffs, as the case may be, and award execution thereon, either against the effects of the defendant or against the garnishee, as the case may require: *Provided.* The amount proven by one of the creditors doth not exceed the sum cognizable before a justice of the peace in other cases: *Provided also.* That if the plaintiff shall fail in proving a demand against the defendant, or in proving the goods, chattels, rights, credits, monies or effects in the hands of the garnishee, he shall pay the costs.

and if need be, the said justice shall give judgment against such plaintiff, and issue execution for the same.

**Sec. 10.** *Be it further enacted,* That if upon proof made as aforesaid, it shall appear that a sum greater than the amount cognizable by a justice of the peace is due and owing to any one person, then, in that case, the said justice shall forthwith certify his proceedings, together with the writ and constable's return to the court of common pleas, next to be holden in said county, and the court shall proceed therein, as if the writ of attachment had originally issued from said court.

**Sec. 11.** *Be it further enacted,* That the effects of the defendant, taken by attachment, shall not be sold in less than three months, except the same are of a perishable nature, to the end that the debtor or his agent may redeem them, and the same shall be kept in such manner as the justice shall direct.

**Sec. 12.** *Be it further enacted,* That the justice shall have power to audit and adjust all accounts and demands of the plaintiff and creditors of the defendant in attachment, upon due proof of the same being made within three months, from and after issuing said attachment; and if the money collected by virtue of the sale of said property, be not sufficient to satisfy, in full, the demands or accounts proven against said defendant, then the justice shall pay an equal proportion to each creditor, according to his demand thus adjusted, after deducting the legal costs which may have accrued by virtue of such attachment; and the said justice shall allow to the said constable and appraisers, such compensation as shall appear to him just and reasonable, for services not otherwise provided for by law.

**Sec. 13.** *Be it further enacted,* That the plaintiff, in any writ of attachment, shall in no case be permitted to discontinue the same when any other creditor or creditors shall have applied and filed his or their claim, with the justice issuing such writ, without the consent of or satisfaction made to each of said creditors.

**Sec. 14. *Be it further enacted,*** That if sufficient monies and effects cannot be found to satisfy the legal costs of such attachment and service, then, and in such case, said costs shall be discharged by the creditors, in proportion to their several demands, adjusted as afore-said: and all judgments rendered by any justice by reason of this act, may be taken up by appeal or otherwise, as in other cases.

**Sec 15. *Be it further enacted,*** That if any defendant in attachment, by himself or agent, appear before any justice, within fifteen days after a judgment is rendered against him, under this act, and then and there cause good and sufficient bail, for stay of execution, for the payment of each and every debt and costs recovered by the plaintiff and creditors, (if any applied) such justice shall suffer such person to enter bail, and he shall have the same time for stay of execution as he would have been entitled to had the suit been brought by the plaintiff and creditors, severally, by summons or *capias*, and the property attached shall be delivered over to the defendant on demand.

**Sec. 16. *Be it further enacted,*** That where an attachment is levied on goods in the possession of a consignee, the consignee of such goods shall have a lien upon them for any debt due to him from the consignor, in exclusion of the plaintiff, or any other creditor.

**Sec. 17. *Be it further enacted,*** That any writ of attachment against any absconding or absent debtor, which may be issued out of the court of common pleas, shall be a supersedeas to all attachments issued by a justice of the peace, undetermined at the time of serving the said writ; and it shall and may be lawful for the sheriff, or his deputy or other officer, to take into his possession, all goods and chattels attached by the constable, as fully and to all intents and purposes, as if the attachment issued by the justice had not been served; and the plaintiffs in said attachment, shall be entitled to their several debts, with the costs that may have ac-

orued, in proportion to other creditors, as is before in this act mentioned and directed : *Provided*, That no constable shall be obliged to remove any goods taken into his custody by virtue of any attachment, after the same shall have been seized and attached by the sheriff: *And provided also*, That if on the return of an attachment issued against the goods, chattels, rights, credits, monies and effects of any absconding or absent debtor, it shall appear to the justice that there were no goods, chattels, rights, credits, monies and effects, or not a sufficiency thereof on which to levy, the justice in such case, on the application of the plaintiff, may issue an attachment against the lands and tenements of the defendant, and the constable shall levy the said writ of attachment in the same manner as sheriffs are directed to do, by an act allowing and regulating writs of attachment; and on the return thereof the justice shall forthwith certify his proceedings together with the constable's return to the court of common pleas, next to be holden for the proper county; and the court of common pleas shall proceed in the same as if the writ of attachment had originally issued from said court.

**Sec. 13.** *Be it further enacted,* That in all cases where a writ of attachment is issued by virtue of the provisions of this law, the following form shall be pursued, as nearly as the same may be proper or applicable; and the justice shall, in all cases endorse on the back of said writ the amount of the sum claimed, that the defendant, or any one for him may pay the same, and costs if such defendant or his agent so elect; and upon the return of such writ, if said sum and costs be paid, the justice shall enter a judgment of nonsuit.

*Form of a writ.*

County, \_\_\_\_\_ township, to wit:

**The state of Ohio.**

To any of the constables of \_\_\_\_\_ township,

county, *Greeting* :

Whereas A. B. hath this day made oath (or affirm-

ation, as the case may be, that C. D. is justly indebted to him, and that the said C. D. absconds to the injury of his creditors (or that the said C. D. is not a resident, &c. as the case may be) as he verily believes, you are therefore, hereby commanded to attach the goods, chattels, rights, credits, monies and effects of the said C. D. which may be in your county, agreeably to law; and whereas A. B. hath made oath or affirmation, that he does verily believe that E. F. is indebted to (or hath property of, as the case may be) the said C. D. you are therefore commanded to summon the said E. F. agreeably to law, that he appear before G. H. a justice of the peace within said township, on the                      day of

18 then and there to make answer, under oath or affirmation, touching the property and credits of the said C. D. within his knowledge or possession; hereof fail not, and of this writ make legal service and due return according to law. Given under my hand and seal this                      day of                      18

(Seal.)

G. H.

Justice of the peace in and for said township and county.

Sec. 19. *And be it further enacted.* That the act, entitled "An act allowing and regulating writs of attachment before justices of the peace," passed the eleventh day of February, eighteen hundred and twelve, and the act amendatory thereto, passed the eighth day of February, eighteen hundred and thirteen, be and the same are hereby repealed.

This act shall take effect and be in force from and after the first day of May next.

MATTHIAS CORWIN,

*Speaker of the house of Representatives.*

PETER HITCHCOCK,

*Speaker of the senate.*

January 1, 1816.

## CHAPTER XXIX.

*AN ACT directing the mode of redeeming lands sold for taxes.*

Manner of redeeming the lands of minors, feme coverts and insane persons sold for taxes,	1	or and treasurer,	-	5
Duty of auditor and treasurer,	-	Manner of drawing redemption money from the treasurer,	-	6
Duty of the court of common pleas,	-	Treasurer's fee for recovering redemption money,	-	7
Duty of the court in awarding the value of improvements,	-	Manner of proceeding when the collector's deed has been recorded	-	8
Further duty of the audit-	4	Repealing clause,	-	9
		Proviso,	-	ib

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That where lands have been or may hereafter be sold for taxes, belonging to a minor or minors, feme covert, insane person or person in captivity, who have the right, by law, to redeem the same, such person or persons, his, her or their agent or attorney shall apply to the auditor of public accounts for a written statement, containing the amount of tax, interest and penalties for which such land was sold, together with the amount of taxes paid by the purchaser, with legal interest thereon, which statement the auditor is hereby required to furnish, under his hand and seal of office, on application as aforesaid, for which the auditor shall have a right to demand and receive the sum of one dollar; and the person or persons, his, her or their agent or attorney, so applying, who have had or may hereafter have land situated within the Virginia Military District sold for taxes, having the right of redemption as aforesaid, shall deposit the full amount contained in such written statement, with the state treasurer, and when situated in other parts of this state, with the treasurer of the county in which the land thus sold shall lie,

who are hereby authorised and required to receive and receipt for the same; and on payment as aforesaid, such applicant or applicants shall forthwith proceed to give notice in at least two of the public papers printed within this state (one of which shall be in general circulation within the county where the land is situated) therein describing the land thus sold, in the same manner as it was described when entered for taxation, the original proprietor's name, and the quantity in the original tract, in whose name sold, and to whom, and the quantity sold, the water course and county, if known, and therein notify the purchaser, his, her or their heirs or assigns, that he, she or they will proceed, at a subsequent court of common pleas, to be held within the county where the land so to be redeemed may be situate, naming the term of said court, to exhibit the proof of his, her or their right of redemption in such land, and that the amount of the redemption money has been deposited with the treasurer as aforesaid, which advertisement shall be inserted at least six weeks successively, previous to the sitting of said court.

Sec 2. *Be it further enacted*, That where any money shall hereafter be deposited with the state treasurer for the redemption of lands as aforesaid, the person or persons making such deposit, shall deliver the treasurer's receipt to the auditor of public accounts, who shall charge the treasurer with the amount thereof, file the same in his office, and issue his receipt therefor, which receipt shall be received in court as the evidence of such deposit; and where money shall be deposited with the county treasurer for the purposes aforesaid, his receipt therefor shall be delivered to the clerk of the commissioners of the proper county, who shall file the same in his office, and charge the treasurer with the amount thereof, and issue his receipt therefor, which receipt shall be received in court as the evidence of such deposit.

Sec. 3. *Be it further enacted*, That on producing to the court of common pleas the auditor's statement, as

required by the first section of this act, together with the receipt of the auditor or clerk of the commissioners (as the case may be) for the deposit made with the proper treasurer, the court shall proceed to hear the evidence of the claimants, and of the purchaser, his heirs or assigns, (if he or they attend and desire to be heard;) and if upon such examination it shall appear to the court, that the claimant or claimants have a legal right to redeem such land, or any part thereof, the court shall adjudge the same to him, her or them, on paying the amount of damages and costs as required by law; and the clerk of the court shall at any time thereafter, furnish the purchaser or purchasers, his heirs or assigns, with a certified copy of such decision, and on the same being produced to the proper treasurer, shall entitle such person or persons to draw the money deposited as aforesaid: *Provided*, That the collector's certificate, deed or conveyance made therefrom, shall also accompany the same, and remain filed in the treasurer's office.

*Sec. 4. Be it further enacted*, That in case any improvements have been made on lands redeemed under the provisions of this act, the court shall (in case the parties cannot agree as to the value of the improvements) appoint three judicious, disinterested men, to value the said improvements, under oath or affirmation, and return the value thereof, under their hands to the said court, who shall have the same entered on record, and on payment thereof, award the claimant restitution of the lands so redeemed.

*Sec. 5. Be it further enacted*, That at the same time the treasurer makes his quarterly reports to the auditor of the bills by him redeemed at the treasury, he shall also deposit with the auditor the receipts by him taken for all monies paid over agreeably to the third section of this act, and the auditor shall file the same in his office, and give the treasurer a receipt therefor, and shall credit the treasurer with the amount of the receipts thus deposited.

**Sec. 6. *Be it further enacted,*** That if any compromise should take place between the parties after the redemption money is deposited with the treasurer, such money may be drawn out of the treasury by the person holding the collector's certificate, in the same manner pointed out in the third section of this act, or if the person claiming the right of redemption, should fail to establish such right to the satisfaction of the court, such person shall on the certificate of the clerk of the court where the same was tried, be entitled to receive from the treasurer, the money which such person may have deposited in the treasury; and the treasurer shall take a receipt for the same, and file it with the certificate of the clerk in his office, which receipt shall be deposited with the auditor at the same time that other receipts are under this act, and by him entered to the credit of the treasurer.

**Sec. 7. *Be it further enacted,*** That each person who shall deposit money in the state or county treasury, under this act, shall at the same time, pay to the treasurer as a compensation for receiving, receipting for, safekeeping and paying out the same, the sum of twenty-five cents for each and every tract or part of a tract thereby intended to be redeemed.

**Sec. 8. *Be it further enacted,*** That where the deed of the collector, or of any other person deriving title therefrom has been recorded in the recorder's office of the proper county, and the proprietor or proprietors thereof, has or have proven himself, herself or themselves entitled to the right of redemption, agreeably to the provisions of the act under which such land may have been or hereafter may be sold for the non payment of tax. or agreeably to any other law authorising or directing the mode of such redemption, such person or persons, his, her or their agent, attorney or other legal representative or representatives, shall be entitled to receive an official certificate from the clerk of the court where such proof may have been made, or from

the state treasurer, or treasurer of any county where such deed or conveyance may have been deposited or endorsed (as the case may be) which official certificate shall be recorded in the recorder's office where such deed or conveyance has been recorded : Whereupon, such deed or conveyance shall be cancelled and deemed in law, null and void as it relates to so much of said land as may have been redeemed as aforesaid.

*Sec. 9. And be it further enacted,* That the act directing the mode of redeeming certain lands sold for taxes, passed on the thirty-first day of January, eighteen hundred and seven, and an act amendatory thereto, passed on the twenty-first day of February, eighteen hundred and twelve, be and the same are hereby repealed : *Provided,* That all applications heretofore made, for the redemption of land, together with all decisions and transactions thereon, shall be conducted and carried into effect in the same manner, and be equally valid in law as if this act had never passed.

**MATTHIAS CORWIN.**

*Speaker of the House of Representatives.*

**PETER HITCHCOCK,**

*Speaker of the Senate.*

January 4, 1816.

---

## CHAPTER XXX.

*AN ACT to provide for commissioning certain officers.*

*Sec. 1. Be it enacted by the general assembly of the state of Ohio,* That each judge of the supreme court, president and associate judge of the court of common pleas, sheriff, coroner, auditor, state treasurer, militia officer, and justice of the peace, and every officer whose office is created by law, and not otherwise provided for, shall be entitled to receive from the governor a

commission to fill such office, upon producing to the secretary of state a legal certificate of his being duly elected or appointed: *Provided*, That the election of all officers, elected or appointed by the legislature, shall be certified by the speakers of both houses.

**MATTHIAS CORWIN,**

*Speaker of the House of Representatives.*

**PETER HITCHCOCK,**

*Speaker of the Senate.*

February 26, 1816.

## CHAPTER XXXI.

***AN ACT*** providing for the vacating of town plats, and for other purposes.

Power and duty of courts		{	Proceedings on due proof	
of common pleas,	1	{	of notice being given,	3
Notice how to be given,	2	{	Clerk's duty,	4

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio*, That the courts of common pleas are hereby authorised and empowered on application made by the proprietor or proprietors of any town within their proper county, to alter or vacate the same, or any part thereof.

**Sec. 2.** *Be it further enacted*, That if any proprietor or proprietors of a town shall be desirous of altering or vacating the same, or any part thereof, such proprietor or proprietors shall give notice, in writing, of such intended application, in at least two places in the county wherein such town may be situated, one to be set up in the most public place in said town, and one on the court house door of said county, and insert a copy of the same in a newspaper, printed or in circulation in said county, at least sixty days prior to the sitting of the court to which he, she or they intend to make such application.

**Sec. 3.** *Be it further enacted,* That if such applicant or applicants shall produce to said court satisfactory evidence that the notice, required by the preceding section of this act, has been given, and that all persons owning any lot or part thereof in said town, have agreed that the whole or a part thereof shall be altered or vacated, the court shall proceed to alter or vacate said town or any part thereof, and order their proceedings therein to be recorded by their clerk with the records of said court: *Provided,* That the vacating of any town plat or any part of a town plat shall not vacate any part of a state or county road.

**Sec. 4.** *And be it further enacted,* That the clerk of the said court shall give to the applicant a certified copy of such record, for which he shall be entitled to receive the sum of fifty cents, and it shall be the duty of such applicant to have such certificate recorded by the recorder of the county, within three months thereafter.

**MATTHIAS CORWIN,**  
*Speaker of the House of Representatives.*  
**THOMAS KIRKER,**  
*Speaker of the Senate.*

**December 21, 1844.**

---

---

## **CHAPTER XXXII.**

**AN ACT** *authorising aliens to hold lands in this state, by purchase or otherwise.*

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That it shall be lawful for any and all aliens that now may have, or that hereafter shall be entitled to have, within this state, any lands, tenements or hereditaments, either by purchase, gift, devise or descent, to hold, possess and enjoy the same, as fully

and completely as any citizen of the United States or this state can do, subject to the same laws and regulations, and not otherwise.

Sec. 2. That this act shall be in force from and after the passage thereof.

ELIAS LANGHAM,  
*Speaker of the house of representatives*  
NATHANIEL MASSIE,  
*Speaker of the senate.*

February 3, 1804.

## CHAPTER XXXIII.

### *AN ACT to regulate black and mulatto persons.*

Colored persons must produce a certificate of freedom,		§	Penalty on persons harboring or secreting negro or mulatto persons,	4
Residents prior to 1st June 1804, to enter their names with the clerk,	1	§	Certificate to be recorded,	5
Proviso,	2	§	Proceedings when persons or their agents claim any negro or mulatto,	6
Penalty for hiring persons not having a certificate,	ib	§	Penalty on persons removing any negro, &c.	7

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That from and after the first day of June next, no black or mulatto person shall be permitted to settle or reside in this state, unless he or she shall first produce a fair certificate from some court within the United States, of his or her actual freedom, which certificate shall be attested by the clerk of said court and the seal thereof annexed thereto by the said clerk.

Sec. 2. *And be it further enacted,* That every black or mulatto person residing within this state on or before the first day of June, one thousand eight hundred and four, shall enter his or her name, together with the name or names of his or her children, in the clerk's

office in the county in which he, she or they reside, which shall be entered on record by said clerk, and thereafter the clerk's certificate of such record shall be sufficient evidence of his, her or their freedom; and for every entry and certificate, the person obtaining the same, shall pay to the clerk twelve and an half cents: *Provided nevertheless*, That nothing in this act contained shall bar the lawful claim to any black or mulatto person.

**Sec. 3.** *And be it further enacted*, That no person or persons, residents of this state, shall be permitted to hire or in any way employ any black or mulatto person unless such black or mulatto person shall have one of the certificates as aforesaid, under pain of forfeiting and paying any sum not less than ten, nor more than fifty dollars, at the discretion of the court, for every such offence, and one half thereof for the use of the informer, and the other half for the use of the state, and shall moreover pay to the owner, if any there be, of such black or mulatto person, the sum of fifty cents for every day he, she or they shall in any wise employ, harbor or secrete such black or mulatto person, which sum or sums shall be recoverable before any court having cognisance thereof.

**Sec. 4.** *And be it further enacted*, That if any person or persons shall harbor or secrete any black or mulatto person, the property of any person whatever, or shall in any wise hinder or prevent the lawful owner or owners from re-taking and possessing his or her black or mulatto servant or servants, shall, upon conviction thereof, by indictment or information, be fined in any sum not less than ten, nor more than fifty dollars, at the discretion of the court, one half thereof for the use of the informer, and the other half for the use of the state.

**Sec. 5.** *And be it further enacted*, That every black or mulatto person who shall come to reside in this state, with such certificate as is required in the first

section of this act, shall, within two years, have the same recorded in the clerk's office, in the county in which he or she means to reside, for which he or she shall pay to the clerk twelve and an half cents, and the clerk shall give him or her a certificate of such record.

Sec. 6. *And be it further enacted,* That in case any person or persons, his or their agent or agents, claiming any black or mulatto person that now are or hereafter may be in this state, may apply, upon making satisfactory proof that such black and mulatto person or persons is the property of him or her who applies to any associate judge or justice of the peace within this state, the associate judge or justice is hereby empowered and required, by his precept, to direct the sheriff or constable to arrest such black or mulatto person or persons, and deliver the same in the county or township where such officers shall reside, to the claimant or claimants, or his or their agent or agents, for which service the sheriff or constable shall receive such compensation as they are entitled to receive in other cases, for similar services.

Sec. 7. *And be it further enacted,* That any person or persons who shall attempt to remove, or shall remove from this state, or who shall aid and assist in removing contrary to the provisions of this act, any black or mulatto person or persons, without first proving, as hereinbefore directed, that he, she or they is or are legally entitled so to do, shall, on conviction thereof before any court having cognisance of the same, forfeit and pay the sum of one thousand dollars, one half to the use of the informer, and the other half to the use of the state, to be recovered by action of debt, qui tam, or indictment, and shall moreover be liable to [the action of the party injured.

ELIAS LANGHAM,

*Speaker of the House of Representatives.*

NATHANIEL MASSIE,

January 5, 1804.

*Speaker of the Senate.*

## CHAPTER XXXIV.

*AN ACT to amend the last named act.*

Negroes not permitted to settle without giving bond, - - -	1	{	Penalty for harboring negroes, - - -	3
Clerk to file bond, - - -	2		Negroes prohibited from giving testimony, - - -	4
His compensation, - - -	ib		Repealing clause, - - -	5

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That no negro or mulatto person shall be permitted to emigrate into and settle within this state, unless such negro or mulatto person shall, within twenty days thereafter, enter into bond with two or more freehold sureties, in the penal sum of five hundred dollars, before the clerk of the court of common pleas of the county in which such negro or mulatto may wish to reside, (to be approved of by the clerk) conditioned for the good behavior of such negro or mulatto, and moreover to pay for the support of such person, in case he, she or they should thereafter be found within any township in this state, unable to support themselves; and if any negro or mulatto person shall migrate into this state, and not comply with the provisions of this act, it shall be the duty of the overseers of the poor of the township where such negro or mulatto person may be found, to remove immediately, such black or mulatto person, in the same manner as is required in the case of paupers.

**Sec. 2.** *Be it further enacted,* That it shall be the duty of the clerk, before whom such bond may be given as aforesaid, to file the same in his office, and give a certificate thereof to such negro or mulatto person; and the said clerk shall be entitled to receive the sum of one dollar for the bond and certificate aforesaid, on the delivery of the certificate.

**Sec. 3.** *Be it further enacted,* That if any person, being a resident of this state, shall employ, harbor

conceal any such negro or mulatto person aforesaid, contrary to the provisions of the first section of this act, any person so offending, shall forfeit and pay for every such offence, any sum not exceeding one hundred dollars, the one half to the informer, and the other half for the use of the poor of the township in which such person may reside, to be recovered by action of debt, before any court having competent jurisdiction, and moreover be liable for the maintenance and support of such negro or mulatto, provided he, she or they shall become unable to support themselves.

*Sec. 4. Be it further enacted,* That no black or mulatto person or persons shall hereafter be permitted to be sworn or give evidence in any court of record, or elsewhere, in this state, in any cause depending or matter of controversy, where either party to the same is a white person, or in any prosecution which shall be ~~instituted~~ in behalf of this state against any white person.

*Sec. 5. And be it further enacted,* That so much of the act, entitled "An act to regulate black and mulatto persons," as is contrary to this act, together with the sixth section thereof, be, and the same is hereby repealed.

This act shall take effect and be in force from and after the first day of April next.

ABRAHAM SHEPHERD,  
*Speaker of the House of Representatives.*

THOMAS KIRKER,  
*Speaker of the Senate.*

January 25, 1807.

## CHAPTER XXXV.

*AN ACT relating to dower.*

Widow to be endowed of one equal third part of the real property,	1	band forfeits her right of dower, &c.	7
Until dower is assigned to remain in the mansion house,	ib	When lands are lost by fraud the widow entitled to her dower,	8
What cases right of dower shall be barred,	2	When the widow is awarded her dower in prejudice to the heirs to be proceeded against as other cases,	9
The widow to make her election within 6 mon's. of will or dower,	3	Heir to set off dower in 3 months after demand otherwise the widow may sue for it,	10
A division by agreement to be returned to court,	ib	On judgment had a writ of seisin to issue,	11
When the contract of the husband shall not deprive the wife after his death of her right, &c.	4	When estate is entire how the widow shall take the thirds,	12
Conveyance in lieu of dower failing to be a bar,	5	Widow not to commit waste,	13
Widow evicted from her jointure how endowed,	6	Certain laws repealed,	14
A wife leaving her hus-			

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That the widow of any person dying intestate or otherwise, shall be endowed of one full and equal third part of all the lands, tenements or other real estate, of which her husband was seized as an estate of inheritance, at any time during the coverture, to which she shall not have relinquished her right of dower, by deed duly executed and acknowledged; and she shall, in like manner, be endowed of one third part of all the right, title or interest, that her husband, at the time of his decease, had in any lands and tenements, held by bond, article, lease or other evidence of claim, and until such dower shall be assigned, it shall be lawful for her to remain and continue in the chief mansion-house and the messuage or plantations

thereto belonging, without being chargeable with rent for the same.

**Sec. 2.** *Be it further enacted,* That if any estate shall be conveyed to a woman as jointure in lieu of her dower, to take effect immediately after the death of her husband and to continue during her life, such conveyance shall bar her right of dower to the lands and tenements which were her husband's; but if the jointure or conveyance was made when the feme was in infancy, or if made after marriage, in either case the widow, at her election, may waive her jointure and demand her dower.

**Sec. 3.** *Be it further enacted,* That whenever any person shall leave any part of his lands, tenements or hereditaments to his wife by will, she shall, within six months after the death of her husband, make her election, whether she will take by the will or by her right of dower: *Provided,* That the court may, for good cause shewn, give a farther time to any widow to make her election, not exceeding eighteen months from the death of her husband, unless the husband shall specially set forth in his will, that such provision was made and given in addition to the widow's right of dower; and in case all the heirs to the estate are of age, and the widow and the heirs can agree on a division and on settlement of the estate, they shall make return of such their agreement to the court of common pleas, which settlement and agreement shall be valid and binding on the widow and the heirs.

**Sec. 4.** *Be it further enacted,* That no contract of the husband or recovery against him of any lands, tenements or hereditament, being the inheritance or freehold of his wife during the coverture between them, shall in any wise deprive the wife, after the death of her husband, of any right which she had or might have to such lands, tenements or hereditament, or her heirs or any person who shall have right, title or interest to the same, by the death of such wife or widow.

**Sec. 5.** *Be it further enacted,* That when any conveyance, intended to be in lieu of dower, shall, through any defect, fail to be a legal bar thereto, and the widow, availing herself of such defect, may demand her dower, and the estate and interest conveyed to such widow, with intencion to bar her dower, shall thereupon cease and determine.

**Sec. 6.** *Be it further enacted,* That if any widow be lawfully evicted from her jointure, or any part thereof, without fraud in her, she shall be endowed of as much of the residue of her husband's lands, tenements or hereditaments, whereof she was before dowerable, as the same lands, tenements or hereditaments, from which she was evicted, shall amount to.

**Sec. 7.** *Be it further enacted,* That if a wife willingly leave her husband and dwell with her adulterer, she shall lose and be barred of her right of dower; but if she shall return and her husband shall be reconciled to her and dwell with her, she shall be restored to her right of dower.

**Sec. 8.** *Be it further enacted,* That in case a person shall be impleaded for lands or tenements, and giveth up the same by covin or fraud, after the death of the husband, the wife may recover her dower of the same, and in case the husband loseth the land in demand by default, and his wife, after his death, demand her dower therein, she shall be heard, and if the widow can establish the right of the husband to the lands and tenements, she shall be entitled to and recover her dower therein.

**Sec. 9.** *Be it further enacted,* That whenever a widow, having no right to dower, and the heir being under age, shall bring her writ of dower against the guardian, and he shall make default, or by collusion defend the plea faintly, whereby the widow is awarded her dower in prejudice to the heir or heirs, in all such cases, he, she or they coming of age, shall have right to demand the same of his or her ancestor, against such

woman, in like manner as he, she or they should have against any other person.

Sec. 10. *Be it further enacted*, That when the heir or other person, having the next immediate estate of inheritance, shall not, within three months after demand made, assign and set off to the widow of the deceased her dower in all lands, tenements and hereditaments, of which by law, she is or may be dowable, to her satisfaction, according to the true intendment of law, then such widow may sue for and recover the same by writ of dower, to be brought against the tenant in possession, or such person or persons as have claim, right or inheritance in the same estate, in manner and form as by law is or may be prescribed.

Sec. 11. *Be it further enacted*, That upon rendering judgment for any woman to recover her dower, in any lands, tenements or hereditaments, reasonable damages shall also be awarded to her from the time of the demand and refusal to assign to her reasonable dower; and a writ of seisin shall be directed to the sheriff or coroner of the county, and the sheriff or coroner to whom such writ is directed, shall cause her dower in such estate to be set forth unto her, by three disinterested freeholders of the same county, under oath or affirmation, to be administered by any justice of the peace, to set forth the same equally and impartially, without favor or affection.

Sec. 12. *Be it further enacted*, That where estates of which a woman is dowable, are entire, and where no division can be made by metes or bounds, dower thereof shall be assigned in a special manner, as of a third part of the rents, issues and profits, to be computed and ascertained in manner aforesaid.

Sec. 13. *Be it further enacted*, That no woman who shall be endowed of and lands, tenements or hereditaments as aforesaid, shall wantonly commit or suffer any waste thereon, under the penalty of forfeiting that part of the estate in which such waste shall be

made to him or them, that have immediate estate of inheritance in remainder or reversion, to be recovered in action of waste.

Sec. 14. *And be it further enacted*, That the act, entitled "An act regulating the right of dower;" also, a law for the speedy assignment of dower, and all other laws on the subject of dower, be, and the same are hereby repealed.

This act shall take effect and be in force from and after the first day of June next.

JOHN SLOANE,

*Speaker pro tem. of the house of representatives.*

DANIEL SYMMES,

*Speaker of the senate:*

February 12, 1805.

## CHAPTER XXXVI.

### *AN ACT for the assignment of bail bonds.*

Officer taking bond from	1	grant relief,	-	ib
person arrested,		Bail bond not valid unless		
To assign it to plaintiff,	ib	conditioned for appear-		
Bond forfeited plaintiff		ance of defendant,		2
may bring suit,	-	Repealing clause,	-	3
Court by rule, &c. may	ib			

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*. That if any person or persons shall be arrested by virtue of any writ or process issuing out of any court of record withing this state, at the suit of any person or persons, or if any body corporate or politic, and the sheriff or other officer making service of such writ or process, shall take bail from such person or persons, against whom such writ or process shall be sued out, the sheriff or other officer, at the request and costs of the plaintiff or plaintiffs in such action or suit, or his or their lawful attorney, shall as-

R

sign to the plaintiff or plaintiffs in such action or suit, the bail bond so taking by endorsement thereon, under his hand and seal, in the presence of two or more credible witnesses; and if the said bail bond be forfeited, the plaintiff or plaintiffs in such action or suit, after such assignment made, may bring and prosecute a suit or action thereon, in his or their own name; and the court in which such action or suit shall be brought, may, by rule or rules of the same court, give such relief to the plaintiff or plaintiffs, defendant or defendants in the original action or suit, and to the bail upon the said bond, as shall be agreeable to equity and justice, and such rules of the said court shall be effectual and binding upon the parties, and have legal operation accordingly, either as defeasance of such bail bond or otherwise, according to the true and legal intent and meaning of such rule or rules.

*Sec. 2. Be it further enacted,* That no bail bond shall be taken or held to be valid or legal unless the same be conditioned for the appearance of the defendant or defendants, at the time and place mentioned in the writ, and for causing bail to be entered to the action.

*Sec. 3. Be it further enacted,* That the act, entitled "An act for the assignment of bailbonds," passed the twenty-second day of January, one thousand eight hundred and two, be, and the same is hereby repealed.

This act shall commence and be in force from and after the first day of June next.

**MICHAEL BALDWIN,**  
*Speaker of the house of representatives.*

**DANIEL SYMMES,**  
*Speaker of the senate.*

**February 2, 1803.**

## CHAPTER XXXVII.

*AN ACT fixing the rate of interest, and for preventing usury.*

Creditors entitled to in-	}	Proviso,	-	-	16
terest at the rate of six		Repealing clause,	-	-	2
per cent. per annum,					

1

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That all creditors shall be entitled to receive interest on all money, after the same shall become due, either on bond, bill, promissory note or other instrument of writing or contract for money or property, on all balances due on settlement between parties, or money withheld by unreasonable and vexatious delay of payment, and all judgments obtained from the date thereof, until such debts, money or property is paid, at the rate of six per cent. per annum, and no more; and if any person shall demand or receive more than six per cent. per annum, on any contract, debt or demand whatever, such person shall forfeit the whole amount of the debt, on which such illegal interest was charged or received, on due proof thereof being made, before any court having jurisdiction thereof, the one half thereof to be paid into the county treasury, for the use of the county, and the other to the informer or person prosecuting: *Provided,* That nothing herein contained shall be so construed as to prevent any person, to whom any money or property may be due as aforesaid, from making such discount as such person may think proper for receiving prompt payment.

**Sec. 2.** *And be it further enacted,* That a law declaring what laws shall be in force, published at Cincinnati, July 14, 1795, and an act regulating the interest of money, and fixing the same at six per centum per annum, and for preventing usury, passed November 15, 1799, are hereby repealed.

This act shall take effect and be in force from and after the passing thereof.

MICHAEL BALDWIN,  
*Speaker of the house of representatives.*

JOSEPH KERR,  
*Speaker pro tem. of the Senate.*

December 29, 1891.

## CHAPTER XXXVIII.

### *AN ACT fixing the rate of toll for grinding.*

Toll allowed for grinding		grain,	-	-	2
grain in grist mills,	1	Proviso,	-	-	ib
For grinding in horse		Penalty for taking more			
mills,	ib	than lawful toll,	-	-	3
Owners accountable for		Repealing clause,	-	-	4

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That the owner or occupier of all grist mills in this state, shall be entitled to the one tenth part of all wheat, rye or other grain, ground and bolted, and the one-twelfth part of all rye, malt, buckwheat, ground or chopped ooly, and the one-eighth part of all corn ground in said mills: *Provided,* That the owner or occupier of any horse mill shall, in like manner, be entitled to one-eighth part, and may take the one-fourth part of all grain ground, or ground and bolted by said horse mill, when the owner or occupier thereof finds horses or team to grind the same.

**Sec. 2.** *Be it further enacted,* That the owner or occupier of every mill aforesaid, shall be accountable for the safe keeping of all grain received in said mill, for the purpose of being ground therein, and shall deliver the same when ground, or ground and bolted, as the case may be, with the bag, bags or casks which were delivered in such mill, with the grain, to the owner when called for: *Provided,* That the bags or casks,

left as aforesaid, be distinctly marked with the initial letters of the names of the owners thereof: *Provided also*, That nothing herein contained shall be so construed as to charge the owner or occupier of any mill, or make them accountable for the loss of grain, bags or cask, that shall happen by robbery, fire or any other accident, without the fault or neglect of such owner, occupier or miller.

Sec 3. *Be it further enacted*, That if the owner or occupier of any mill, their representative, agent or miller, shall take a greater proportionate quantity of toll than herein before authorised, and be duly convicted thereof, before any court having jurisdiction of the same, shall be fined, for every such offence, in a sum not exceeding twenty dollars, at the discretion of the court, one half to the use of the township, and the other half to the person prosecuting, and shall, moreover, be liable to the suit of the party injured, for damages.

Sec. 4. *And be it further enacted*, That an act regulating grist-mills and millers, passed December second, one thousand seven hundred and ninety-nine, is hereby repealed.

This act shall take effect and be in force from and after the first day of June next.

MICHAEL BALDWIN,

*Speaker of the house of Representatives.*

JOSEPH KERR,

*Speaker pro tem. of the senate.*

January 12, 1805.

## CHAPTER XXXIX

*AN ACT regulating prison bounds.*

Persons entitled to prison	§	with surety,	-	2
bounds, - - -	1	§	Certain laws repealed,	3
Prisoners to give bond	§			

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That every person imprisoned for debt, either on mesne process or execution, shall be permitted and allowed the privilege of prison bounds, which are or may be laid off and assigned by metes and bounds, around or adjoining each county jail, by the judges of the court of common pleas: *Provided,* The same does not extend in any direction from said jail, more than four hundred yards, but such prisoner shall, in no instance, pass over or without said limits.

**Sec. 2.** *Be it further enacted,* That no prisoner shall be entitled to the privilege of prison bounds, until he shall have given bond to the creditors, with two or more sureties resident in the county, such as two of the judges of the court of common pleas, or justices of the peace shall approve of, in double the sum for which such prisoner stands committed, for the prisoner's safe continuing in the custody of the jailor, within the limits of said prison bounds, until legally discharged, which bond shall be lodged with the sheriff, until the creditor or creditors shall demand the same, and when the condition of said bond is broken, the creditor may put said bond in suit, and have judgment entered against the sureties for the debt, interest and costs, for which the prisoner stands committed.

**Sec. 3.** *And be it further enacted,* That an act allowing and regulating prison bounds, passed December nineteenth, seventeen hundred and ninety-nine, and an act amendatory thereto, passed December sixth, eighteen hundred, are hereby repealed.

This act shall take effect and be in force from and after the first day of June next.

MICHAEL BALDWIN,

*Speaker of the house of representatives*

JOSEPH KERR,

*Speaker pro tem. of the senate.*

January 12, 1805.

## CHAPTER XL.

### *AN ACT allowing and regulating writs of attachment.*

Creditor, agent or attorney making oath,	1	§	pias ad respondendum against garnishee,	ib
Clerk to issue writ,	ib	§	If nothing be found due from defendant garnishee to recover costs,	6
Quashed if issued before oath,	ib	§	Garnishee delivering up monies, &c. costs to be paid out of proceeds,	ib
Manner of executing writ, Property attached to remain in keeping of the officer unless bond and security be given for its forth coming,	2	§	On refusing to confess, to pay cost,	ib
Proviso,	3	§	Property attached claimed by another, officer to summon jury to try the right of property,	7
Persons supposed to have property in possession if not come at to summon the person as garnishee,	4	§	Cost of jury how paid,	ib
On refusal to appear, court to proceed by attachment,	4	§	Court to appoint auditors, Who shall report in writing,	8
Clerk to give notice, &c. on return of writ,	ib	§	Proviso,	ib
Plaintiff refusing to have notice published, suit to be dismissed,	ib	§	Auditors to issue warrant to summon witnesses,	9
Plaintiff making oath that the garnishee hath money, &c.	ib	§	To examine them on oath, Officer or witness refusing to obey how punished,	ib
Suit to be instituted by ta-	5	§	Auditors authorised to issue warrant to seize property,	ib
		§	Penalty on persons refusing to deliver,	ib

Judgment by default scire facias to issue, -	10	By death of non-resident creditor writ may issue against heirs, -	18
Plaintiff accepting tender from garnishee defend- ant to pay costs, -	ib	Non-resident creditors en- titled to the benefits of this act, - -	19
Judgment against garni- shee in certain cases, -	ib	Auditors how compensa- ted, - -	20
Plaintiff to pay costs in certain cases, -	ib	Plaintiff in attachment not to discontinue suit in certain cases, -	21
On judgment by default auditor to direct the sale of lands, -	11	Consignee not to be pre- judiced by levy on goods in his possession, -	22
Proviso, - -	ib	Justice of the peace may issue attachment for a- ny sum cognisable by him, - -	24
Proviso, - -	ib	Constable to execute said attachment, -	ib
Public notice to be given by auditors for credit- ors &c. to meet, -	12	Proceedings thereon, -	ib
Proviso, - -	ib	Property not to be sold in- less than 3 months, -	ib
All sales, &c. made by au- ditors to be binding, -	13	Proviso, - -	ib
Debts not due to be ad- mitted on application, -	14	Attachment issued by court to supercede at- tachments issued by a justice, - -	25
Lands, &c. of non resi- dents liable to attach- ment, - -	15	Duty of sheriff in such ca- ses, - -	ib
Proviso, - -	ib	Proviso, - -	ib
Further proviso, -	ib	Justice to issue against lands, &c. -	ib
When lands of defendant lie in more counties than one, -	16	To certify proceedings to the court of C. P. -	ib
Clerk to issue writ of at- tachment directed to of- ficer in the county where the lands lie, -	ib	Duty of court, -	ib
When two or more are jointly bound the writ may issue jointly or sep- arately, -	17	Repealing clause, -	26

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio, That if any creditor, or in case of his absence or disability, his agent or attorney, shall make oath or affirmation in writing, before any judge of the supreme court, president or associate judge of the court of common pleas, or justice of the peace, that his debt-*

or absconds to the injury of his creditors, as he verily believes, and shall file such oath or affirmation with the clerk of the court of common pleas, such clerk shall thereupon issue a writ of attachment, directed to the sheriff or coroner, as the case may require, commanding him to attach the lands, tenements, goods, chattels, rights, credits, monies and effects of such debtor where-soever they may be found; and if any clerk shall issue such writ of attachment, before oath or affirmation be taken and filed as aforesaid, such writ shall be quashed on motion, at the proper cost of the clerk issuing the same.

**Sec. 2.** *Be it further enacted,* That the proper manner of executing such writ, shall be as follows: The officer to whom it is directed, shall go to the place where the defendant's property is or may be found, and there in the presence of two creditable persons at least, declare that by virtue of the writ to him directed, he attaches the lands, tenements, goods, chattels, rights, credits, monies and effects of the said defendant, at the suit of such plaintiff in attachment, and the said officer with the assistance of two or more respectable freeholders, who shall be under oath or affirmation, shall make a true inventory and appraisement of all the property so by him attached, which inventory and appraisement shall be signed by the said officer and freeholders aforesaid, and shall be annexed to and returned together with the writ; and the said officer shall endorse on the said writ the time of serving the same and subscribe his name thereto; and such writ when served shall bind the property and estate of the defendant so as aforesaid attached, from the time of executing the same.

**Sec. 3.** *Be it further enacted,* That the property so attached, shall remain in the care and safe keeping of the said officer, to abide and satisfy the judgment of the court, unless the garnishee or person in whose custody or possession the said property shall be found, shall enter into bond to the officer with two good and suffi-

cient sureties, being freeholders within the county, in double the appraised value of such property, with condition that such property, or the appraised value thereof, shall be forth coming, to answer the judgment of the said court: *Provided*, That in case it should be made to appear to the satisfaction of the court that the property so attached or any part thereof, shall have been lost or destroyed, by unavoidable accident, it shall be in the power of the court to remit the value thereof to the person so bound as aforesaid.

**Sec. 4** *Be it further enacted*, That if the plaintiff or other credible person shall make oath or affirmation that he has good reason to believe and does verily believe that any person or persons, (naming such person or persons,) hath or have property, (describing the same as nearly as may be,) in his or their possession, belonging to the defendant in attachment, and if the officer making service of such writ of attachment cannot come at the property of the defendant in the hands and possession of such person, the said officer shall summon such garnishee, by leaving with him or at his usual place of residence, a copy of such writ of attachment and a copy of the affidavit, together with a written notice to such garnishee, to appear in court at the return of such writ, who shall give attendance accordingly, and be obliged to make answer under oath or affirmation to all questions that shall be put to him touching the property and credits of the defendant in his hands and possession, or within his knowledge, and from the day of such service, such garnishee shall stand accountable to the plaintiff in attachment, to the amount of the monies, property and credits in his hands or due from him to the said defendant in attachment, and if such garnishee do not appear in court according to the summons, the court may proceed against him, by attachment, and upon the return of the writ of attachment, it shall be the duty of the clerk who issued the same, to make out an advertisement, in which he shall state the names of the

parties, the day, month and year when, from what court and for what sum the writ issued, and deliver the same to the plaintiff or his attorney on demand, who shall cause the same, in thirty days thereafter, to be inserted in one of the newspapers printed in this state, and nearest to the place where the attachment issued out, which advertisement shall be continued in the papers six weeks successively at least; and if any plaintiff shall neglect or refuse to have the notice, required by this section, published as herein set forth, his attachment shall be dismissed with costs.

Sec. 5. *Be it further enacted*, That if the plaintiff will make oath or affirmation, and file the same with the clerk who issued the writ, that he verily believes that the garnishee hath any monies, goods, chattels or effects of the defendant's in his custody or possession, or that the said garnishee is indebted to the defendant, and that he is in fear that the said garnishee will abscond before judgment and execution can be had against him, it shall be lawful for such plaintiff to institute a suit, by *capias ad respondendum*, against such garnishee, who shall thereupon be held to special bail, in which suit the plaintiff may declare against such garnishee for the monies, goods, chattels or effects so as aforesaid, in his possession, in trover and conversion, as of the proper monies, goods, chattels and effects of such plaintiff; or if the garnishee be indebted to the defendant in attachment, then the plaintiff may declare for so much money had and received by such defendant for the use of the plaintiff, and at the trial he may give the special matter in evidence, and if verdict and judgment be had for the plaintiff, execution shall thereupon issue for the goods, chattels, lands and tenements, or body of such garnishee.

Sec. 6. *Be it further enacted*, That the suit so instituted against the said garnishee, shall be continued without trial or decision, until the action against the defendant, in attachment, shall be determined; and if in

such action nothing shall be found due from the defendant to the plaintiff, then the garnishee shall recover cost against the plaintiff, although he may be indebted to the defendant in attachment, or have monies, goods, chattels or effects of such defendant in his custody or possession; or if in such suit, so instituted against the garnishee, the plaintiff shall be non-suited, or discontinuance or judgment be had against him, the said garnishee shall recover costs; and if the plaintiff shall recover judgment against the defendant in such attachment, and the said garnishee shall deliver up to the auditors to be appointed by this act, all the goods and chattels and other property in his hands and possession, at or after issuing the writ of attachment, belonging to such defendant, and shall likewise pay over all monies from him due to such defendant, at the time of service of such attachment, then the costs which shall have accrued on such suit against the garnishee, shall be paid out of the proceeds of the property attached and belonging to the defendant; but if the garnishee shall refuse truly to confess the matters alleged, and the plaintiff on trial shall recover judgment against him, then the said garnishee shall pay costs.

*Sec. 7. Be it further enacted,* That if the officer, by virtue of any writ of attachment issued under this act, shall through ignorance or want of information attach any goods, chattels or effects, which shall be claimed by any other person as his property, it shall and may be lawful for such officer forthwith to summon and swear a jury to inquire into and try the right of property thereof, and if the jury so sworn, shall find the right of property of such goods, chattels or effects to be in the claimant or any other person than the defendant in such attachment, the officer shall forthwith deliver such goods, chattels or effects to the person in whom the property of the same is found by his inquiry, or to his agent or attorney, and the officer shall not be liable to any prosecution for having taken and attached such

goods, chattels or effects, and all reasonable costs arising by such inquest shall be taxed by the court and paid out of the property of the defendant in attachment; but if the right of property be found to be in the said defendant, then such costs shall be paid by such claimant.

**Sec. 8** *Be it further enacted,* That the court at the return of such writ of attachment shall appoint three discreet and disinterested persons to audit and adjust the accounts and demands of the plaintiff, and so many of the creditors of the defendant, in attachment, as may have applied to the court, or shall apply to the auditors for that purpose, before they shall have closed their report, which report shall be made in writing, signed by the said auditors or any two of them, and shall be returned to the court from which such writ of attachment issued, and at the third term, including the time to which the writ of attachment was returned, final judgment shall be entered on such report: *Provided,* That the defendant shall have been called three times at each of the said terms, and an entry of the same shall have been made by the clerk: *Provided also,* That if the defendant appears in any of the three terms aforesaid, and accept of a declaration at the suit of every or any one of the said creditors and enters into special bail, then the said writ of attachment and all the proceedings thereon shall, at the suit wherein such special bail is given, be stayed, and all costs which shall have accrued on such attachment shall abide the event of the suit

**Sec. 9.** *Be it further enacted,* That it shall be lawful for the said auditors or any two of them to issue their warrant in nature of a subpoena, under their hands and seals, directed to the sheriff, or to any constable within the county, commanding him to summon any person or persons to appear before them, at a time and place to be mentioned in the said warrant; and it shall be lawful for the said auditors or any two of

them, to examine the person or persons so appearing, upon oath or affirmation, (which oath or affirmation the said auditors or any one of them is hereby authorised to administer) touching all matters relative to the business, property or estate of the defendant, and of all secret grants or fraudulent conveyances of the same; and if the sheriff or constable shall refuse to obey any warrant, so issued and directed as aforesaid, or if any person, summoned as aforesaid, shall refuse to appear before the auditors, by virtue of such warrant, or shall refuse to be sworn or examined before the said auditors, every such person so offending shall be deemed guilty of a contempt of the court, by whom such auditors were appointed, and shall be punished accordingly; and if the said auditors can discover or shall come to the knowledge of any goods, chattels, rights, credits, monies or effects, belonging to the said defendant, not on the inventory and appraisement made as aforesaid, it shall be lawful for said auditors or any two of them to issue their warrant under their hands and seals, directed to the sheriff or any constable within his county, commanding him forthwith to seize and inventory the same, and make report thereof to the next term of the court; and the goods, chattels, rights, credits, monies and effects, so taken and inventoried, shall be bound by the said attachment in the same manner as if the same had been taken, inventoried and appraised before the return of such attachment; and if any constable or sheriff shall refuse to obey such warrant, or if any person shall resist the execution of such warrant, or shall refuse to deliver up any goods, chattels, rights, credits, monies or effects of the defendants in his custody or possession, every person so offending shall be deemed guilty of a contempt of the court, by whom the said auditors were appointed, and shall be fined in a sum not less than fifty dollars, at the discretion of the court, and shall stand committed until the fine and fees be paid, and

shall moreover be subject to the action of the party injured.

*Sec. 10. Be it further enacted,* That when on the report of the auditors, judgment shall be entered, by default or against the defendant in attachment, a scire facias shall issue against the garnishee or garnishees (except only in the case herein before provided for) to appear at the next term and shew cause why the plaintiff should not have execution of the money, so as aforesaid due by him to the defendant, or of the value of the goods and chattels of the defendant which were in the custody or possession of the garnishee, and if the said garnishee or garnishees shall appear at the return of the said scire facias, and on oath or otherwise, to the satisfaction of the plaintiff, shall confess the amount of such debt or the value of such goods and chattels, and tender the same to the plaintiff, and he accept thereof, then the garnishee, by the judgment of the court, shall be acquitted and discharged from the debt or goods and chattels aforesaid, and the costs of such scire facias shall be paid out of the property of the defendant in attachment; and if the garnishee on being returned summoned on the scire facias, or if on two writs of scire facias, it be returned that he had nothing whereby he could be summoned, shall not appear, confess and tender as aforesaid, then judgment shall be entered against such garnishee, by default, and the court shall proceed, by a jury, to ascertain the amount of the debt or demand due from such garnishee, or the value of the goods and chattels so as aforesaid in his possession or custody, and thereupon judgment shall be entered against the said garnishee for the amount so found, with costs; and if the said garnishee should appear at the return of the said writ and plead thereto, that he be not indebted to the said defendant, or that he hath or had no goods or chattels of the defendant in his custody or possession at the time of executing the said writ of attachment, or at any time

since, and the plaintiff shall prove on trial, that he was indebted, or that he had or hath goods and chattels as aforesaid, then the jury shall find for the plaintiff the amount of such debt or demand, or the value of such goods and chattels, and judgment shall be entered accordingly, with costs of suit, and execution may thereupon issue against the goods, lands or body of the defendant in scire facias; but if jury find for the garnishee, he shall recover costs against the plaintiff, and have execution for the same.

*Sec. 11. Be it further enacted,* That after judgment shall be entered by default, on the report of the said auditors, against the defendant in attachment, it shall be lawful for the said auditors, or any two of them, and they are hereby required, by virtue of an order from the court, to sell and convey the goods, chattels, rights, credits and effects, lands and tenements, which were taken and attached as aforesaid, or such part thereof as may be necessary to satisfy the demands of the plaintiff and of the other creditors who may have applied, as is herein before directed, together with costs: *Provided,* That notice of such sale shall be set up, in writing, at three of the most public places within the county at least, or be advertised in a newspaper, published in the county, for the space of fifteen days at least prior to such sale; nor shall any sale be made of such lands and tenements in less than twelve calendar months from the return of such writ of attachment, nor of any goods, chattels, rights, credits or effects, till final judgment be had against the defendant as aforesaid, unless they be of a perishable nature, and then the court may, at any time, direct the said auditors or any two of them to sell such perishable articles, in which case advertisements set up in three of the most public places within the township, at least ten days prior to such sale, shall be sufficient; and the rights and credits in action, which may be sold by virtue of this act, shall be transferred or endors-

ed by the said auditors, or any two of them, to the purchaser, which endorsement shall transfer the right and property thereof to the endorsee, so as to enable him to sue for and recover the same in his own name and for his own use : *Provided also*, That any lands taken in attachment, which have improvements thereon, at the rate of ten acres per hundred, shall not be sold for less than two thirds, nor lands without such improvements, for less than one half of their appraised value by the inquest, as in case of lands, tenements and real estate, taken and sold under execution and such inquest is hereby required to be taken.

Sec. 12. *Be it further enacted*, That when the goods, chattels, effects, lands or tenements, or any part thereof, shall be sold as aforesaid, the said auditors, or any two of them, shall cause public notice to be given in one or more of the newspapers circulating in this state, requiring a meeting of the plaintiffs and creditors who may have applied agreeably to the directions of this act, which notice shall specify the day and place of meeting, which shall not be more than ninety nor less than twenty days after such notice given, at which meeting or any subsequent meeting, to be continued by adjournment if necessary, the said auditors or any two of them shall distribute among the said plaintiffs and creditors equally, and in a rateable proportion, according to the quantum or amount of their respective debts, as ascertained by the report of the said auditors. and the judgment thereon had, all the monies arising from the sales to be made as aforesaid, first deducting therefrom all legal costs and charges, and also, such allowance to the plaintiff for his expenses and trouble, as the auditors shall deem reasonable : *Provided*. That the money so distributed shall operate as payment of the said debts or demands in whole or in part (as the case may be) and the said auditors are hereby directed to make return of such distribution, and of their proceedings had under this section, to the clerk of the court, and if any

surplus shall remain after satisfying all the demands and costs as aforesaid, such surplus shall be paid into the hands of the clerk for the use of the defendant.

**Sec. 13.** *Be it further enacted,* That every bargain, sale, assignment and conveyance, made by the said auditors or any two of them, by virtue of the authority herein granted, shall be as binding and effectual as if the same had been made by the said defendant prior to the service of the said attachment.

**Sec. 14.** *Be it further enacted,* That any creditor whose debt is not due, may apply to the court or auditors in the same manner as though it were due, and shall thereupon be admitted as a creditor under this act, and shall receive a proportional dividend of the defendant's estate with the other creditors, deducting only a rebate-ment of legal interest for which he shall receive on such debt, to be computed from the actual payment thereof to the time such debt would have become due.

**Sec. 15.** *Be it further enacted,* That the goods, chattels, lands, tenements, rights, credits, monies and effects of persons residing out of the state shall be liable to be attached, taken, proceeded against, sold, assigned and transferred for the payment of their debts, in the same manner (as nearly as may be) as is herein provided with respect to other debtors: *Provided,* That instead of the oath or affirmation herein before provided, the applicant for such writ of attachment, his agent or attorney, shall make oath or affirmation, that the defendant is not at that time resident within the state, as he verily believes, and that the said defendant is justly indebted to him in a sum of money, specifying as nearly as he can the amount of his demand or balance: *Provided also.* That no judgment shall be entered by virtue of this section until notice, for the space of three months, shall be given in one of the newspapers published in this state, of issuing of such attachment; and at whose suit; against whose estate; from what court the same issued; and that unless the defendant in attachment

shall appear, give special bail and receive a declaration, judgment will be entered, and the estate so attached, sold for the benefit of the creditors.

**Sec. 16.** *Be it further enacted,* That if the plaintiff or, in his absence, his agent or attorney, shall make and file with the clerk as aforesaid, an affidavit, setting forth that he verily believes that the defendant in attachment, hath lands, tenements and real estate, situated in other county or counties (naming such county or counties) in the state than that in which such foreign attachment is issued out, it shall and may be lawful for the clerk, on the application of the plaintiff, his agent or attorney, to make out and seal another writ or writs of attachment, directed to the sheriff or coroner of the county in which such other lands, tenements and real estate may be situated; and the officer to whom such writ is directed or delivered, shall serve and return the same in the same manner, and for neglect or refusal shall be liable to the same penalty as if such writ of attachment had issued and been made returnable in his proper county; and on such attachment returned executed, there shall be had the same proceedings as in other cases of attachment.

**Sec. 17.** *Be it further enacted,* That where two or more are jointly bound or indebted, either as joint obligors, partners or otherwise, the writ of attachment may be issued against the separate or joint estate, or both of such joint debtors, or any of them, or against their heirs, executors or administrators, and the estate so attached, whether it be joint or separate, shall be liable to be sold and assigned in manner aforesaid.

**Sec. 18.** *Be it further enacted,* That in case of the death of a debtor residing out of this state, the writ of attachment as above provided, may issue against his heirs, executors or administrators, and if any defendant shall die after issuing of any writ of attachment, the said writ shall not abate thereby, but the same shall be carried on to judgment, sale, transfer and distribution,

as if such death had not happened; and all proceedings which shall be had in such case, shall be as valid as if the defendant had been living.

**Sec. 19.** *Be it further enacted,* That any creditor residing out of this state, shall be entitled to all the benefits and privileges of this act, and that no plaintiff or creditor shall receive any dividend, by virtue of this act, until he shall have entered into bond to the defendant, with one or more sureties, being freeholders and residents in this state, in double the sum so to be received, with condition that he shall appear to any suit that may be brought against him by the said defendant, within one year next after the date of the said bond, and shall pay unto such defendant any sum of money which, by the judgment of the court, shall appear to have been received by him, and not due or owing, with costs of suit, which bond shall be filed by the clerk for the benefit of the defendant.

**Sec. 20.** *Be it further enacted,* That the auditors and appraisers shall be allowed a reasonable compensation for their services, which shall be taxed by the court, and paid out of the defendant's estate.

**Sec. 21.** *Be it further enacted,* That the plaintiff, in any writ of attachment, shall in no case be permitted to discontinue the same, when any other creditor or creditors shall have applied and filed his or their claim with the clerk of the court or auditors, without the consent of, or satisfaction made to, each of the said creditors.

**Sec. 22.** *Be it further enacted,* That where an attachment is levied on goods in the possession of a consignee, the consignee of such goods shall have a lien upon them, for any debt due to him from the consignor, in exclusion of the plaintiff or any other creditor.

**Sec. 23.** *Be it further enacted,* That this act shall be construed in all courts of judicature, in the most liberal manner for the detection of fraud, the advancement of justice, and the benefit of creditors.

**Sec. 24.** *Be it further enacted,* That any justice of the peace within this state, on application and affidavit, made before him to the purpose aforesaid, shall, and he is hereby required to issue an attachment under his hand and seal, for any sum not exceeding the amount cognizable by a justice of the peace in other cases, directed to a constable, who shall execute the same in manner aforesaid, on the goods, chattels, rights, credits, monies and effects of the defendants within the county, and if the creditor shall make sufficient proof of the debt due to him, and also of the goods, chattels, rights, credits, monies and effects, in the hands of the garnishee, the said justice shall give judgment therein for the plaintiff, and award execution thereon, either against the effects of the defendant or against the garnishee, (as the case may require) but the effects of the defendant therein taken, shall not be sold in less than three months, unless the same are perishable, or a live animal or animals, to the end that the debtor or his agent may redeem them, and in the mean time the same shall be inventoried by the constable, under the direction of the justice, and kept in such manner as the justice shall direct; and if the plaintiff shall fail in proving a demand against the defendant, or in proving the goods, chattels, rights, credits, monies and effects in the hands of the garnishee, he shall pay him his costs, and if need be, the said justice shall issue his execution against him for the same: *Provided,* That no judgment shall be entered by such justice within thirty days from the time of issuing such attachment, and it shall be the duty of the plaintiff forthwith, after issuing such attachment, to advertise in three of the most public places in the county, that an attachment has been taken out from such justice against such absconding or absent debtor, in order that any person having a greater demand against such debtor than is cognizable before a justice of the peace, may have an opportunity to take out an attachment for the recovery of the same.

**Sec. 25.** *Be it further enacted,* That any writ of attachment against any absconding or absent debtor, which may be issued out of the court of common pleas, shall be a supersedeas to all attachments issued by a justice of the peace, undetermined at the time of serving the said writ; and it shall and may be lawful for the sheriff, his deputy or other officer, to take into his possession all goods and chattels, attached by the constable, as fully and to all intents and purposes as if the attachment issued by the justice had not been served; and the plaintiffs in said attachment shall be entitled to their several debts, with the costs that may have accrued, in proportion to the other creditors, as is before in this act mentioned and directed: *Provided,* That no constable shall be obliged to remove any goods, taken into his custody by virtue of any attachment, after the same shall have been seized and attached by the sheriff: *And provided also,* That if on the return of an attachment issued against the goods, chattels, rights, credits, monies and effects of any absconding or absent debtor, it shall appear to the justice that there was no goods, chattels, rights, credits, monies and effects on which to levy, the justice in such case, on the application of the plaintiff, may issue an attachment against the lands and tenements of the defendant, and the constable shall levy the said writ of attachment in the same manner sheriffs are directed to do by this act, and on the return thereof the justice shall forthwith certify his proceedings, together with the constable's return, to the court of common pleas next to be holden for the proper county, and the court of common pleas shall proceed in the same as if the writ of attachment had originally issued from said court.

**Sec. 26.** *And be it further enacted,* That the act entitled an "An act allowing and regulating writs of attachment," passed the twenty-first day of February,

Anno Domini one thousand eight hundred and five, be, and the same is hereby repealed.

This act shall take effect and be in force from and after the first day of June next.

EDWARD TIFFIN,  
*Speaker of the House of Representatives.*  
 DUNCAN M'ARTHUR,  
*Speaker of the Senate.*

February 14, 1810.

## CHAPTER XLI.

*An Act to amend the act, entitled "An act allowing and regulating writs of attachment."*

Judgment to be rendered for plaintiff after three defaults recorded,	1	{	Further proviso,	-	ib
Proviso,	ib	{	Court authorised to act in place of auditors,	-	
Creditors to file a declaration,	2	{	Power of auditors may be restricted,	-	ib
Defendant may traverse the action, &c.	ib	{	Proceedings before J. P. on attachment how regulated,	-	6
May also appeal,	ib	{	In what case a writ of attachment may issue,	-	6
Defendant to be three times called,	3	{	Repealing clause,	-	7
Proviso,	ib	{			

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That when any suit in attachment, under the provisions of this act or the act to which this is an amendment, shall be commenced in any court in this state, such court shall, on motion of the plaintiff, after the defendant shall have been defaulted at three successive terms of the court, to which such writ of attachment is returnable, as hereinafter mentioned, proceed in such suit in favor of the plaintiff or any other bona fide creditor of the defendant, and who may have applied to the court previous to the third term thereof.

next after issuing such writ of attachment, in the same manner it is authorised to proceed in other cases of default: *Provided*, That the court at the return term of such writ of attachment or at any subsequent term, during the pendency of the suit, where, in consequence of complicated accounts of the plaintiff or other creditors applying as aforesaid, it shall be necessary, may appoint three discreet and disinterested persons to audit and adjust such accounts and report thereon, upon which report judgment may be rendered, unless on motion the same shall be set aside.

**Sec. 2.** *Be it further enacted*, That every plaintiff in attachment, and also every bona fide creditor of the defendant, applying as aforesaid, shall file a sufficient declaration or declarations, *de bene esse*, setting forth, in a proper manner, the cause or causes of action, which such plaintiff or creditor may have against such defendant; and the defendant himself, or any one for him, may appear, either before said court, or auditors or jury, and introduce evidence, or otherwise resist the claim or demand of the plaintiff or other creditor as aforesaid, as in other cases of default, and shall have the same right to appeal, or move in arrest of judgment, or move to set aside the proceeding for any alleged irregularity therein.

**Sec. 3.** *Be it further enacted*, That at the return term of the court to which such writ of attachment may be returnable, and at the two next succeeding terms thereof, the plaintiff shall cause the defendant or defendants in attachment to be three times called and defaulted, and each default entered on the minute book of the court, and no final judgment shall in any case be rendered against such defendant or defendants, until he or they shall have been called and defaulted, as aforesaid: *Provided nevertheless*, That it shall be competent for such defendant or defendants in attachment, at either of said three terms, or at any time before the finding of a verdict, or the examination and ad-

justment of auditors, or the hearing and examination of the judges in the premises, to file special bail and plead; or to plead in custody, to any or all the declarations which may have been filed, *de bene esse*, against him, her or them; and from the time of filing such special bail, or pleading in custody, the operation of such attachment shall cease, to all intents and purposes, in respect to the plaintiff or plaintiffs whose declaration or declarations may have been pleaded to as aforesaid: *Provided also*, That if any defendant or defendants in attachment shall elect to have the property attached remain in custody, such defendant or defendants may, within the time before specified, plead to such declaration or declarations as may have been filed against him, her or them as aforesaid, without entering special bail or pleading in custody.

Sec. 4. *Be it further enacted*, That the several powers granted and duties enjoined by the act, to which this is an amendment, upon the auditors, (by the said act directed in all cases to be appointed) may severally be exercised by the court, in which any suit, hereafter instituted under the provisions of said act or of this act, may be pending, or by the proper ministerial officer or officers thereof, if such court do not deem it proper to appoint such auditors; or if such court should deem it most consonant to the principles of justice and to the rights of an absent party, such court may, by its order or orders, entered of record, restrict the auditors to the exercise of such power only as may seem to them proper; and, in all cases, the report of auditors shall be subject to be rejected and set aside on motion and good cause shewn; and the said auditors shall be subject to be displaced by the court and others appointed in their stead, and proper instructions may at any time, on motion, be given them by the court as to any point of law touching the premises.

Sec. 5. *Be it further enacted*, That in all cases of summary trial of the right of property attached, under

the provisions of the seventh section of the act to which this is an amendment, or of the fifth section of the act, entitled "An act regulating and allowing writs of attachment," before justices of the peace, where the triers shall find the property of right to belong to the claimant or claimants, the cost of such trial shall be taxed by the court or justice of the peace as the case may be, and paid by the plaintiff or plaintiffs in attachment.

Sec. 6. *Be it further enacted*, That no writ of attachment, issued under the provisions of the act to which this is an amendment, shall be sustained, nor shall any declaration be filed in any such suit, except for cases arising out of, founded upon, or sounding in contract, any former construction of said act to the contrary notwithstanding.

Sec. 7. *And be it further enacted*, That the eighth, fourteenth, twenty first, twenty third and twenty-fourth sections of the act to which this is an amendment, and all laws and parts of laws coming within the purview of this act, be, and they are hereby repealed.

This act to take effect and be in force from and after the first day of May next.

JOHN POLLOCK,  
*Speaker of the house of representatives.*  
THOMAS KIRKER,  
*Speaker of the senate;*

January 28, 1813.

---

## CHAPTER XLII.

### *AN ACT for the maintenance and support of illegitimate children.*

On complaint made justice to take accusation in writing and issue

{ warrant, - - - 1  
{ On return to examine the woman on oath, - - 13

Questions to be in writing,	ib	{	tain cases,	-	-	4
Woman failing to prosecute overseers duty,	2	{	Plea of not guilty tried by jury,	-	-	5
Where the man does not compound justice to bind him over to court,	3	{	If found guilty to be charged with the support of the child,	-	-	6
Recognisance to be renewed or continued in cer-		{	Repealing clause,	-	-	7

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That on complaint made to any justice of the peace in this state, by any unmarried woman resident therein, who shall hereafter be delivered of a bastard child, or being pregnant with a child, which, if born alive, may be a bastard, accusing any person of being the father of said child, the justice shall take such accusation in writing, and thereupon issue his warrant, directed to the sheriff or one of the constables of his county, commanding him forthwith to bring such accused person before said justice, to answer to such complaint, and on return of such warrant, the justice, in the presence of the accused person, if he may be taken, and if not, then in his absence, shall proceed to examine the complainant, under oath, respecting her cause of complaint, and such accused person shall be allowed to ask the said complainant when under oath, any questions he may think necessary for his justification; and such questions and answers, with every other part of the examination, shall be reduced to writing by the justice, and on examination of such accused person shall pay or secure to be paid, to the woman complaining, such sum or sums of money or other property as she may agree to receive in full satisfaction, and shall further enter into bonds with the overseers of the poor of the township in which such woman shall reside, and their successors in office, conditioned to save such township free from all charge towards the maintenance of said child, in such case the justice shall discharge such person, on his paying the costs of prosecution.

**Sec. 2. *Be it further enacted,*** That when any woman has a bastard child, and neglects to bring forward a suit for its maintenance, or commences a suit and fails to prosecute to final judgment, the overseers of the poor, in any township, interested in the support of any such bastard child, where sufficient security is not offered to save the township from expense, may bring forward a suit in behalf of the township, against him who is accused of begetting such child, or may take up and prosecute a suit begun by the mother of the child.

**Sec. 3. *Be it further enacted,*** That in case such accused person do not comply with the provisions in the first section in this act contained, the justice to whom such complaint was made, shall bind such person in a recognisance to the next court of common pleas, with sufficient security, in a sum not less than one hundred dollars, nor more than five hundred dollars, to answer such accusation, and to abide the order of said court thereon; and on neglect or refusal to find such security, the justice shall cause him to be committed to the jail of the county, there to be held to answer to such complaint.

**Sec. 4. *Be it further enacted,*** That if, at the time of such court, the woman be not delivered, or be unable to attend, the court shall order the renewal of the bonds of recognisance, that the accused person shall be forth coming, at the next court after the birth of the child, at which the mother of said child shall be able to attend, and the continuance of such bonds shall be entered by order of said court, unless the security shall object thereto, and shall have the same force and effect as a recognisance taken in court, for that purpose.

**Sec. 5. *Be it further enacted.*** That where such accused person shall plead 'not guilty' to such charge, before the court to which he is recognised, the court shall order the issue to be tried by a jury, and at the trial of such issue, the examination before the justice shall be given in evidence, and the mother of the bas-

tard child shall be admitted as a competent witness, and her credibility be left to the jury: *Provided always*, That no woman shall be admitted as a witness as aforesaid, who has been convicted of any crime which would by law disqualify her from being a witness in any other case; and on the trial of the issue the jury shall, in behalf of the man accused, take into consideration any want of credibility in the mother of the bastard child, also any variation in her testimony before the justice and that before the jury, and also, any other confession of her at any time, which does not agree with her testimony, or any other pleas or proofs made and produced on behalf of such accused person.

**Sec. 6.** *Be it farther enacted*, That in case the jury find the defendant guilty, or such accused person before the trial shall confess in court that the accusation is true, he shall be judged the reputed father of such child, and shall stand charged with the maintenance thereof, in such a sum or sums as the court shall order and direct, with payment of costs of prosecution, and moreover be liable to the suit of the complainant for damages, and the court shall require the reputed father to give security to perform the aforesaid order; and in case the reputed father shall neglect or refuse to give security as aforesaid, and pay the costs of prosecution, he shall be committed to the jail of the county, there to remain till he shall comply with the order of the court, or until such court shall, on sufficient cause shewn, direct him to be discharged.

**Sec. 7.** *Be it further enacted*, That the act passed for the maintenance and support of illegitimate children, on the sixth day of December, one thousand eight hundred, and all other laws and parts of laws on this subject, be, and the same are hereby repealed.

This act shall take effect and be in force from and after the first day of June next.

MICHAEL BALDWIN,  
*Speaker of the House of Representatives.*

DANIEL SYMMES,  
*Speaker of the senate.*

February 20, 1805.

## CHAPTER XLIII.

### *AN ACT defining the duties of sheriffs and coroners in certain cases.*

Sheriff and coroners to give bond to commissioners, - - -	1	Coroner's duty when informed of a dead body, &c. - - -	6
In what sum, - - -	ib	To summon jury, - - -	ib
Condition, - - -	ib	Penalty on constable for neglect, &c. - - -	ib
How released, - - -	ib	On juror failing to appear, - - -	ib
Sheriff to keep the peace, - - -	2	Coroner to swear jury, - - -	7
To commit and execute process, - - -	ib	Form of oath, - - -	ib
And take charge of criminals, - - -	3	To summon witnesses, - - -	8
Penalty for neglect of duty - - -	ib	Evidence to be reduced to writing and signed, - - -	9
Fines how disposed of, - - -	ib	Jury their duty, - - -	10
Coroner's duty when office of sheriff becomes vacant - - -	4	Coroner's duty, - - -	ib
His duty when sheriff is a party, &c. - - -	5	Penalty for neglect, - - -	ib
		Certain laws repealed, - - -	11

Sec. 1. *Be it enacted by the general assembly of the state of Ohio, That the sheriff and coroner of each and every county, shall, within ten days after they shall have received their commissions, severally give bond to the commissioners of the county, with two or more sufficient sureties, approved of by the commissioners; which bonds the commissioners shall cause to be recorded in the same book in which their other proceedings shall be recorded, a certified copy of which re-*

cord, signed by two of the commissioners, shall be as valid in law, to all intents and purposes, as the original bond or bonds; the bond of the sheriff shall be for four thousand dollars, and the bond of the coroner for two thousand dollars, payable to the commissioners and their successors, conditioned for the faithful discharge of their duties respectively, from which bond the sheriff or coroner and their sureties, shall not be released but by an order from the court of common pleas of the proper county, which order shall certify, that the sheriff or coroner, as the case may be, has performed the duties of his office, and that he has paid over agreeably to law, all the monies by him collected, or that he was legally authorised to collect and pay over, or that he has otherwise been legally discharged therefrom.

*Sec 2. Be it further enacted,* That it shall be the duty of the sheriff to keep and preserve the peace, and cause all offenders against law, in his view or within his knowledge, to enter into recognisance with sureties, for keeping the peace and appearing at the next term of the court of common pleas in the county, and to commit, in case of refusal, and return said recognisance certified, to the said court; it shall also be his duty to quiet and suppress all affrays, routs, riots, unlawful assemblies and insurrections, for which purpose, he is hereby empowered to call to his aid such persons, or power of the county, as he may deem necessary; he shall pursue, apprehend and commit to jail, all felons and traitors; shall execute all warrants, writs and other process, which by law appertain to the duties of his office, and which shall be directed to him by legal authority; he shall duly attend upon all courts of common pleas and supreme courts, holden within the county during their session; do and perform all other acts and duties enjoined by law.

*Sec. 3. Be it further enacted,* That it is made the duty of the sheriff, and he is hereby required, to take

charge of all criminals and persons committed to prison, for which purpose he shall, by himself or deputy, attend at the jail and take care of it and the prisoners, and see that they are confined and safely kept, and supplied with necessary sustenance, agreeably to law; and if any sheriff shall refuse or neglect to perform the duties enjoined by law, he shall, for every such offence, be fined in any sum not exceeding four thousand dollars, at the discretion of the court, to be recovered by attachment or otherwise, as the court may direct, agreeably to law; the fines in criminal cases, to be paid into the county treasury, for the use of the county, and in civil cases, applied as the court may direct.

Sec. 4. *Be it further enacted*, That whenever the office of sheriff shall become vacant in any county, either by death, resignation or otherwise, the coroner of said county shall be bound to perform all duties, and be vested with all the power of sheriff for said county during such vacancy; and in case the sheriff, for any cause, shall be committed to jail, the coroner shall, by himself or such other person as he may appoint, be keeper of the jail during the time the sheriff shall remain a prisoner.

Sec. 5. *Be it further enacted*, That the coroner shall execute process of every kind wherein the sheriff is a party or interested, in the suit, or for other just cause is rendered incapable of executing the same.

Sec. 6. *Be it further enacted*, That the coroner shall, so soon as he is informed of the dead body of any person, supposed to have come to his or her death by violence or casualty, found dead within the county, issue his warrant directed to a constable of the township where the dead body is found, requiring him forthwith to summon a jury of twelve men of the township, to appear at the place where the dead body shall be, at the time specified in the warrant, to inquire on the view of the body of the person or persons there lying dead, how and in what manner, and by whom

he or she came by his or her death ; and the constable shall forthwith execute the same, and repair to the place where the dead body shall be at the time mentioned, and make return of the warrant and his proceedings thereon to the coroner ; and every constable failing, unnecessarily, to execute such warrant, and return the same as aforesaid, shall forfeit and pay a fine of fifty dollars ; and if any person, summoned as a juror, shall fail to appear, without having a reasonable excuse, shall pay a fine of five dollars ; which fines aforesaid shall be recovered on suit of the coroner, before any court having jurisdiction thereof, and be paid into the county treasury for the use of the county.

**Sec. 7.** *Be it further enacted,* That the coroner shall swear the jury severally, in form following, viz : 'You do solemnly swear or affirm, (as the case may be) that you will diligently enquire into, and true presentment make, according to the best of your understanding, how, in what manner, and by whom the deceased person, who here lies dead, came to his or her death, (as the case may be) and deliver to me a true inquest thereof, according to such evidence as shall be laid before you.'

**Sec. 8.** *Be it further enacted,* That the coroner shall be empowered to summon witnesses forthwith, to come before him and the jury, and give evidence concerning the matter in question, and when the jury are sworn, shall call upon the evidences, and examine them on oath or affirmation, and make all necessary enquiry whether the person found dead, died of felony, mischance or accident ; and if of felony, who were principals or accessaries, in what manner, by what means, and with what instruments, with all the circumstances which may come to their knowledge ; and if by mischance or accident, whether by the act of man, and whether by hurt, fall, stroke, drowning or otherwise ; also to enquire of the persons who (if any) were present, the finders of the body, his or her relations and neighbors, whether he or she was killed in the same

place where the body was found, and if elsewhere, by whom and how the body was brought thence, and all other circumstances relating to the said death.

Sec. 9. *Be it further enacted*, That the evidence of the witnesses shall be reduced to writing, and signed by them severally, and if it relate to the trial of any person concerned in the death of the deceased, the coroner shall bind such witnesses by recognizance, in a reasonable sum, for their personal appearance at the next term of the court where the offence is cognizable within the county, there to give evidence accordingly, & commit to the common jail of the county, any witness refusing to enter into such recognizance, and shall return the inquisition, written evidence and recognizance, by him taken, to the court aforesaid.

Sec. 10. *Be it further enacted*, That the jury, having viewed the body, examined and heard the evidences, and made all the inquiry within their power, they shall draw up their verdict, sign the same, and deliver it to the coroner, and if the inquisition found, be felony or misfortune of another person, the coroner shall speedily inform one or more of the justices of the peace thereof, who are most convenient within the county, to the intent that the person killing or being any way instrumental to the death, may be apprehended, examined and secured, in order for trial; and if the felon or felons be present, the coroner shall bring him, her or them before a justice of the peace for examination; and if any coroner shall refuse or neglect to perform any of the duties of his office, he shall be fined in a sum not exceeding two thousand dollars, at the discretion of the court, which shall be applied as in case of the sheriff.

Sec. 11. *And be it further enacted*, That a law establishing general courts of quarter sessions, &c. published at Marietta, August 23, 1788; a law appointing coroners, published December 21st, 1788; a law concerning the power and duty of coroners, published June 16, 1795, and all other laws and parts of laws coming

within the intent and meaning of the provisions of this act, which are contrary thereto, are hereby repealed.

This act shall take effect and be in force from and after the first day of June next.

JOHN SLOANE,

*Speaker pro tem. of the house of Representatives.*

JOSEPH KERR,

*Speaker pro tem. of the senate.*

January 3, 1803.

## CHAPTER XLIV.

### *AN ACT to amend the last named act.*

Prisoners may be conveyed to another county for confinement in certain cases, - - -	1	{ prisoners for safe keeping, - - -	3
Duty and compensation to sheriff for conveying prisoners, - - -	2	{ Sheriff to redeliver prisoner on writ of Habeas Corpus, - - -	4
Sheriff of county to receive		{ Sheriff how compensate d	5
		{ The coroner to act as sheriff in certain cases,	6

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio.* That whenever any person or persons, charged with the commission of any offence, shall be in custody in any county in this state, having no jail or one which is deemed insufficient, the sheriff of such county shall forthwith convey the person or persons so charged, to the jail of that adjoining county which in the opinion of the sheriff, shall be the most convenient and secure.

**Sec. 2.** *Be it further enacted,* That the said sheriff be, and he is hereby vested with authority, to call as many men as he may deem necessary, to aid in guarding and transporting the person or persons so charged; and the commissioners of the county from which the

person or persons so charged are taken, shall allow the sheriff and guard an adequate compensation for their services, to be paid out of the county treasury, upon the order of the said county commissioners: And if any person shall neglect or refuse to obey the summons of the said sheriff, or shall neglect or refuse to perform the duties required of him, in guarding and transporting the person or persons so charged, every such person shall, for every such offence, forfeit and pay ten dollars, to be recovered by action of debt, before any justice of the peace having jurisdiction thereof; and it is hereby made the duty of the said justice to pay over the said sum to the county treasurer for the use of the county.

*Sec. 3. Be it further enacted,* That it shall be the duty of the sheriff of each county, adjoining a county having no jail or an insufficient one, upon being furnished with the commitment, directed to the sheriff of the county having no jail or an insufficient one, to retain the said commitment, as evidence of his authority to receive into his care and custody such person or persons as may be transported to his jail, according to the provisions of this act; and he shall be liable for escapes as in other cases; the sheriff so receiving a prisoner or prisoners shall be paid out of the treasury of the county whence the said prisoner or prisoners were transported, upon the order of the commissioners of the said county, such fees as he would by law be entitled to receive for similar services in other cases.

*Sec. 4 Be it further enacted,* That the sheriff in whose custody the said prisoner or prisoners may be placed, shall forthwith deliver over such prisoner or prisoners, to the sheriff of the county whence such prisoner or prisoners were sent, on being served with a writ of habeas corpus, to him directed, under the seal of the court of common pleas or supreme court, which writ it is hereby made the duty of the clerk of the court of common pleas or supreme court to issue,

on a precipe being filed by the prosecuting attorney for such county, for which services the clerk shall receive the same fees as he is entitled by law to receive for similar services.

**Sec. 5.** *Be it further enacted,* That the sheriff shall be allowed the same fees, and be paid in the same manner, for transporting such prisoner or prisoners on habeas corpus, as he is entitled to receive for conveying them to prison under the provisions of the second section of this act.

**Sec. 6.** *And be it further enacted,* That whenever the office of sheriff shall become vacant in any county, either by death, resignation or otherwise, or where the sheriff is a party or related to the prisoner or prisoners, the coroner of said county shall be bound to perform all the duties required of the sheriff by this act, and for that purpose, shall be vested with all the power and authority hereby vested in the sheriff.

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

**JOSEPH RICHARDSON,**

*Speaker of the house of representatives.*

**ROBERT LUCAS,**

*Speaker of the Senate.*

**January 7, 1819.**

## CHAPTER XLV.

*An act to regulate the admission and practice of attorneys and counsellors at law.*

Attornies to be examined	1 §	practice but citizens of	
By judges of supr. court	2 §	the U. States	5
Residence to be proven before admittance	3 §	Proviso	ib.
Proviso	ib. §	Attornies for neglect, how dealt with	6
Court may suspend att'ys	4 §	Not to receive money without order	7
Proviso	ib. §	Repealing clause	8
No person permitted to			

*Sec. 1. Be it enacted by the general assembly of the state of Ohio, That from and after the passage of this act, no person shall be permitted to practice as an attorney or counsellor at law, or to commence, conduct, or defend any action, suit or plaint, in which he is not a party concerned, either by using or subscribing his own name, or the name of any other person, unless he shall have been previously examined, and admitted by any two judges of the supreme court.*

*Sec. 2. Be it further enacted, That whenever any person shall apply to any two judges of the supreme court, to be admitted as an attorney or counsellor at law, it shall be the duty of the judges of said court, either by themselves or some person learned in law, by them appointed, and in their presence to examine such applicant, and if, on such examination had, the said judges shall be of opinion, that the applicant is qualified and is of a good moral character, they shall direct their clerk to administer an oath of office, and to record the admission of such applicant.*

*Sec. 3. Be it further enacted, That no person shall be admitted to such examination, unless he shall first satisfy said judges by affidavit, that he actually does reside in this state, and intends to become a citizen thereof; and shall produce, from some attorney or counsellor at law, a certificate, setting forth that such applicant is of a good moral character, and that he hath regularly and attentively studied law, and that he believes him to be a person of sufficient legal knowledge and abilities to discharge the duties of an attorney or counsellor at law: *Provided, That any person residing in this state, producing satisfactory evidence to the said judges, that he hath been regularly admitted as an attorney or counsellor at law, in any court of record within the United States, may be admitted to an examination at any time, by producing to the said judges, from some practicing attorney or counsellor at law, a certificate, setting forth, that such applicant is of good moral**

character, and he satisfying the judges aforesaid, by affidavit or oath, that he actually resides in this state, and intends to become a citizen thereof.

**Sec. 4.** *Be it further enacted,* That the supreme court, or court of common pleas shall have power to suspend any attorney or counsellor at law from practicing in their respective courts, for misconduct in office: *Provided always,* That every attorney or counsellor, before he is suspended, shall receive a written notice from the clerk of the court, stating distinctly the grounds of complaint, or the charges exhibited against him, and he shall, after such notice, be heard in his defence, and shall be allowed reasonable time to collect and prepare testimony in his justification: *Provided also,* That in case of a suspension by the court of common pleas, an appeal may be had to the supreme court.

**Sec. 5.** *Be it further enacted,* That no person shall hereafter be permitted to practice as an attorney or counsellor at law, in any court in this state, who is not a citizen of the United States. and who does not actually reside in this state, any license heretofore granted to the contrary notwithstanding, except in causes in which he shall have been employed before the taking effect of this act; or who holds a commission as judge of the supreme court, or a court of common pleas, or who is clerk of the supreme court, or a court of common pleas, in any court of which he is clerk, or who is a sheriff, coroner or deputy sheriff: *Provided,* That nothing herein contained shall in any wise prevent attorneys or counsellors at law, residing in states or territories which permit attorneys or counsellors at law, residing in this state, to practice therein.

**Sec. 6.** *Be it further enacted,* That if any suit shall be dismissed for the non-attendance of an attorney practising in any court of record within this state, such attorney, not having a just and reasonable excuse, it shall be at his costs, and he shall be liable for all damages his client shall sustain by such dismissal or any

other neglect of his duty, to be recovered in any court of record within this state; and every attorney receiving money for his client, and refusing or neglecting to pay the same when demanded, shall be proceeded against, in a summary way, on notice, before any court of record, in the same manner as sheriffs and coroners are liable to be proceeded against, for money recovered on execution.

Sec. 7. *Be it further enacted*, That no attorney or counsellor at law shall at any time receive, in behalf of his client, any money which may be collected in any courts of this state, unless he produces a sufficient order from the party entitled thereto.

Sec. 8. *And be it further enacted*, That all laws and parts of laws heretofore in force, regulating the admission and practice of attorneys and counsellors at law, be, and the same are hereby repealed.

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

EDWARD TIFFIN,  
*Speaker of the House of Representatives.*  
DUNCAN MARTHUR,  
*Speaker of the Senate.*

January 27, 1810.

## CHAPTER XLVI.

*AN ACT to amend the last named act.*

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That from and after the passage of this act, no person shall be licensed to practice as an attorney or counsellor at law, or be admitted to an examination under the provisions of the act to which this is an amendment, unless he shall have previously resided one year within this state, and shall have attentively studied the law during the period of two years

previous to his application for admission: *Provided*, That nothing herein contained, shall be construed to repeal the proviso contained in the fifth section of the act to which this is an amendment.

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

JOSEPH RICHARDSON,  
*Speaker of the house of representatives*  
ROBERT LUCAS,  
*Speaker of the Senate.*

January 28, 1819.

## CHAPTER XLVII.

### *AN ACT establishing boards of commissioners.*

Three commissioners to be elected,	-	1	To settle with commissioners annually,	11
Duty of associate judges,	<i>ib</i>		Commissioners to lay proceedings before court annually,	- - 12
Time of service to be determined by lot.	-	2	Their compensation,	13
Proviso,	-	<i>ib</i>	Fine for mis-behavior,	14
Vacancies how filled,	-	3	Not to be concerned in any contract,	- 15
Contests how to be determined,	-	4	May by suit recover money due county,	- 16
Commissioners to take an oath,	-	5	Proviso,	- <i>ib</i>
Time to meet,	-	6	To administer oaths,	17
To appoint a clerk,	-	7	To provide places for holding courts,	- 18
Erect public buildings,	-	8	Repealing clause,	- 19
To allow debts, &c.	-	9		
County treasurer when appointed,	-	10		

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That there shall be elected in the manner hereinafter provided, three commissioners in each county in this state; and they and their successors in office or any two of them shall have authority to do

and perform any act or duty required and enjoined by law; the said commissioners (except in case of vacancy) shall be elected by the qualified electors in each township, at the October annual election; and whenever any new county is hereafter created, the associate judges thereof shall immediately notify the qualified electors of such county, to meet at the place of holding the courts in said county, and elect three commissioners, who shall hold their offices until the next annual election for commissioners, and their successors are qualified, and no longer; at which annual election, three commissioners shall be elected by the qualified electors, whose time of service shall be determined in the same manner as pointed out by the second section of this act, which election shall be conducted and returned agreeable to the provisions of an act, entitled "An act to regulate elections."

*Sec. 2. Be it further enacted,* That the commissioners thus elected shall, at their first meeting, determine by lot for what time they shall severally continue in office; one whereof shall continue until the next October annual election; one until the annual October election next succeeding; and one until the annual October election next succeeding; and at the October annual election next after the first election, and at such and every subsequent October annual election, there shall be elected one commissioner, who shall continue in office for the term of three years and, in all cases, until their successors are elected and qualified: *Provided,* That nothing in this section contained shall be so construed as to affect the term of office of any commissioner heretofore elected and qualified.

*Sec. 3. Be it further enacted,* That if any of the commissioners shall die, remove from the county, resign or decline to serve in said office, the associate judges, or a majority of them, in their respective counties, shall appoint a commissioner or commissioners to fill such vacancy or vacancies; and such person or

persons, so appointed, shall continue in office until the next succeeding October annual election; at which election there shall be elected some person or persons as commissioner or commissioners, to fill such vacancy or vacancies, and each commissioner, so chosen, shall continue in office until the expiration of the term for which his predecessor was elected; and it shall be the duty of the clerks of the courts of common pleas, in their respective counties, to make out, for each person elected as commissioner, a certificate of his election, and shall deliver the same to the person entitled, upon demand, without a fee.

*Sec. 4. Be it further enacted,* That if the election of any commissioner shall be contested, the same shall be decided and conducted in the same manner as is directed in case of contested elections of sheriffs or coroners.

*Sec. 5. Be it further enacted,* That before any commissioner shall enter upon the duties of his office, he shall take an oath or affirmation before any person authorised to administer the same, faithfully and impartially to discharge the duties of a commissioner, and the person administering such oath shall give a certificate, that the same hath been done, to the clerk of the court of common pleas, who shall file the same with the returns of the persons elected.

*Sec. 6. Be it further enacted,* That the commissioners shall meet annually, on the first Monday of June, at the place where the court of common pleas is usually held in the respective counties, and then, or at such other times as the commissioners may then appoint, shall examine and allow all just debts and demands, which now are or hereafter shall be chargeable upon the respective counties, and shall from time to time, adjust and settle the demands and sums of money which necessary public expenditures require should be raised yearly, to defray the charges of the building and repairing court houses, prisons, bridges and for

such other uses as may be for the benefit of said counties, respectively.

**Sec. 7.** *Be it further enacted,* That the commissioners shall have a just and accurate record kept, of all their corporate proceedings, and for that purpose are hereby empowered to appoint a clerk, who may or may not be of their own body, as they may deem expedient, who shall keep his office at the seat of justice, whose duty it shall be to keep their records as aforesaid, and preserve all papers and documents they may direct, and attest orders and warrants issued by them and perform every other service that may appertain to his office, as clerk, and he may be removed at any time, when thought necessary by the commissioners; and he shall receive, as a compensation, such sum as the commissioners may think reasonable.

**Sec. 8.** *Be it further enacted,* That the commissioners shall assess county taxes and erect public buildings, in such manner as is directed by law, and they may cause any bridge to be built, over any creek or water course, when they think such bridge of public utility, and too expensive to be borne by the township in which it may be wanted.

**Sec. 9.** *Be it further enacted,* That all accounts, debts and demands, justly chargeable upon the said respective counties, shall be allowed by the commissioners, who shall issue orders upon the treasurer, in favor of all creditors, for the sum or sums so allowed, which orders shall be received in payment for county tax, all which orders so granted, shall be numbered in their order, and entered in a book, which the commissioners shall procure for that purpose, at the expense of the said counties respectively.

**Sec 10.** *Be it further enacted,* That the treasurer of every county, that is now, or that may be hereafter erected and established, shall be appointed by the commissioners annually, on the first Monday of June; and all vacancies that may happen by death, removal

or otherwise, shall be filled by the commissioners of their respective counties, and the persons so appointed shall continue in office until the next following first Monday of June, and until a successor is qualified; but before they enter upon the duties of their offices respectively, they shall give bond to the commissioners and their successors, with one or more sufficient freehold sureties, in the sum of three thousand dollars, conditioned for the punctual execution of their duty; and the said treasurer shall keep a fair and accurate account of all monies received, and when, and also all disbursements and payments made by order of the commissioners; and the county treasurer shall be subject to be removed from office, for neglect or misconduct in office, by the commissioners of the respective counties.

*Sec. 11. Be it further enacted,* That the county treasurer shall yearly settle his accounts with the commissioners, at their June annual meeting, and be entitled to receive for his services, a sum not exceeding four per centum on all monies by him received and accounted for; and when any treasurer shall be removed from office, or shall remove out of the county, he shall deliver up to the succeeding treasurer all the money, books, public accounts and papers belonging to the county where he acted, whole and undefaced; and when any treasurer shall die, his executors or administrators shall deliver, in like manner, all the money, books and papers relating to the said public accounts, that may have come to his or their possession.

*Sec. 12. Be it further enacted,* That the commissioners of the several counties shall, at the first session of the associate judges next succeeding their annual meeting yearly exhibit and lay before said judges, a general statement of the receipts and expenditures of the respective counties, and a particular account of all the monies by them assessed and collected, as also an account to whom, and for what use or uses the same

money, and every part and parcel thereof was paid out, with the proper vouchers, which exhibit shall be filed and kept among the records of the said associate judges, and a copy of which shall be published in a newspaper printed in the county, or if no paper is printed within the same, by affixing the same on the court house door, during the next succeeding term of the court of common pleas.

**Sec. 13** *Be it further enacted*, That each commissioner shall be allowed one dollar and seventy five cents for each and every day's service in the discharge of the duties of his office, an account of which shall be rendered and audited by associate judges, in their respective counties when sitting.

**Sec. 14.** *Be it further enacted*, That if the commissioners, or either of them, shall be guilty of misconduct in the duties of their, or his office, the commissioner or commissioners so offending, on conviction thereof, before the court of common pleas of the proper county, shall each be fined at the discretion of said court in any sum not exceeding four hundred dollars, with costs; which fine shall be paid into the county treasury, for the use of the county.

**Sec. 15.** *Be it further enacted*, That no commissioner shall, directly or indirectly, as contractee, be concerned in any contract, for work to be done or materials to be furnished for the county, under the penalty of one hundred dollars, to be recovered by an action of debt quitam, before any court having cognisance thereof, one half to the informer, and the other half for the use of the county; and such commissioner shall, moreover, be deprived of any compensation he was to receive on such contract, any thing in the same to the contrary notwithstanding.

**Sec. 16** *Be it further enacted*, That the commissioners of the several counties in this state, be, and they are hereby authorised and required to ask, demand and re-

cover, by suit or otherwise, any sum or sums of money or other property due to such county, by any individual or individuals. and pay the amount so recovered, into their county treasury, for the use of the county : *Provided*, That if in any county labor, hauling or article of value be subscribed instead of money, to aid in raising public buildings, and such labor, hauling or article of value (upon requisition of the commissioners) shall not be performed in a reasonable time, they are hereby authorised to recover the amount thereof in money, to be applied as aforesaid ; and the said commissioners shall be capable of suing and being sued, of pleading and being impleaded in any court of judicature within this state.

Sec. 17. *Be it further enacted*, That the commissioners, or either of them, are hereby authorised and empowered to administer all oaths or affirmations, necessary in discharging the duties of their respective offices.

Sec. 18. *Be it further enacted*, That until proper accommodation is made at the place fixed on, by the commissioners, for the permanent seat of justice, it shall be the duty of the county commissioners, to provide some suitable place for holding the courts of such counties : *Provided*, The provisions of this section shall not extend to any county for a longer time than three years after the commissioners appointed for fixing the permanent seat shall have made their return.

Sec. 19. *Be it further enacted*, That the act, entitled 'An act establishing boards of commissioners,' passed the thirteenth of February, eighteen hundred and four, and an act amendatory to the same, passed the twenty-second of February, eighteen hundred and five, also an act, entitled 'An act authorising county commissioners to recover debts due to their respective counties,' passed the twenty-seventh of January, eighteen hundred and seven, and an act entitled 'An act authorising county commissioners to provide and fix upon

a place for holding courts in their respective counties, in certain cases.' passed the seventeenth of February, eighteen hundred and nine, be, and the same are hereby repealed.

This act to take effect and be in force from and after the first day of June next.

**EDWARD TIFFIN,**

*Speaker of the House of Representatives.*

**DUNCAN M'ARTHUR,**

*Speaker of the Senate.*

January 15, 1810.

## CHAPTER XLVIII.

*AN ACT to amend the last named act.*

Sec. 1. *Be it enacted by the general assembly of the state of Ohio.* That each county commissioner shall be allowed the sum of two dollars and twenty five cents for each and every days service in the discharge of the duties of his office, an account of which shall be rendered to and audited by the associate judges, in their respective counties when in session.

Sec. 2. *And be it further enacted,* That the thirteenth section of the act, entitled 'An act establishing boards of commissioners,' be, and the same is hereby repealed.

This act to take effect and be in force from and after the first day of March next.

**THOMAS KIRKER,**

*Speaker of the House of Representatives.*

**ABRAHAM SHEPHERD,**

*Speaker of the senate.*

January 20, 1817.

## CHAPTER XLIX.

*AN ACT further to amend said act.*

Provisions when a collector shall die or abscond	1	{	treasurers,	-	3
Further provisions,	2		Provision as to securities		
Provision as to county			for collectors,	-	4
		{	Repealing clause,	-	5

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That in all cases where any person heretofore hath been, or hereafter may be appointed a county collector, hath or shall, after giving bond and commencing his collection, become incapable of completing the same, either by death, removal, absconding or from any other cause, it shall be lawful for the county commissioners to appoint a collector, to collect the residue of the taxes charged and unpaid on the duplicate of such delinquent collector who shall have the same powers, and be under the same restriction and obligations, as other county collectors; and when the whole or any part of the taxes charged and unpaid as aforesaid, shall be collected and paid into the proper county treasury, after deducting the fees for collection, the balance shall be allowed by the commissioners, as a credit on the bond of such delinquent collector.

**Sec. 2.** *Be it further enacted,* That in all cases where the securities of such collector or any one of them. heretofore hath or hereafter may, pay over all monies by such collector actually collected, and all monies collected by such security, in the name of the collector, it shall be lawful for the county commissioners, to cancel the bond of such collector and his securities, so soon as the whole collection for that year shall have been completed, agreeably to the provisions of the first section of this act; and in every case where the security of any such delinquent collector as aforesaid, shall have paid the whole or any part of the amount due on

the bond of such delinquent collector, as is prescribed in the preceding section of this act, it shall be the duty of the county commissioners to refund to the security whatever balance may be found to have been paid, over and above the amount due the county on such bond.

**Sec. 3.** *Be it further enacted,* That all county treasurers hereafter elected within this state shall, previous to their entering on the duties of their appointment, enter bond with such security, as shall be approved of by the county commissioners, conditioned for the paying over all monies or current bank paper, which by them may be received for state, county or other purposes.

**Sec. 4.** *Be it further enacted,* That in all cases where any security may have collected all, or any part of the taxes not collected by the collector, before his death, absconding or other disability, the receipts given by such security shall be taken, and deemed to be a full discharge of the taxes due from the person holding the receipt of such security for the same; and the security shall be held liable to the county for the amount, and the person paying the same, shall have no action against the person collecting the same, to recover back the amount paid.

**Sec. 5.** *Be it further enacted,* That so much of the tenth section of the act to which this is an amendment, passed January the fifteenth, eighteen hundred and ten, as is contrary to this act, be, and the same is hereby repealed.

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

JOSEPH RICHARDSON,  
*Speaker of the House of Representatives.*

ROBERT LUCAS,  
*Speaker of the Senate.*

February 5, 1819.

## CHAPTER L.

***AN ACT to levy and collect a tax from all banks and individuals, and companies, and associations of individuals, that may transact banking business in this state, without being authorised to do so by the laws thereof.***

Preamble.		Penalty for refusing to swear and answer,	10
Banks subject to tax on 1st September next,	1	Judgment to be entered for amount found due on examination,	11
Rates of tax,	ib	Further proceedings against persons summoned,	12
Auditor to charge tax,	2	Money, &c. to be sold,	13
Manner of collecting tax,	3	No payment to bank allowed after summons,	14
Manner of collecting tax continued,	4	Continued,	15
Collection of tax continued	5	Amount of judgments restricted,	16
Continued,	6	Persons paying money on summons or judgment to have credit with the bank,	17
Cashier, clerks, &c. to be summoned to answer on oath in certain cases,	ib	Money to be paid over to the auditor,	18
Proceedings thereon,	ib	Auditor to pay the state treasurer,	19
Proceedings thereon continued,	7	Per centum allowed for collection,	20
Attorney to be appointed,	ib		
Persons summoned to answer the second day of the term,	8		
Proceedings thereon,	ib		
Capias to issue against persons refusing to appear and answer,	9		

Whereas the president and directors of the Bank of the United States, have established two offices of discount and deposit, in this state, at which they transact banking business, by loaning money, and issuing bills in violation of the laws of this state; and whereas divers companies and associations of individuals within this state, unauthorised by law, continue in like manner, to do business as bankers and banks, by loaning money and issuing bills, and by trading in notes

and bills; and whereas it is just and necessary that such unlawful banking, while continued, should be subject to the payment of a tax for the support of government: Therefore,

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That if after the first day of September next, either the Bank of the United States, or all, or any of the said companies or associations, shall continue to transact banking business, within this state, they shall each severally be subject to, and held liable to pay an annual tax as follows: the bank of the United States, shall pay a tax of fifty thousand dollars per annum, upon each office of discount and deposit, at which they may commence or continue to transact banking business within this state, and each and every individual company, or association, that shall commence or continue to transact banking business, as aforesaid, shall pay annual tax of ten thousand dollars, to be assessed and collected in both cases as herein after provided.

**Sec. 2.** *Be it further enacted,* That upon the fifteenth day of September next, and afterwards upon the fifteenth day of September, annually, the auditor of state shall proceed to charge the Bank of the United States with a tax of fifty thousand dollars, upon each office of discount and deposit, at which they may continue to transact banking business within this state, after the first day of September next, and so long as the bank of the United States shall continue to transact banking business at any office of discount and deposit within this state; and shall also in like manner upon the fifteenth day of September next, and afterwards on the fifteenth day of September annually, proceed to charge each individual, company or association aforesaid, that shall commence or continue to transact banking business within this state, after the said first day of September next, and so long as such individual, company or association, shall continue to

transact banking business as aforesaid, with a tax of ten thousand dollars; which said several taxes shall be collected in the manner herein after provided.

**Sec. 3.** *Be it further enacted,* That the auditor of state, so soon as he shall have charged all, or any one of the sums directed to be charged as a tax, by this act, shall make out his warrant under his seal of office, directed to any person whom he may appoint, in such warrant, to execute the same, commanding him to collect the amount of tax in said warrant specified, from the Bank of the United States, or individual, company or association, from whom the same may be due, and the person appointed in such warrant, and accepting, and undertaking to discharge the duties required of him by law, shall, before receiving the warrant, enter into bond to the state, with good and sufficient security, to the satisfaction of the auditor, for the faithful discharge of the duties required of him by this act; and for non-payment upon demand, to levy the same upon the goods, chattels, rights and credits of the Bank of the United States, or individual, company or association, that may owe the same, wherever such goods, chattels, rights or credits may be found in this state.

**Sec. 4.** *Be it further enacted,* That the person appointed to execute such warrant and to whom the same shall be directed, shall enter the banking house of the Bank of the United States within this state, or the banking house of any individual, company or association against whom the warrant may be issued, and demand payment of the amount which by his warrant he is directed to collect; and if payment be not made, such person shall immediately make a levy upon any money, bank notes, or other goods and chattels the property of the bank, individual, company or association, against which the warrant may be issued, or so much thereof as may be sufficient to satisfy the amount for which the warrant is issued; and the money or bank notes so taken shall be returned, and the goods

and chattels levied upon shall be advertised and sold; in the same manner as if taken by a sheriff or other officer, upon a writ of fieri facias.

**Sec. 5.** *Be it further enacted,* That the person entering such banks, after demand and refusal of the payment of the tax aforesaid, if he cannot find in the banking room any money, bank notes, goods, chattels or other property of said banks or individual, company or association, whereon to levy to satisfy the tax aforesaid, it shall and may be lawful, and it is hereby made the duty of such person, to go into each and any other room or vault of such banking house, and every closet, chest, box or drawer in such banking house to open and search; and any money, bank notes, or other goods and chattels, the property of said bank or individual, company or association therein deposited, thereon to levy, or so much thereof as will satisfy the tax aforesaid, agreeably to the provisions of the fourth section of this act.

**Sec. 6.** *Be it further enacted,* That if the person appointed to execute such warrant, and to whom the same is directed, cannot find any money, bank notes, or other goods and chattels whereon to levy the same, or if the money, bank notes or goods and chattels levied upon, should not be sufficient to make the amount charged in the warrant, he shall immediately summon the cashiers, clerks or other persons, by whatever character they may be designated, who have charge of the funds of the bank, individual or company or association against which the warrant issued, to appear at the next court of common pleas of the county wherein the banking house is situate, to give an account, upon oath or affirmation, of the funds in his possession at the time of such service; and the person appointed to execute such warrant, and to whom it is directed, shall, in like manner, proceed to summon any person he may have good reason to suppose is indebted to the bank, individual, company or association against which

the warrant issued, to appear at the next court of common pleas, to answer, upon oath or affirmation, the amount that such person is indebted to the bank, individual, company or association against which the warrant issued at the time such service is made; and the names of all the persons summoned shall be endorsed upon the warrant, which shall be returned and lodged with the clerk of the court of common pleas of the proper county, at least ten days before the sitting of the court, if there shall be that number of days between the completion of the service and the first day of the term of the court.

*Sec. 7. Be it further enacted,* That the person appointed to execute the warrant, and to whom the same is directed, shall, in all cases where parties are summoned, as herein before provided, give immediate notice to the auditor of state of his proceedings, and of the names of the persons by him summoned; and the auditor shall employ one or more attorneys to attend at the proper term of the court and conduct the proceedings; and such attorney or attorneys shall receive such compensation as may hereafter be allowed by law.

*Sec. 8. Be it further enacted,* That upon the second day of the term to which the persons are summoned to appear, the attorney employed, shall cause the persons summoned to be called in open court, and as many as answer, shall be examined by the court, upon their oath or affirmation separately, touching the matter under consideration; the persons summoned as having the funds of the bank, individual, company or association in their possession, shall be required to state what amount of such funds were in their possession at the time of such service: and the persons summoned as being indebted to the bank, individual, company or association, shall be required to state whether any, and how much they were individually or jointly indebted to the bank, individual, company or association at the time of the service, and if indebted,

when such debt was due and payable; and if the persons summoned as having the funds of the bank, individual, company or association in their possession, shall acknowledge that funds were in their possession, and state the amount, every individual upon delivering into court the amount of funds acknowledged to be in his possession, shall be discharged without cost; and every person summoned who shall, upon his examination, deny that he was in possession of funds, or indebted to the bank, individual, company or association, shall in like manner be discharged, but shall be allowed no cost.

Sec. 9. *Be it further enacted*, That if any person summoned as aforesaid, shall not appear when called upon the second day of the term, the court shall upon motion, issue a *capias* to bring such person forthwith before them to answer as required by the eighth section of this act; and every person brought in upon a *capias*, if, upon his answer he shall be discharged, shall nevertheless pay the cost of the process and proceeding against him, for which judgment shall be entered against him, including an attorney's fee.

Sec. 10. *Be it further enacted*, That if any person summoned as aforesaid, shall refuse to be sworn or affirmed, or when sworn and affirmed, shall refuse to answer, as by this act required, such person shall be considered in contempt, and shall be punished by fine and imprisonment at the discretion of the court.

Sec. 11. *Be it further enacted*, That if any person summoned as having funds of the bank, individual, company or association in his possession, shall, upon his examination, admit that he had funds in his possession at the time of such service, and shall not deliver the same into court, judgment shall be entered against him for the amount, upon which execution shall be had, as in other cases.

Sec. 12. *Be it further enacted*, That where a person summoned as being indebted to the bank, individ-

ual, company or association, shall admit that he was so indebted at the time of such summons, if he do not forthwith pay the amount into court, judgment shall be rendered against him therefor; and if the day of payment is not passed, it shall be so specified in the judgment, and no execution shall issue until after the day of payment; all proceedings and judgments by this act directed, shall be in the name of the state of Ohio as plaintiff, and of the bank, individual, company or association against whom the warrant issued, as defendant; and all judgments under this act shall be in behalf of the state of Ohio, against the person against whom the judgment is rendered.

**Sec. 13.** *Be it further enacted,* That all money, bank notes or other funds delivered over into court pursuant to the provisions of this act, shall be disposed of by order of the court, for the satisfaction of the tax for which the warrant issued.

**Sec. 14.** *Be it further enacted,* That if any debtor of the bank, individual, company or association, shall, after such debtor has been summoned under the provisions of this act, make payment of all or any part of such debt to the bank, individual, company or association, to which the same is due, no credit shall be allowed therefor, but judgment shall go against such debtor under this act, as if no such payment had been made.

**Sec. 15.** *Be it further enacted,* That from the time of summoning any person having charge of the funds of any bank, individual, company or association, all funds of such bank, individual, company or association shall be bound for the payment of the tax in the warrant specified, and all the debtors to such bank, individual, company or association, shall be liable to the state for the amount of the debts from them due and owing to the bank, individual, company or association, until the amount of the tax is paid; and all payments afterwards made to such bank, individual,

company or association, by individuals within this state, shall be regarded as payments made in the debtor's own wrong, and the amount of such payment may be recovered from such debtor, in an action of debt in the name of the state.

Sec. 16. *Be it further enacted*, That judgments under this act, shall not at one term be rendered for a greater sum than double the amount of tax charged against any bank, individual, company or association, and all monies collected beyond the net amount of tax and the costs of the proceeding in court, shall be returned by the auditor to the bank, individual, company or association, to which the same originally belonged, or was due.

Sec. 17. *Be it further enacted*, That every person from whom money is collected under this act, shall be entitled to credit for the amount against the bank, individual, company or association, to whom the same was due, and in any suit brought for the recovery of the same, whether in the name of the bank, individual, company or association, with whom the debt was originally contracted, or by any assignee of either, the defendant or defendants, may give such payment in evidence upon a plea of payment, or upon a plea of the general issue.

Sec. 18. *Be it further enacted*, That the sheriff or other officer, who shall collect monies upon judgments under this act, shall pay the same over to the auditor of state or his order, and for neglect or refusal, shall be liable to be proceeded against as in other cases.

Sec. 19. *Be it further enacted*, That the auditor shall pay all monies received under this act, into the state treasury, and shall make report of the same in his general report of the receipt of taxes.

Sec. 20. *And be it further enacted*. That the person appointed to execute the auditor's warrant, and to whom the same is directed, shall, when the money is

paid upon demand, or made by a levy upon bank notes or money, receive for his compensation two per cent. upon the amount; when the money is made upon a levy and sale of goods and chattels, he shall receive five per cent, upon the amount, and when further proceedings are had, he shall receive for his compensation ten per cent. of the amount of tax collected and returned.

**JOSEPH RICHARDSON,**  
*Speaker of the house of representatives.*  
**ROBERT LUCAS,**  
*Speaker of the Senate.*

February 8, 1819.

## CHAPTER LI.

***AN ACT to prevent the sale of town lots for taxes in certain cases.***

Non-residents neglecting to pay tax, 100 per cent. to be charged, -	1	{	Proviso, - - -	ib
Duty of township and corporation officers in making out duplicate for the succeeding year, -	2	{	Collector to pay the proceeds of sale into the county treasury, -	3
Duty of collector, -	ib	{	Provision as to church lots, &c. -	4
		{	Repealing clause, -	5

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That where the owner or owners of unimproved or unoccupied town-lots do not reside within the limits of such town, and the tax assessed upon such lot shall not be paid within the time required by law, the collector shall make return of all such delinquent lots, to the authority from whence they received their duplicate, whereupon a penalty of one hundred per centum upon the amount of each years' tax shall be incurred, and each lot shall be bound for the tax

and penalty due thereon, and the owner or subsequent purchaser shall be liable therefor.

**Sec. 2.** *Be it further enacted,* That trustees of townships and officers of incorporated towns, shall cause all lots returned to them delinquent as aforesaid, to be certified to the commissioners of the county stating the number and appraised value, together with the tax and penalty due on each lot; and the county commissioners, at the same time they are required to make out their duplicate of county levy, shall make out a separate duplicate of all lots returned to them delinquent, whether for county, corporation or township taxes, and shall continue to charge all such lots annually, with the tax and penalty as aforesaid, until the amount of the several years' taxes and penalties shall be equal to the one fourth the first appraised value thereof, after which it shall be lawful for the commissioners to direct their collector to make sale of such lot or lots, on his giving at least six weeks notice of the time and place of sale, the number of the lot, and amount due thereon, in some one of the newspapers printed in or nearest to the town in which such lot or lots shall be situate and sold, and the collector shall make to the purchaser of any lot or part of a lot by him sold, a deed in fee simple: *Provided,* That no sale of any lot for taxes and penalties, shall prejudice the rights of infants, persons in captivity, feme coverts, idiots or lunatics whose property shall be, exempted from the penalty or penalties as aforesaid: *Provided,* They pay into the treasury, at which the amount of sales are receivable, the whole amount of tax, interest and cost within one year after their disability is removed, together with any tax collected after the sale, and the interest thereon, which shall be returned to the person or persons, purchaser or purchasers, or their legal representatives.

**Sec. 3** *Be it further enacted,* That the money received by the collector, on account of the sale of such

delinquent lots shall be paid by the collector to the county treasury as other taxes; and the commissioners of the county shall draw an order on the county treasury in favor of the treasurer of the township or corporation, as they may severally be entitled for the amount collected, on the delinquencies of lots certified from such township or corporation, to the commissioners as aforesaid; and the tax and penalty or penalties which may have been collected under the provisions of this act, shall be recovered from the collector by action of debt, before any court having jurisdiction thereof.

**Sec. 4.** *Be it further enacted,* That all lots set apart for burying grounds, churches and schools, or any other public grounds, within any town plat, shall be exempt from taxation.

**Sec. 5.** *And be it further enacted,* That all laws and parts of laws authorising the sale of town lots, which are contrary to the provisions of this act, be, and the same are hereby repealed.

**DUNCAN M ARTHUR,**  
*Speaker of the house of representatives.*  
**ABRAHAM SHEPHERD,**  
*Speaker of the senate.*

January 29, 1818.

## CHAPTER LII.

**AN ACT** to provide for leasing certain school lands therein named.

Persons holding former leases may apply to the county commissioners & have their leases extended on certain conditions,	1    { County commissioners to { appoint 3 freeholders to { lay off school sections { into lots,                    -        - <i>ib</i> { Duty of freeholders, <i>ib</i> { Proviso,                    -        - <i>ib</i>
---	---

Freeholders appraise lots after laid off and make return, - - -	2	district on certain conditions, - - -	8
Appraisers fees, - - -	ib	Valuation to be made on application before lease is granted, - - -	9
Surveyors fees, - - -	ib	Duty of appraisers, - - -	ib
Township trustees or county commissioners to grant permanent leases, - - -	5	Duty of the court and county clerk, - - -	ib
Conditions of the leases, - - -	ib	Conditions of lease, - - -	ib
Re-valuation every 33 years, - - -	ib	Proviso as to a re-valuation every 33 years, - - -	ib
Proviso, - - -	ib	Former delinquents not entitled to a lease, - - -	10
Manner of recovering rents on failure of payment, - - -	4	Original improvements lessees who have complied to have the preference, - - -	11
Trustees or commissioners may re-enter upon and sell the lease when no goods or chattels can be found, - - -	ib	Proviso, - - -	ib
Surplus to be paid over on demand, - - -	ib	Clerks of the court of common pleas to return a copy of leases to county commissioners, - - -	12
Township treasurer to give bond, - - -	5	Disposition of rent, - - -	ib
Lots which cannot be leased in 12 months to be sold, - - -	6	Proceedings when a lessee is delinquent for two years, - - -	ib
Proceedings where school lands do not lie in the proper county, - - -	7	Proviso as to overplus on sale of lease, - - -	ib
Manner of making partition of school lands, - - -	ib	Duty of court to appoint a surveyor on application for leases, - - -	13
Duty of the court of common pleas to appoint appraisers, - - -	ib	Surveyors fees how paid, - - -	ib
Appraisers duty, - - -	ib	Proviso, - - -	ib
Court of common pleas to lease school lands in United States military		Clerks fees, - - -	14
		Appraisers and county treasurers fees, - - -	ib
		Treasurer to sue for rents, - - -	ib
		Repealing clause, - - -	15
		Proviso, - - -	ib

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That any of the present lessees of any of the reserved sections number sixteen (or any other section that may have been set off in lieu thereof) in any original surveyed township in this state, or any other person or persons who hereafter shall apply, may

on application for that purpose, to the commissioners of the county in which such section lies have their lease or leases extended or a lease or leases granted them, in manner herein after directed, those applying to have their leases extended, shall first produce to the commissioners of such county, a certificate under the hands and seals of the trustees of such original surveyed township, stating that such applicant had complied with his, her or their former lease, and all applicants for new leases, shall obtain and deliver to said county commissioners in writing, the consent of the trustees or a majority of the citizens of such original surveyed township, if it should not be organised, then and in such cases it shall be the duty of said commissioners to appoint three disinterested freeholders of such county not inhabitants of such original surveyed township, who shall take to their assistance a surveyor, who together with the said freeholders, shall meet on such school section on the day and time pointed out by said commissioners, at which time and place the trustees of such original surveyed township shall attend if the same should be organised, but if not organised, it shall then be the duty of a majority of the citizens of such township, to attend in the place of such trustees, and it shall be the duty of the said freeholders to proceed to lay off such school section into convenient lots to contain not less than forty nor more than one hundred and seventy acres, at the discretion of the trustees of such original surveyed township, but if there should be no trustees in such township, then at the discretion of a majority of the citizens thereof: *Provided*, That if such reserved section should have been previously surveyed to the satisfaction of the trustees of such township a re-survey thereof may be dispensed with, and no such survey shall in any wise interfere with, or infringe on the rights of any present lessee or lessees without his, her or their consent. a plat of which survey shall be returned by the surveyor to the clerk of such township if organised, for the inspec-

tion of those concerned, but if such township should not be organised the plat aforesaid shall be returned to the clerk of the board of commissioners in such county.

**Sec. 2.** *Be it further enacted,* That it shall be the duty of the said freeholders after completing the survey agreeable to the preceding section of this act, to proceed and appraise under oath or affirmation, each and every lot or lots by them laid off as aforesaid, in which valuation the said appraisers are to take into view and include in their appraisement, all buildings, together with all manner of improvements thereon, and the appraisement so made shall be committed to writing signed by the appraisers, and by them delivered to the trustees of such original surveyed township, to be recorded by their clerk, in a book to be by him kept for that purpose, but if such township should not be organised the appraisement as aforesaid, shall be returned to the county commissioners of such county, and entered on record by the clerk of said commissioners, and each appraiser shall be entitled to receive one dollar per day, for each and every day he may be employed in dividing the premises, and making the appraisement aforesaid; and the surveyor shall be entitled to receive for his services rendered under the foregoing provisions of this act, the sum of two dollars per day, for each day he may be necessarily employed in said survey, to be paid on the order of the trustees out of the funds of the institution, where such township may be organised, otherwise to be paid by the applicant or applicants for such lease or leases, and to be deducted out of the first proceeds thereof.

**Sec. 3.** *Be it further enacted.* That the trustees of any such original surveyed township to whom the return of the appraisement shall be made. and the county commissioners where such township is not organised, as is pointed out in the second section of this act, or their successors in office are hereby empowered, authorised and required to grant a permanent lease or leases, for

such lot or lots of their respective reserved school section or sections, as may be from time to time applied for to any present lessee or lessees, his or their assignee or assignees or to any other person or persons who may apply as aforesaid, for the term of ninety nine years renewable forever, conditioned that the lessee or lessees shall pay an annual rent at the rate of six per centum on the appraised value, and that at the end of every thirty three years from the execution thereof, there shall be a revaluation of the premises aforesaid, made by three disinterested freeholders of such county not inhabitants of such original surveyed township, to be appointed by the commissioners of such county upon the application of said trustees or the lessee or lessees, assignee or assignees then in possession of the premises aforesaid agreeably to the rates of unimproved lands of the same quality and possessing similar advantages in the same neighborhood, which lease or leases shall in all cases be recorded by the clerk of the township, and also by the recorder of the county, at the proper costs and charges of the lessee or lessees: *Provided*, That on each revaluation made, as is pointed out in the foregoing provisions of this act, the lessee or lessees, his, her or their heirs or assigns, shall be bound to pay annually for the thirty-three years next succeeding, into the treasury of such original surveyed township, if the same is organised, and if not, into the county treasury of such county, at the rate of six per cent. on every such valuation of his, her or their lot or lots as aforesaid, to and for the use and benefit of the citizens of such township, to be appropriated by the trustees of such original surveyed township, as other rents arising from such lands, now are or hereafter may be appropriated by law, but where any such township shall not be organised, the commissioners of the county shall appropriate the money paid into the county treasury, in the same manner for the use

of the citizens of such township, as if the same was organised.

**Sec. 4.** *Be it further enacted,* That if any lessee or lessors, his, her or their heirs or assigns shall neglect or refuse to comply with the conditions of his, her or their lease or leases or shall fail to pay the annual rent of six per centum on the valuation made as aforesaid, at the end of each and every year into the treasury, as pointed out in the foregoing provisions of this act, the treasurer shall, if so directed by the trustees of such original surveyed township, bring suit in the name of such trustees, or if such township should not be organised, the county treasurer shall, if directed by the county commissioners, bring suit in their name, for the use of the inhabitants of such original surveyed township, against each and every such delinquent or delinquents, as the case may be, before any court having competent jurisdiction, and on final process if no goods and chattels can be found, whereby distress and sale can be made, or if mesne process cannot be served upon the return of the same, the said trustees, or commissioners as the case may be, are hereby authorised and required to re enter upon the land of such delinquent or delinquents and sell at public vendue to the highest bidder for ready money, his, her or their right and title in such lease or leases to satisfy such rents, damages, interests and costs in which case the said trustees or commissioners, as the case may be, shall give at least twenty days previous notice of the time and place of sale, in some newspaper printed and in general circulation in such county, or by advertisement set up in at least three public places in such township, and one on the door of the court house in such county, subjecting the purchaser or purchasers, his, her or their heirs or assigns to the conditions contained in such lease or leases of any such delinquent or delinquents, and in case the said lease or leases of such delinquent or delinquents, shall sell for more than the rents

damages, interest and costs, the overplus shall be paid over to such delinquent or delinquents on demand.

*Sec. 5. Be it further enacted,* That the treasurers of original surveyed townships within this state shall severally give bond with sufficient security, to the trustees of such township, in the sum of one thousand dollars, conditioned for the faithful paying over according to law, all monies by them collected or received under the provisions of this act.

*Sec. 6. Be it further enacted,* That where any lot or lots of any of the school sections as aforesaid, cannot within twelve months after such valuation, be leased at the valuation made by freeholders aforesaid, in such case it shall be lawful for the trustees of such original surveyed township, or the commissioners as the case may be, where any such lot or lots may so remain as aforesaid with the consent of a majority of the citizens of such township, to proceed to sell at public sale to the highest bidder, all such lot or lots of their respective reserved section in the same manner, and by giving the same notice the trustees are authorized and required to do under the foregoing provisions of this act, in case of delinquent lessee or lessees, and grant to the purchaser or purchasers a permanent lease agreeably to the third section of this act.

*Sec. 7. Be it further enacted,* That when the sections sixteen in any fractional townships shall have been sold and other lands granted in lieu thereof in any other township or fractional township which may fall into a different county; it may be lawful for the qualified electors residing in said fractional township having claim to any such school land lying in another county, to proceed to elect trustees as is provided in this act in cases of sections sixteen; and it shall be lawful for the said trustees to proceed to advertise and lease the same, in the same manner as is provided for leasing sections sixteen; and if any two fractional townships shall hold their school land in the same sec-

tion, and they cannot agree on the division and leasing of the same, it shall be lawful for the trustees of either of the fractional townships whether they reside within the county where the said land lies or not to make application to the court of common pleas of the county where the land lies; and the said court shall appoint three disinterested freeholders whose duty it shall be, after taking an oath before some justice of the peace of the county, to take with them a skilful surveyor, and proceed to divide the land according to the value and intent of the original grant, and make report to the said court, designating what part shall belong to each township claiming the same; the said township shall then have possession of the part laid off to them and may proceed to lease the same as is provided by this act.

**Sec. 8.** *Be it further enacted,* That the court of common pleas of any county within the United States military district in this state, be and they are hereby authorised upon application as hereinafter provided to grant permanent leases, for all the school land within said district, granted by congress for the use of schools upon condition, and reserving the rents herein after provided: *Provided,* That nothing in this section or in this act, shall be so construed as to authorise the leasing of any lands lying in said United States military district, granted by congress for the use of schools in the Connecticut Western reserve.

**Sec. 9.** *Be it further enacted,* That when any person shall desire to take a permanent lease of any of the school lands mentioned in the seventh section of this act, the court of common pleas for the county in which the land lies shall, on application in writing, appoint three judicious freeholders of said county, who shall after the same shall be surveyed as is herein after provided, proceed upon oath or affirmation to view and appraise said tract or tracts of land as the said court shall direct, taking into view the advanta-

ges and disadvantages of situation, together with the quality of the soil, and make return of the value thereof to the said court, at such time as the said court shall direct, which return shall be filed in the office of the clerk of said court, and the said court shall thereupon order their clerk to proceed in the recess of said court, and before the next term thereof to grant permanent leases for the same land so applied for and appraised, to the applicant or applicants their heirs and assigns, who may appear to be entitled thereto for the term of ninety-nine years renewable forever, subject to a re valuation at the end of thirty three years from the date of such permanent lease or leases, agreeably to the rates of unimproved land of the same quality and situation, and the rents reserved in said lease or leases shall be equal to six per centum per annum upon said valuation and no more: *Provided*, It shall be the duty of the county commissioners at the expiration of thirty three years from the taking out of any permanent lease or leases under this act, to notify the court of common pleas thereof, whose duty it shall be to appoint three freeholders of said county to view and appraise the said land mentioned in such lease or leases, and appraise the same agreeable to the provisions of this act, and return the value thereof to the said court, and it shall be the duty of said court to file the same in his office, and endorse a certificate of the amount on the back of said lease, and return the same to the county commissioners, and the rent to be paid on said land from thence forward shall be six per centum per annum on the amount of said valuation and no more.

*Sec 10. Be it further enacted*, That no person shall be entitled to receive a permanent lease for any tract of said school land on which the improvements required by the original leases, have not been made and completed at the time of such application, to be ascertained by the persons appointed to appraise the same: *Provided*, The said appraisers shall be of

opinion that the improvements made on said tract or tracts of land are equivalent or equal in value to the improvements required to have been made by the former leases, then the said court shall consider the former leases complied with, and the applicant or applicants, entitled to a permanent lease in the same manner as if he, she or they had fully completed the particular kind of improvements required by the said original leases.

Sec. 11. *Be it further enacted*, That the lease holders for the time being of the original improvement leases who have fulfilled the conditions of said leases, or done that which the appraisers aforesaid shall believe to be equivalent thereto, shall at all times hereafter have the exclusive privilege of taking permanent leases, for the tract or tracts of land which he, she or they may hold by lease as aforesaid: *Provided*, he, she or they make application before or at the same term of the court aforesaid, at which any other person may apply, and it is further provided that any person other than the lease holder or holders making application for a permanent lease as aforesaid, shall give at least twenty days notice to the person holding the lease for the time being, of his, her or their intention to make application for a permanent lease for the same, and in case the lease owner for the time being, does not reside upon the premises then the applicant or applicants, as aforesaid, shall advertise the same in three of the most public places in the township where such land lies, and on the court house door of the said county, which said advertisement shall be put up at least thirty days previous to the term of the said court to which the application shall be made, all which shall be made appear to the satisfaction of the court aforesaid.

Sec. 12. *Be it further enacted*. That the clerk of the court aforesaid shall make return of a copy of all such leases as shall be granted under this act to the county commissioners, within twelve months after the execution of the same, and the lessee or lessees, his, her

or their legal representatives shall pay the annual rent which may become due, on his, her or their lease taken as aforesaid into the treasury of the said county, and shall lodge the treasurers receipt for the same, with the clerk of the commissioners, and take his receipt therefor, and the said money or rent so paid shall remain in the treasury subject to the further disposition of the legislature, in conformity to the original intent of the grant of said lands; if any lessee or lessees, his, her or their legal representatives shall neglect or refuse to pay his, her or their yearly rent, with the interest that may have accrued thereon from the time that it became due, so that he, she or they may at any time be in arrears for the amount of two years rent. and no personal property belonging to the lessee or lessees for the time being, can be found sufficient to satisfy the same, then and in that case the county treasurer is hereby required upon the application or direction of the county commissioners to re-enter upon, and again lease or sell the said permanent lease for such lot of land to the highest bidder, by giving at least thirty days notice in some newspaper in general circulation in said county: *Provided*, That if on the sale of any lease there shall be any overplus, after satisfying all rents and interests, together with all costs that may have accrued by reason of such sale, such remainder shall be paid over to the lessee or lessees who may be so ejected, upon application.

Sec. 13. *Be it further enacted*, That whenever application shall be made to the court as aforesaid, for permanent leases of the school lands aforesaid, it shall be the duty of the court to appoint a surveyor to survey the whole of the quarter township in which the application shall be made into tracts of one hundred and sixty acres each, as near as may be convenient, and plot and number the same, and make report thereof to the said court, at such time as the said court shall direct, and each and every person taking a lease as aforesaid, shall pay into the hands of the clerk of the court three

dollars for each quarter section, for the use of the surveyor : *Provided*. That in case a quarter township has been previously surveyed, it shall be unnecessary to order a re survey of the same.

Sec. 14. *Be it further enacted*, That the clerk of the said court shall receive for his services under this act, the sum of fifty cents for each lease or copy thereof, and such fees for the entries, records and such other services as may be necessary, as are allowed for like services in the courts of common pleas; and the appraisers and county treasurer shall receive such compensation for their services under this act as the court of common pleas for said county may think reasonable and just, to be paid by the applicant or applicants at the time of taking out the lease. and all fees necessarily paid on the taking out of any lease as aforesaid, shall be refunded by the county commissioners to the person or persons paying the same. out of the first money paid into the county treasury for the rent of the tract of land for which the fees may have been paid; and it may be lawful for the treasurer of said county, when directed by the commissioners. to bring suit against all delinquent lessees for all arrearages of rent which may be due from them or either of them, before any court having competent jurisdiction by action of debt.

Sec. 15 *And be it further enacted*. That the act passed February twenty seventh, eighteen hundred and sixteen, entitled "An act to provide for granting permanent leases of certain tracts of school land in the United States military tract within the county of Guernsey" be, and the same is hereby repealed : *Provided*, That no lease granted under the provisions of the above recited act shall be affected thereby.

THOMAS KIRKER,  
*Speaker of the House of Representatives.*  
ABRAHAM SHEPHERD,

*Speaker of the senate.*

January 27, 1847.

## CHAPTER LIII.

*AN ACT to amend the last named act.*

Preamble,	-	1	{	Repealing clause,	-	4
Duty of county commis-	-	2	{	Special provision as to	-	
sioners,	-	2	{	Hamilton county,	-	5
Duty of township trustees	-	3	{	Proviso,	-	ib

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That whereas in numbering the sections in the act entitled "An act to provide for leasing certain school lands therein named," passed the twenty seventh day of January, eighteen hundred and seventeen, an error occurred, whereby, in the ninth section of the act, the seventh section is referred to and named, instead of the eighth section, that the same be corrected, it is hereby declared that the proceedings under the ninth and following sections of the act aforesaid, shall be had and conducted conformably to the provisions of the eight section of said act, the reference to the seventh section to the contrary notwithstanding.

**Sec. 2.** *Be it further enacted,* That the commissioners of the counties in which any of the aforesaid school lands may lie, when any tract of said land shall be ordered to be laid off and divided into lots as is provided by the act to which this is an amendment, and the service actually performed shall give to the person appointed to survey the same, an order on the county treasurer payable out of the first money which may be paid into the said treasury for the rent of said lands, for the amount allowed for performing said service, any thing in said act to the contrary notwithstanding.

**Sec. 3.** *Be it further enacted,* That the trustees of any of the original surveyed townships wherein any profits had arisen previous to the taking effect of the act supplementary to the act entitled "An act to incorporate the original surveyed townships" be, and they are

hereby authorised to divide such profits agreeably to the act above recited in this section amongst the scholars who may have gone to school in the year eighteen hundred and eighteen.

*Sec. 4. Be it further enacted,* That so much of the act to which this act is amendatory as relates to leasing of school lands belonging to the United States' Military district, as is contrary to the provisions of this act, be, and the same is hereby repealed.

*Sec. 5. And be it further enacted,* That the act passed the twenty seventh day of January, eighteen hundred and seventeen, entitled "An act to provide for leasing certain school lands therein named," shall in no wise affect sections number sixteen granted for the use of schools, within the county of Hamilton; but the sections number sixteen within the county aforesaid, shall be leased agreeably to the provisions of the act, entitled "An act to incorporate the original surveyed townships," passed February the sixth, eighteen hundred and ten: *Provided,* That any lease or contract made under the provisions of the act to which this is an amendment, shall in no wise be affected by the passage of this act.

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

**DUNCAN M'ARTHUR,** •

*Speaker of the House of Representatives.*

**ABRAHAM SHEPHERD,**

*Speaker of the Senate,*

**January 29, 1818.**

## CHAPTER LIV.

*AN ACT defining the duties of the Auditor and Treasurer of state.*

Each to keep an office and give security, -	1	Treasurer to report annually, - - -	10
Auditor to keep a seal, -	2	Auditor and treasurer to submit their books for inspection, -	11
Duty of auditor in issuing bills on the treasurer, -	3	Neither to recover any fee for transacting public business, -	12
Duty of auditor in keeping books, &c. -	4	Auditors warrants to be redeemed by the treasurer, - - -	13
Auditor to prepare books and forms for commissioners and collectors, -	5	Treasurer to deposit redeemed warrants quarterly with the auditor, -	14
Duty of auditor to report on payment of taxes in January yearly, -	6	Penalty for neglect of duty	15
Duty of auditor in settling accounts against the state, - - -	7	Auditor to sell copies of entries and surveys, -	16
Duty of treasurer in receiving monies, -	8	Repealing clause, -	17
Further duty of treasurer, -	9		

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That the auditor and treasurer of state shall each keep an office at the seat of government, and respectively do and perform all duties appertaining thereto, which are or may be enjoined on them by law; and previous to entering on the duties of their respective offices, they shall each enter into bond, with two or more securities, such as shall be approved of by the governor, in the sum of ten thousand dollars, payable to the governor and his successors in office, for the use of the state, conditioned for the faithful discharge of their duties. which bond shall be filed in the office of the secretary of state.

**Sec. 2.** *Be it further enacted,* That the auditor shall have and keep a seal for the use of his office, with the device of "the seal of the auditor for Ohio," to be by him used officially, which shall be called the seal

of the auditor for the state of Ohio; and all official copies taken from the records in his office, or other documents issuing therefrom, shall be under seal, certified and signed by the auditor; and all such copies or other documents issued by the auditor, in manner aforesaid, shall be received as legal evidence in any court of record, or elsewhere within this state.

**Sec. 3.** *Be it further enacted,* That the auditor shall from time to time, issue bills payable at the state treasury, for all monies which may be by law directed to be paid, which bills shall be printed on separate sheets, leaving sufficient space at one end of each sheet to indent and number them; and shall also indent and number each bill, and enter the number corresponding therewith, on the part of the sheet from which such sheet was cut in the indenting; which indented part of said sheet shall by him carefully preserved in his office; and all bills issued as aforesaid, shall be drawn for the whole sum which appears due to the person entitled thereto.

**Sec. 4.** *Be it further enacted,* That the auditor of public accounts, shall make and preserve fair and accurate records in his office, in good durable books (to be by him procured at the expense of the state) of all the public accounts; and keep a regular file in progressive order, of all the receipts and other vouchers relative thereto; and also make fair and accurate records of all such other documents as have been, or may be by law made returnable to his office; and shall also receive, examine and liquidate all accounts against the state, and issue bills payable at the state treasury, agreeably to the third section of this act, for all monies due from the state; and make out true and accurate statements of the amount thereof, and report to each house of the general assembly on the third day of their annual session, at which time, he shall also make out and report to each house, a true and accurate account of the receipts and expenditures of the state for

the preceding year; together with the amount of all lands charged with tax within each district and county; with the several rates therein designated as returned to his office, shewing the residents and non-residents separately, together with such observations on the finances of this state as he shall conceive proper for the consideration of the general assembly.

*Sec. 5. Be it further enacted,* That the auditor shall from time to time, prepare and transmit to the several county commissioners, county collectors, and collectors of taxes on lands of non-residents, such general forms and instructions, (the same being in conformity with the laws in force) as in his opinion are necessary to secure uniformity and correctness in charging, collecting and accounting for the public revenue; and all such officers shall, on receiving such forms or instructions, be bound to observe and pursue the same.

*Sec. 6. Be it further enacted,* That it shall be the further duty of the auditor, after the expiration of the time within which collectors or other persons are required to pay over money to the state treasurer, to make out an accurate statement of the balance (if any) due from such collector or other person, to the treasury, and report the same to each branch of the general assembly, together with the amount of taxes and other monies paid into the treasury on account of the taxes of the preceding year; which report shall be made in manner aforesaid, between the fifteenth and twentieth day of January annually.

*Sec. 7. Be it further enacted,* That all accounts against the state shall be presented to the auditor, who shall examine and adjust the same; and issue a bill or bills redeemable at the state treasury, for such balance or amount as may be found due from the state; which bill shall specify the name of the person to whom payable, and bear the date of settlement; a list of such bills the auditor shall keep in a book or books, to be by him kept for that purpose, in which he shall

enter in progressive order the number of such bills or orders by him issued, the name of the person to whom issued, the date of issuing, and the amount of the bill or order issued.

**Sec. 8.** *Be it further enacted,* That the treasurer shall receive and safely keep for the use of the state, all public monies which shall be offered in payment at the treasury, and pay out the same as is or shall be directed by law, and keep an accurate account of the receipts and payments in a book or books to be by him provided at the expense of the state, and by him kept for that purpose; in which he shall specify the name or names of the person or persons to whom paid, on what account, and the time of payment.

**Sec. 9.** *Be it further enacted,* That the treasurer shall receive in payment of all public dues, the bills or orders of the auditor issued in conformity with this act; and on receiving any bill or order, he shall cause the person paying in such order to endorse the same, and shall make an entry thereof in a book or books to be by him provided as aforesaid, and kept for that purpose; which book or books shall be so ruled and ordered as to shew in separate columns, the number of such bill or order, the date and amount thereof, together with the name of the person to whom payable, and the date of payment.

**Sec. 10.** *Be it further enacted,* That the auditor of public accounts shall make out and attach to his annual report, the aggregate amount of all bills or orders by him issued or drawn on the treasury in each year; and the state treasurer shall in like manner, make out and attach the aggregate amount of all such bills or orders by him received in each year, and make it a part of his annual report.

**Sec. 11.** *Be it further enacted,* That the auditor and treasurer shall, at any time when thereunto required, submit their books, accounts and vouchers to the inspection of the general assembly.

**Sec. 12.** *Be it further enacted,* That the auditor and treasurer, he and each of them is hereby barred and excluded from deriving, obtaining or applying directly or indirectly, to his own proper use and benefit, any emolument or gain for negotiating or transacting any business in either of their departments, other than is allowed them by law; neither shall either of them offer or receive any warrant, audited order or account, on any pretence whatever, at less value than is expressed therein.

**Sec. 13.** *Be it further enacted,* That the faith of this state is hereby pledged for the redemption of all warrants signed, attested and issued by the authority and agreeably to the provisions of this act; and the treasurer shall (when such warrants are presented to him for that purpose) redeem the same with such money as may be in the treasury, (not otherwise appropriated) in the same manner and form as is by this act directed; and when warrants are redeemed as aforesaid, the auditor and treasurer shall so mark the same as to prevent their further circulation.

**Sec. 14.** *Be it further enacted,* That it shall be the duty of the treasurer, on the first Monday of March, June, September and December in each and every year, to deposit the bills redeemed at the treasury, in the office of the auditor and take the auditor's receipt therefor, and file the same in his office; and the auditor shall enter a credit to the treasurer for the amount of redeemed bills by him thus deposited in the office of the auditor.

**Sec. 15.** *Be it further enacted,* That if the auditor or treasurer, or either of them, shall fail or neglect to execute the duties of his office, or shall act contrary to the provisions of this act, or any other act which enjoins certain official duties on them, such offender shall on conviction thereof, be fined in a sum not exceeding one thousand dollars, at the discretion of the court hav-

ing jurisdiction thereof, and shall also be liable for damages.

Sec. 16. *Be it further enacted*, That it shall be the duty of the auditor to deliver to any person calling therefor, any certified copy of surveys or other documents in his office: *Provided*, The party so applying shall pay to the said auditor twenty five cents for each copy of survey, and twelve and one half cents for every one hundred words contained in any copy of documents.

Sec. 17. *And be it further enacted*, That the act defining the duties of auditor and treasurer of state, passed the eighteenth day of February, eighteen hundred and nine; "An act to amend the act defining the duties of the auditor and treasurer, of state," passed January twenty fourth, eighteen hundred and eleven; and the act, further regulating the duties of the auditor and treasurer of state, and for other purposes, passed on the eleventh day of February, eighteen hundred and fourteen, be and the same are hereby repealed.

MATTHIAS CORWIN,  
*Speaker of the House of Representatives.*  
PETER HITCHCOCK,  
*Speaker of the Senate.*

January 13, 1816.

## CHAPTER LV.

### *AN ACT for the relief of the poor.*

Overseers to manage paupers,	-	-	§	trustees,	-	-	3
Overseers to notify trustees of poor persons,	1	§	Time and manner of gaining the legal settlement in a township,	-	-	4	
Duty of trustees,	2	§	Duty of overseers on receiving information of persons settling who are	-	-		
Duty of overseers on receiving warrant from	10	§					

likely to become a town- ship charge, -	ib	{ Overseers to keep a record of all their proceedings, •	7
Duty of constable on re- ceiving warrant to warn poor persons to depart the township, -	ib	{ Trustees to issue orders on township treasurer,	8
Manner of removing poor persons, - - -	5	{ Trustees may levy a poor tax, - - -	9
Overseers may bind out poor children, -	6	{ Town clerk to make out duplicate, - - -	ib
Proviso allowing appeals to court, - - -	ib	{ Gifts or devices may be made for the use of the poor, - - -	10
		{ Repealing clause, - - -	11

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That the overseers of the poor in each and every township in this state, appointed agreeably to the provisions of a law, entitled "An act to provide for the incorporation of townships," shall have the care and management of all paupers within the limits of their respective townships.

**Sec. 2.** *Be it further enacted,* That upon complaint made to the overseers of the poor, that any inhabitant or inhabitants of the township, is or are in a suffering condition and unable to support himself, herself or themselves, it shall be the duty of such overseers of the poor, forthwith to acquaint the trustees of the township therewith, and if said trustees or a majority of them upon enquiry, shall be of opinion that the person or persons for whom support is required, ought to be relieved at the expense of the township, they shall immediately issue a warrant to the said overseers, directing them to take such person or persons under their care and afford them such support as their circumstances may require; and in case the said overseers shall enter in their books as town poor, or relieve any person or persons without obtaining such warrant or order (except in cases of necessity) they shall not be entitled to receive any compensation therefor.

**Sec. 3.** *Be it further enacted.* That it shall be the duty of said overseers immediately upon the receipt of

such warrant or order from the trustees of their township, to set up a notification in the public places in the township, which notification shall specify some place and time at which said overseers will attend for the purpose of receiving proposals for the maintenance of such pauper or paupers, and the said overseers are hereby authorized to contract with such person or persons as they shall think suitable to take charge of and maintain said pauper or paupers, upon the most reasonable terms: *Provided*, The time specified in the said notification for the disposal of said pauper or paupers, shall not be less than five, nor more than ten days from the date thereof.

**Sec. 4** *Be it further enacted*, That any person or persons (other than those herein after provided for) residing one year in any township in this state, without being warned by the overseers of the poor for said township to depart the same, shall be considered as having gained a legal settlement in such township, every indentured servant, legally brought into this state, shall obtain legal settlement in the township where such servant first served his or her master or mistress the space of twelve months; every married woman during coverture and after her husband's death, shall be considered legally settled in the place where he was last legally settled; but if he shall have no known legal settlement, then she shall be considered as legally settled in the place where she was last legal settled before marriage; and the overseers of the poor, upon receiving information, that any person has come within the limits of their township to reside, who will be likely to become a township charge, shall issue their warrant or order to any constable of the township, commanding said constable forthwith to warn such person to depart the township, by reading said warrant or order of the overseers in his or her presence and hearing, or by leaving an attested copy thereof at his or her last place of residence; and it shall be the duty of the constable receiving such

warrant or order, to make immediate service thereof in manner above directed, and to certify on the back of such warrant, that he read the same in presence or hearing of the person therein named, to depart the township, or left an attested copy thereof at his or her last place of residence, as the case may be, which warrant the said constable shall immediately lodge with the clerk of said township, who shall record the same within three days thereafter in the book containing the records of the township.

Sec. 5. *Be it further enacted*, That when any person or persons shall become chargeable in any township in which he, she or they have not gained a legal settlement, it shall be the duty of the overseers of the poor of such township to cause such person or persons, so soon as the state of his, her or their health will permit, to be removed to the township where he, she or they were last legally settled, (if such person or persons have any legal settlement in this state;) and the overseers of the poor of such township shall receive such pauper or paupers thus removed, and provide for him, her or them in manner directed by the third section of this act; and the township in which such pauper or paupers have gained a legal settlement, and to which he, she or they are thus transported, shall pay the said overseers of the township which have thus supported and removed said pauper or paupers all reasonable charges for such support and removal; and on refusal may be compelled by an action of debt, brought against the trustees of said township, before the court of common pleas of the county in which either or both the townships may be situated, and the trustees of each and every township in this state, are hereby empowered to sustain said action against the trustees of any other township in this state, for thus supporting and removing their own poor; but in case any person or persons becoming chargeable to any township as aforesaid, shall have no legal settlement within this state the overseers

of the poor in such township if directed by the trustees, may remove such person or persons to the state or county where he, she or they have a legal settlement, unless such person or persons shall give sufficient security to indemnify the said township.

*Sec. 6. Be it further enacted,* That the said overseers with the consent and approbation of a justice of the peace of the township, shall have the power to bind out to apprenticeship all such poor children as have no parents or guardians, or have parents or guardians who are unable to support them; males until the age of twenty one, and females until the age of eighteen years: *Provided however,* That if the parents or guardians of such child or children shall think themselves aggrieved by the decision of the overseers and magistrate as aforesaid, such parent or guardian shall have a right of appeal to the court of common pleas of the proper county, who shall make such order therein as to them shall seem equitable and proper.

*Sec. 7. Be it further enacted,* That the said overseers shall keep fair and accurate accounts of all expenses incurred for the support of the poor within their respective townships, and make entries in a book of the names of all the poor, with the time when each of them became chargeable, and of all warrants or orders delivered to them by the trustees, with the time when the same was delivered, together with an account of their own services rendered; and on the first Monday of March annually, the said overseers shall meet the trustees of their respective townships, and exhibit their said books and accounts, which the said trustees are hereby authorised to audit and allow, together with such compensation to the said overseers for their services, as shall in the opinion of the said trustees be deemed just and reasonable.

*Sec. 8. Be it further enacted,* That it shall be the duty of the trustees, in each and every township, to

issue orders on the township treasurer for any and all such demands as may accrue from the provisions of this act; and the said trustees shall procure a book at the expense of their respective townships, in which they shall record all orders by them issued, noting each order by its proper number, which books the said trustees shall lay before the annual township meeting to be delivered over to their successors in office.

Sec. 9. *Be it further enacted*, That the trustees of each and every township in this state, are hereby authorised and empowered whenever it may be found necessary, to levy a tax for the support of the poor, and to compensate the overseers of the poor, for their services: *Provided*, Such articles only shall be subject to taxation as are made liable by law to taxation for county purposes; and it shall be the duty of the township clerk, to make out two duplicates of the tax so levied; one of which he shall deliver to a constable of such township, and the other to the township treasurer, within twenty days from the time of the trustees levying the same; and the constable on receiving such duplicate shall proceed to collect the same, and be governed in all respects by the eighth section of the act entitled, "An act for the incorporation of townships."

Sec. 10. *Be it further enacted*, That all gifts, grants, devises and bequests hereafter to be made, of any houses, lands, tenements, rents, goods, chattels, sum or sums of money to the poor of any township, by deed, gift or by the last will and testament of any person or persons, or otherwise, shall be good and valid in law, and shall pass such houses, lands, tenements, rents, goods and chattels to the trustees of such township, and their successors in office for the use of their poor respectively, under such regulations as shall from time to time be made by law.

Sec 11. *Be it further enacted*, That the act entitled "An act for the relief of the poor," passed the

nineteenth day of February, one thousand eight hundred and ten, be and the same is hereby repealed.

This act to take effect and be in force from and after the first day of May next.

**MATTHIAS CORWIN,**

*Speaker of the house of representatives*

**PETER HITCHCOCK,**

*Speaker of the Senate.*

February 10, 1816.

## CHAPTER LVI.

**AN ACT** to raise a revenue from banks and to prohibit the unauthorised issuing and circulating bank paper.

Four per cent. to be paid on dividends, -	1	§	lection, - - -	4
Manner of declaring and paying over the tax, -	2	§	Sheriff neglecting to collect, &c. how proceeded against, - - -	ib
Manner of enforcing the payment of tax, -	3	§	No person may issue notes unless authorised by law, - - -	5
Duty of the sheriff in collecting the tax, -	ib	§	Certain unchartered banks not to be affected by this act, - - -	7
Duty of the auditor in delivering the amount of tax to the sheriff for collection, - - -		§		

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio, That every bank and banking company, whether chartered or unchartered, within this state, which, at the taking effect of this act, may have commenced the business of banking, by discounting any paper, shall pay to the state an annual tax upon the dividends declared by such bank or banking company, of four per centum upon all such dividends, in the manner herein after provided.*

**Sec. 2.** *Be it further enacted,* That half yearly, at the time of declaring the dividends of such bank or banking company, the president and directors or managers, shall set apart to the credit of the auditor of state, four per cent. upon the aggregate amount of the dividend so declared; and the cashier or chief clerk of every such bank or banking company, shall immediately make out a statement (under oath and transmit the same to the auditor) of the aggregate amount of the whole dividend declared, and also of the aggregate amount placed to his credit for account of the tax aforesaid, for which sum the auditor shall draw upon the cashier or chief clerk of such bank or banking company, in favor of the treasurer of state, and shall charge the treasurer with the amount thereof, and the treasurer shall receive and account for the same as for other monies paid into the treasury

**Sec. 3.** *Be it further enacted,* That if the president and directors, or managers of any bank or banking company as aforesaid, shall not on or before the first day of September in each and every year, comply with the provisions of the foregoing section, so as to enable the auditor to draw upon the cashier or chief clerk of their respective institutions, in favor of the treasurer, for the full amount of four per cent upon their annual dividends, then and in that case, it shall be the duty of the auditor, and he is hereby authorised and required, immediately after the said first day of September annually, to levy upon such delinquent bank or banking company, a tax of one per centum upon the nominal amount of the stock of such bank or banking company, which shall be the tax upon such bank or banking company for the current year, and shall be collected as follows; the auditor shall make out and state an account with such bank or banking company, charging it with the amount of one per cent. upon its nominal stock, and crediting it with the amount paid, if any, upon account of that year's tax which account

so stated and subscribed by the auditor, shall have the force and effect of an execution, and shall be delivered to the sheriff of the county where the banking house of such bank or banking company may be kept: and the sheriff, after receiving the same, shall enter the banking house of such bank or banking company, during bank hours, and present the said account; and if the amount thereof, together with four per centum (the sheriff's collection fees.) is not immediately paid, the sheriff shall proceed to levy upon so much of the specie, bank notes, or other property of such bank or banking company, which he may find in such banking house or elsewhere, as will be sufficient to discharge the amount of such account for tax and four per cent. thereon, his fees for the collection thereof; and if the levy be made upon other property than specie or bank notes, the sheriff shall advertise and sell the same, in the same manner as property of the same description, taken in execution is advertised and sold.

*Sec. 4. Be it further enacted,* That the auditor shall take from the sheriff, to whom any account is delivered under the foregoing section, a receipt for the same, and shall file the same, and charge such sheriff with the amount thereof; and the sheriff shall collect the amount of such account, and pay it over to such person as the auditor may direct, within forty days after receiving the same; and if any sheriff shall refuse to make the money aforesaid, or shall neglect or refuse to pay over the same, when made, to the person authorised by the auditor to receive the same, such sheriff and his securities shall be liable to be proceeded against, in the same manner as is provided by law for proceeding against delinquent sheriffs and their securities in other cases; and such proceedings shall be had in the name of the state, under the direction of the auditor; and in all cases where judgments are rendered against sheriffs or their securities, under the provisions of this section, the court rendering the judg-

ment shall include therein fifteen per centum upon the amount of the account put into the hands of such sheriff, as damages to the state.

**Sec. 5.** *Be it further enacted,* That from and after the taking effect of this act, it shall not be lawful for any individual or any company of individuals to issue and put in circulation any note or order for the payment of money, struck or printed upon any engraved plate and calculated to circulate as a bank bill or note, unless such individual shall be by law specially authorised so to do, or unless such company of individuals shall be by law incorporated for that purpose; and all bonds, bills, notes or written contracts given to, entered into with, or discounted by any such individual or company of individuals, shall be, and the same are hereby declared null and void.

**Sec. 6.** *Be it further enacted,* That until the first day of January, in the year one thousand eight hundred and eighteen, the provisions of the fifth and sixth sections of this act shall not be construed to extend to any bank or banking company which may have commenced bank business by discounting any paper previous to the first day of January, in the year one thousand eight hundred and fifteen.

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

**JOHN POLLOCK,**

*Speaker of the house of representatives.*

**THOMAS KIRKER,**

*Speaker of the senate.*

**February 8, 1815.**

**D d**

## CHAPTER LVII.

***AN ACT to prohibit the issuing and circulating of unauthorised bank paper.***

Penalty for acting as an officer to a bank,	1	{ No action to be maintain-	
No company to lend money or issue notes,	2	{ ed on any bill or note,	10
Who shall be considered officers of a bank,	3	{ Stockholders liable in their individual capacity,	11
Penalty for receiving or passing notes,	4	{ Holders of notes may sue any person interested,	12
Fines how recovered,	5	{ Pleading on such suit,	13
Form of indictment,	6	{ Pleading continued,	14
Pleadings thereon,	7	{ This act not to extend to incorporated banks,	15
Judges to give this act in charge,	8	{ Commencement,	16
Contracts with banks void,	9	{ Proviso,	ib
		{ Repealing clause,	17

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio.* That if any person shall, within this state, act as an officer, servant, agent or trustee to any bank or monied association, coming within the description contained in the second section of this act, except a bank incorporated by a law of this state, he shall for every such offence, forfeit and pay the sum of one thousand dollars.

**Sec. 2.** *Be it further enacted,* That every company or association that shall lend money, and shall issue by their officer or officers, or by any other person or persons, bonds, notes or bills, payable to bearer or payable to order, and endorsed in blank, or use other shift or device, whereby the bonds, notes or bills given by such company or association or on their behalf, pass or circulate by delivery, shall be taken and deemed a bank within this act.

**Sec. 3.** *Be it further enacted,* That every person who shall act as a president, cashier, clerk or director to any such bank, or shall in any respect assist in the discounting of paper or lending money, for such

bank, or in paying out or receiving money for such bank, or in any manner intermeddle for the benefit of such bank, with its concerns; and every person whose hand writing shall appear on the bond, bill, note or contract of such bank, whether as the drawer thereof, a witness or payee and endorser, shall be deemed and taken an officer of such bank within the meaning of this act.

*Sec. 4. Be it further enacted,* That if any person shall receive and offer in payment, the bond, bill, note or contract of any such bank, knowing the same to be unincorporated, payable to bearer or to order, and endorsed in bank, he shall for such offence, forfeit three times the amount of such bond, bill, note or contract; and if any person shall receive and pass or circulate the bond, bill, note or contract, of any such bank by delivery, without endorsing the same, knowing such bank to be unincorporated, he or she so offending, shall forfeit and pay four times the amount of such bond, bill, note or contract.

*Sec. 5. Be it further enacted,* That all fines and forfeitures imposed by this act, may be recovered by action of debt or by indictment, or presentment of the grand jury, and shall go one half to the informer where the action is brought, and the other half in aid of the public revenue of this state; but where the same is recovered by indictment or presentment, the whole shall be to the use of the state.

*Sec. 6. Be it further enacted,* That in every such indictment or presentment, it shall be sufficient to state in substance, that the defendant on the                      day of                      at                      acted as an officer of a bank, not incorporated by law, or that the defendant on the                      day of                      at                      paid (or offered in payment, as the case may be) the bond, bill, note or contract, of a bank not incorporated by law, for the sum of                      dollars, without setting forth the special matter.

**Sec. 7.** *Be it further enacted,* That in every suit brought under this act, it shall be sufficient to set forth in substance the matter aforesaid, without setting forth the special matter.

**Sec. 8.** *Be it further enacted,* That it shall be the duty of the presidents, or in case of the absence of the president, it shall be the duty of the presiding associate judge of the different courts of common pleas of this state, to give this act in charge to the grand jury.

**Sec. 9.** *Be it further enacted,* That all bonds, bills, notes, or contracts, hereafter executed, which shall purport to be negotiable or payable at such bank, shall be, and the same are hereby declared null and void; and all bonds, bills, notes or written contracts given to such bank, or discounted by such bank, or given to any other person or persons, for the use of such bank, either expressed or understood, or for the purpose of being discounted at such bank, or of obtaining money or the notes, bills or bonds of such bank, either directly or indirectly from such bank, shall be and are hereby declared null and void.

**Sec. 10.** *Be it further enacted,* That every such bank, and every trustee or person on its behalf or for its benefit, is hereby declared incapable of maintaining any suit in any court in this state, for any matter whatever, appertaining to such bank or for its use; and every suit in which it shall at any stage thereof be made appear, that such suit is, in whole or in part, for the benefit of such bank, shall be dismissed with costs.

**Sec. 11.** *Be it further enacted,* That every stockholder, shareholder or partner, hereafter interested in any such bank, shall be jointly and severally answerable, in their individual capacity, for the whole amount of the bonds, bills, notes and contracts of such bank, hereafter executed, any agreement, shift of device, in such bond, bill, note or contract or otherwise, to the contrary notwithstanding.

**Sec. 12.** *Be it further enacted,* That the holder of any bond, bill, note or contract of such bank, may institute suit and recover judgment thereon, against any part or the whole of the persons who were interested in such bank, at the date of such bond, bill, note or contract, or who became interested in such bank, at any time between that and the commencement of such suit.

**Sec. 13.** *Be it further enacted,* That in such suit, it shall be sufficient for the plaintiff to set forth in substance, that he is the holder of such bond, note, bill or contract; that the defendants were interested in said bank at the date of such bond, bill, note or contract, or subsequently thereto, and that it remains unpaid; it shall be unnecessary to shew in the declaration or pleadings, and unnecessary to prove on the trial, that a demand was made of the contents of such bond, bill, note or contract, at the time or place when and where it purports to be payable, but the persons aforesaid shall be liable without such demand.

**Sec. 14.** *Be it further enacted,* That if, during the progress, or on the trial of such suit, it shall appear that any one or more of the defendants are not liable to such action, under this act, it shall not prevent the suit from proceeding, as to any other defendant, but judgment shall be given for the full amount of such bond, bill, note or contract, against any one or more of the defendants, who may appear to be liable.

**Sec. 15.** *Be it further enacted,* That nothing in this act contained shall extend to any company incorporated by a law of this state, who may be authorised by their charter to loan money or otherwise to act as a bank, so long as the charter of such company remains in full force

**Sec. 16.** *Be it further enacted,* That this act shall commence and be in force, from and after the first day of May next: *Provided however,* That time shall be

allowed to all such private companies and associations now existing, till the first day of January, eighteen hundred and seventeen, for the sole and only purpose of settling and closing their business and accounts: *And provided also*. That the penalties and forfeitures herein enacted, in the fourth and tenth sections of this act, against persons offering in payment, the bond, bill, note or contract of such company or association, or bringing suit upon such bond, bill, note or contract, shall be suspended until the said first day of January, eighteen hundred and seventeen: *And provided also*, That such company or association may renew any note or notes, which may have been discounted before the passage of this act, until the said first day of January, eighteen hundred and seventeen: *Provided nevertheless*, That this act shall not affect the bank of Cincinnati, the Lebanon Miami banking company, the Urbana banking company, the Columbiana bank of New-Lisbon, and the Zanesville Canal and Manufacturing Company, previous to the first day of January, eighteen hundred and eighteen.

Sec. 17 *And be it further enacted*, That the sixth and eighth sections of the act to raise a revenue from banks, and to prohibit the unauthorised issuing of bank paper, be and the same are hereby repealed: *Provided*, all suits instituted, all fines and forfeitures incurred, and all transactions had under the aforesaid sections, shall be conducted, carried into execution, and money paid over in the same manner as if this act had not been passed; but nothing in this or the preceding section, shall be so construed as to permit any person or persons, company or association, to strike, issue or put in circulation any notes or bills prohibited by the sixth and eighth sections of the act to raise a revenue from banks, and to prohibit the unauthorised issuing of bank paper, or prohibited by this act, from the first day of May next until the first day of January next thereafter, nor to discount during the aforesaid period, any notes,

bills or bonds, except such as may be given for the purpose of renewing notes, bills or bonds discounted previous to the taking effect of this act.

**MATTHIAS CORWIN,**  
*Speaker of the House of Representatives.*

**PETER HITCHCOCK,**  
*Speaker of the Senate.*

January 27, 1816.

## CHAPTER LVIII.

***AN ACT to authorise the establishment of poor houses.***

County commissioners may erect poor houses,	1	{	each township may erect one, - - -	6
Proviso, - - -	ib		Township meetings may be called by trustees,	
Commissioners to appoint 7 directors annually,	2	{	to vote for or against the erection of a poor house	7
Power and duty of directors, - - -	ib		Three directors to be elected for a township poor house; - - -	8
Power and duty of directors continued, -	3	{	Power and duty of directors, - - -	ib
Directors to appoint a superintendent, -	4		Property vested in directors, - - -	9
His duty defined, -	ib	{	Management, &c. of poor houses, - - -	10
Directors to visit poor houses monthly, -	5		Duty of overseers of poor,	11
Commissioners declining to build poor houses,				

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio.* That the commissioners of each and every county within this state shall be and they are hereby authorised to erect and establish poor houses within their respective counties, whenever in their opinion, such a measure will be proper and advantageous, and for that purpose it shall be lawful for the said commissioners to purchase such lot or tract of land as they may judge necessary for the accommodation of the institu-

tion: *Provided*, That if the commissioners of any county shall think proper to purchase land and erect a county poor house, under the provisions of this act, the expense of such purchase and erection shall be defrayed by a tax levied on the objects of county taxation for that express purpose, which tax shall be collected and paid over in the same manner that other county taxes are collected.

Sec. 2. *Be it further enacted*, That so soon as the commissioners of any county shall have completed a house as aforesaid for the reception of the poor, and yearly and every year thereafter it shall be their duty to nominate and appoint seven judicious persons, inhabitants of their county, who shall form a board of directors to take charge of and manage the affairs of the said poor house; the board of directors shall continue in office one year and until their successors are nominated and appointed, and they shall at their first meeting, elect a president and secretary of their own body, whose duty may be prescribed and defined by the board.

Sec. 6. *Be it further enacted*, That the board of directors, a majority of whom shall form a quorum to transact business, shall be a body corporate and politic, with perpetual succession, and shall be known by the name of "the Board of Directors of the poor house of county," (inserting the name of their county) and by that name they may sue and be sued, defend and be defended, in any court within this state; they may have a common seal which they may alter or change; they may make all such contracts and purchases as may be necessary for the institution, and may prescribe such rules and regulations, as they shall think proper for the management and good government of the same, and for introducing the practice of sobriety, morality, and industry among its inhabitants; they shall meet quarter yearly at such place as they may agree on and the president with the consent of any two members of the board, may call a special meeting at any time,

subject however to such regulations and provisions as may be made by any future act of the legislature of this state.

Sec. 4. *Be it further enacted*, That the board of directors shall appoint a superintendent, who shall reside in some apartment of the poor house or other building contiguous thereto, and shall receive such compensation for his services, perform such duties and give such security for their faithful performance, as the board shall judge proper; he shall be governed in all respects by the rules and regulations of the board and may be removed by them at pleasure; he may require all persons received into the poor house to perform such reasonable and moderate labor as may be suited to their age, sex and bodily strength, the proceeds of which shall be applied to the use of the institution, in such manner as the board of directors may point out, the superintendent shall receive into the poor house, any person who shall produce to him such an order or voucher as is or may be required by the laws of this state, to entitle such person to be received and supported as a pauper; and he shall enter in his book the name and age (as near as may be) of every person received into the poor house, together with the day on which such person was received.

Sec 5. *Be it further enacted*, That the board of directors shall cause the poor house to be visited, at least once in every month by a committee of their body, which committee shall carefully examine the condition of the paupers, the manner in which they are fed, clothed and otherwise provided for and treated; they shall ascertain what labor they are required to perform, and shall inspect the books and accounts of the superintendent and make report to the next meeting of the board; the board shall yearly and every year report to the commissioners of the county, the state of the institution, with a full and correct account of all their proceedings, contracts and disbursements; and

the expense of establishing and supporting the institution, shall be paid on the order of the county commissioners out of any money in the county treasury not otherwise appropriated.

**Sec. 6.** *Be it further enacted,* That if the commissioners of any county on application for that purpose by the trustees of any township therein, shall refuse or decline to establish a poor house within their county, as is herein before provided, it shall be lawful for each and every township and town corporate, within such county, to establish a poor house for the reception and support of its own poor; and in case the said commissioners shall at any after period resolve to establish a poor house for the county, no township or town corporate that may have established a poor house as aforesaid, or shall in any other way provide for the support of their poor, shall be chargeable with any part of the expense of erecting or supporting the same.

**Sec. 7.** *Be it further enacted,* That if at a township meeting, called by the trustees of the township for that purpose (of which meeting the trustees shall have given at least fifteen days notice in some newspaper circulating within their township, or by advertisement set up in ten public places therein) a majority of the legal voters assembled shall vote in favor of establishing a township poor house, it shall be the duty of the trustees of such township to procure by purchase or otherwise, a convenient scite and erect thereon such buildings and other improvements as in their opinion may be necessary for the accommodation of the poor of their township; and it shall be lawful for the said trustees to levy and cause to be collected within their township, such a tax as may be necessary to defray the expense of the establishment, which tax shall be levied on such objects as are liable to be taxed for county purposes, and to be collected and paid over in the same manner as taxes are collected and paid over under the 'act for the relief of the poor,' according to

the assessment made and returned to the county commissioners, and in like manner the trustees shall levy, yearly and every year, such a tax as may be necessary to defray the current expenses of the institution.

Sec. 8. *Be it further enacted*, That so soon as the township poor house is ready for the reception of the poor, it shall be the duty of the electors of said township, at the time of electing other township officers, to elect three directors of said poor house; and it shall be the duty of said board of directors within one month after entering on the duties of their office, to determine by lot which of said directors shall go out of office at the expiration of one year; which at the expiration of two years; and which at the expiration of three years; and forever after there shall be annually elected one director of said poor house, to hold his office three years, and until his successor is chosen and qualified; the board of directors so constituted, shall be a body corporate and politic, with perpetual succession, to be known by the name of "The Board of Directors of the **Poor House**," (inserting the name of the township;) the said board of directors shall be vested with all the rights, powers and privileges, and shall be required to perform the same duties, and shall conduct in the same manner as is herein before pointed out and provided in relation to the board of directors of county poor houses, excepting only that their reports and statements shall be made to the trustees of their township, and not to the county commissioners; and the superintendent by them appointed shall proceed and conduct in the same manner as is required of the superintendent herein before mentioned.

Sec. 9. *Be it further enacted*, That the property purchased or otherwise acquired for the use of a county or township poor house shall be vested in the board of directors of such poor house and their successors in office.

**Sec. 10. *Be it further enacted,*** That when a poor house shall be established by any town corporate within this state, for the accommodation and support of the poor of such corporation, such poor house shall be under the exclusive management of the body corporate by which it may be established, and such agents and superintendents as they may from time to time appoint; and the expense of erecting and supporting such poor house shall be defrayed by such corporation, and thereafter no tax shall be assessed on the inhabitants of such town corporate, for the support of any pauper residing without the limits thereof.

**Sec. 11. *And be it further enacted,*** That the overseers of the poor within any county in which the commissioners shall have established a poor house, and the overseers of the poor of any township or town corporate, in which the trustees or corporation shall have established a poor house agreeably to the provisions of this act, shall be released and discharged from the performance of so much of their duty as relates to the receiving and providing for the support of the poor; and the said overseers on receiving an order or warrant from the trustees of their township, in favor of any pauper, shall endorse thereon an order to the superintendent of the poor house, requiring him to receive and provide for such pauper.

**MATTHIAS CORWIN,**

*Speaker of the House of Representatives.*

**PETER HITCHCOCK,**

*Speaker of the Senate.*

**February 26, 1816.**

## CHAPTER LIX.

*AN ACT concerning the admission of testimony in certain cases.*

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio.* That it shall be competent for a party to any suit hereafter to be tried in any court within this state, to exhibit in support of his action or plea to the court before whom such action is to be tried, the copy of any entry, survey or voucher on record or file in the office of Richard C. Anderson, surveyor of the lands lying within the Virginia Military District, or his successor in office, signed and sworn to by the said Richard C. Anderson, or his successor in office, as being a correct copy or copies of any entry, survey or other vouchers, being on record or file in said office: in all which cases it shall be unnecessary for the party producing such copy or copies, to give notice of the taking the same to any party interested in the cause or matter to which they relate.

**MATTHIAS CORWIN.**

*Speaker of the house of representatives.*

**PIER HITCHCOCK.**

*Speaker of the senate.*

**February 16, 1816.**

## CHAPTER LX.

*AN ACT directing the mode of proceeding in chancery*

Jurisdiction of courts of common pleas, -	1	{	Form thereof, -	ib
Jurisdiction of supreme courts, -	2		Defendants may be summoned from one county to another in certain cases, -	5
Application to be by petition, -	3		Manner of serving subpoena, -	6
Subpoena to issue, -	4			

Duty of the sheriff, &c.	7	petition is exhibited,	27
Defendant to plead in sixty days,	8	Rules as to pleading,	28
On failure petition to be taken as confessed,	ib	Amendments how made,	29
Defendants living out of the state, &c.	9	Rules of pleading,	30
Notice to be given in newspaper,	ib	Continued,	31
Complainant may insert as many defendants as he pleases in petition,	10	Continued,	32
Person in possession may institute a suit against any person claiming land,	11	Rules of evidence,	33
When plea &c. filed how to proceed,	12	Duty of court on pronouncing sentence or decree,	ib
Demurrer disposed of before an answer heard,	14	Court may empanel a jury to enquire into facts,	ib
Where plea &c. overruled how to proceed,	15	Causes to stand for trial next term after filing replication,	34
Plea &c. allowed complainant to pay costs,	16	Proviso,	ib
Complainant to file exceptions in 30 days,	17	Complainant failing to attend petition to be dismissed,	35
Exceptions to be entered with clerk,	18	Defendant failing to attend how to proceed,	36
Complainant to pay costs if exceptions overruled,	19	Petition, &c. to be used on trial,	37
Answer insufficient defendant to file a second,	20	A rehearing of any case how obtained,	38
Second insufficient defendant to pay double costs and file a third,	21	Duty of clerk in making up full record,	39
Third insufficient defendant to pay treble costs and petition taken as confessed,	22	Decree to have the same effect as a judgment at law,	40
Defendant wishing to bring a new party before court how to proceed,	24	Decree for conveyance, &c. how to operate in certain cases,	41
Defendant may interrogate complainant,	25	Defendant failing comply with decree a writ of sequestration may issue,	42
After answer no plea to be made,	26	Fieri facias, &c. to issue,	ib
Proceedings when a cross		Property when bound by fieri facias,	43
		Officer neglecting to execute any process, &c. how to be proceeded against,	44
		Proviso,	ib
		Party injured by default of sheriff to apply for a copy of bond and sue on the same,	45

Duty of court in rendering judgment, - - -	45	{ in what cases granted, - - -	55
Proviso, - - -	ib	{ Continued, - - -	56
Sheriff failing to make return of process guilty of contempt and punished accordingly, - -	46	{ Clerk to endorse on subpoena when injunction is granted also to take bond, - - -	57
For contempt to be fined in \$50, - - -	47	{ Duty of sheriffs, - - -	58
Clerk to account for fines on oath quarterly, -	48	{ Persons refusing to obey may be attached and fined, - - -	59
Discretion of court in awarding costs, - -	49	{ When a party has been called on for discovery the answer may be submitted to a jury, -	60
Courts to establish rules of practice, - - -	50	{ Where one defendant resides out of the state how to proceed, -	61
Persons aggrieved may appeal, - - -	51	{ A review may be had, - - -	62
Writs of ne exeat by whom granted, - - -	52	{ Proceedings on a petition for a review or reversal, -	63
Not granted except on petition and affidavit, -	53	{ Proviso, - - -	ib
How said writ may be discharged, - - -	54	{ In what case security to be given, - - -	65
Injunctions by whom and		{ Repealing clause, - - -	66

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That the courts of common pleas shall have jurisdiction in all cases properly cognizable by a court of chancery, in which plain, adequate and complete remedy cannot be had at law.

**Sec. 2.** *Be it further enacted.* That the supreme court shall have concurrent jurisdiction in all cases properly cognizable by a court of chancery, in which plain, adequate and complete remedy cannot be had at law, where the title of land is in question, or the sum or matter in dispute exceeds one thousand dollars. and appellate jurisdiction in all cases regularly brought before them, from the chancery decisions of the courts of common pleas.

**Sec. 3.** *Be it further enacted,* That all applications to the chancery side of either of the said courts shall be by petition, stating the nature and grounds of the com-

plainant's claim, and shall be filed in the office of such court.

**Sec. 4.** *Be it further enacted,* That on such petition being filed as aforesaid, the clerk shall, on the application of the complainant, issue a subpoena for the defendant to appear at the next term of the court, in order to answer the matters and things contained in the complainant's petition; which subpoena shall be to the effect following:

The state of Ohio, county, ss.  
To the sheriff of the county of greeting :

We command you, that you summon A. B. to appear before the judges of our supreme court, at the court house (or judges of our court of common pleas, as the case may require) on the \_\_\_\_\_ day of \_\_\_\_\_ instant, (or next ensuing) to answer a petition in chancery, exhibited against him by C. D. and this he shall in no wise omit, under the penalty of one thousand dollars; and have then there this writ. Witness the honorable E. F. chief judge (or president judge) of our said court, at the court house, this \_\_\_\_\_ day of \_\_\_\_\_

**G H.**

Which subpoena shall be signed by the clerk, sealed with the seal of the court, and bear date of the same day on which it is issued.

Sec 5. *Be it further enacted*, That if any person shall file a petition in chancery, in either of the said courts, against a defendant or defendants residing within such county, in which it shall be proper or necessary to join other defendant or defendants, residing out of such county, but within some other county of this state, it shall be lawful for the clerk of such court, on the application of the complainant, to issue a subpoena or subpoenas for such other defendant or defendants, directed to the sheriff or coroner, as the case may require, of the county or counties within which such other defendant or defendants reside; and the sheriff or other officer to whom such writ of subpoena is directed shall serve and

return the same in the manner herein after provided.

**Sec. 6.** *Be it further enacted,* That every subpoena or process for appearance shall be served on the person to whom it is directed, or a copy thereof left at his dwelling house, or usual place of abode, so many days before the return day mentioned therein, as will allow the defendant one day, exclusive of Sundays, for every twenty miles of the estimated distance he has to travel from his place of residence to the court of the county at which he is to appear, and the sheriff or coroner, serving such subpoena or other process, shall endorse thereon the time and manner of service.

**Sec. 7.** *Be it further enacted,* That it shall be the duty of the sheriff or coroner, as the case may require, of any county in this state, to whom any subpoena, order, attachment, process of sequestration, writ of execution, or other process in chancery shall be directed or delivered, to serve or execute the same, and to make return thereof at the time and place therein mentioned, which shall be duly filed by the clerk.

**Sec. 8.** *Be it further enacted,* That once subpoena being returned, served by the sheriff or coroner, the defendant shall file his plea, demurrer or answer to the complainant's petition in the clerk's office, in sixty days next after the day of appearance specified in such subpoena; unless the court shall grant the defendant further time; and if the defendant shall not file his plea, demurrer or answer, within the time limited by this act or granted by the court, the said petition shall be taken as confessed, and such decree made thereon as by the court shall be deemed equitable and just; or the court may, at their discretion, order the said complainant to produce documents and witnesses to substantiate and prove the allegations in his petition; or the court may examine the complainant, on oath or affirmation, to ascertain the allegations in his petition,

and such decree shall be made in either case, as the court shall think equitable and just.

**Sec. 9.** *Be it further enacted,* That if any person shall file a petition against a defendant or defendants, residing within this state, in which it shall be proper or necessary to join other defendant or defendants, residing out of this state, whether in the United States or any other country, the complainant, on service of notice on such other defendant or defendants, or inserting, after such petition is filed, the notice aforesaid, either in such newspapers, for nine weeks successively, or in any other manner, as the court shall direct, and making due proof that such notice has been given personally, or by advertisement as aforesaid, and the same proof being properly certified, and the said other defendant or defendants shall fail to file a plea, demurrer or answer to the said petition within sixty days after such notice, proved and certified as aforesaid, or such longer time as the court shall grant, then the said petition shall be taken as confessed against the defendant or defendants so having notice, and failing to plead, demur or answer, and thereupon such decree shall be made as the court shall think equitable and just.

**Sec. 10.** *Be it further enacted,* That the complainant may insert in his petition as many defendants as he pleases, though they claim under different titles; but if any of the defendants disclaim, he shall pay them their costs except for special reasons appearing, the court shall otherwise decree; and he shall also pay to each defendant any costs he may incur in consequence of any contest and claim in which he is not interested.

**Sec. 11.** *Be it further enacted,* That any person having both the legal title to and possession of land, may institute a suit against any other person setting up a claim thereto; and if the complainant shall be able to establish his title to such land, the defendant

shall be decreed to release his claim thereto and to pay the complainant his costs, unless the defendant shall, by his answer, disclaim all title to such lands, and offer to give such release to the complainant, in which case the complainant shall pay to the defendant his costs, except for special reasons appearing, the court shall otherwise decree.

**Sec. 12.** *Be it further enacted,* That when a plea or demurrer shall be filed, it shall be the duty of the party pleading or demurring, within sixty days after filing the same, to set it down for argument at the next term or in default thereof, the said plea or demurrer shall be overruled of course.

**Sec. 13.** *Be it further enacted,* That when the complainant conceives the plea to be good, though not true, he may reply and take issue upon it, and proceed as in case of an answer.

**Sec. 14.** *Be it further enacted,* That if the defendant file a demurrer & answer, the complainant shall not proceed on the answer till the demurrer has been argued or disposed of.

**Sec. 15.** *Be it further enacted,* That if the plea or demurrer be overruled, no other plea or demurrer shall be thereafter received; but in such case the defendant shall file his answer, or the complainant's petition shall be taken as confessed, and the said court shall thereupon proceed as directed in the eighth section of this act.

**Sec. 16.** *Be it further enacted,* That if the plea or demurrer be allowed, the complainant shall pay costs, and if overruled, the defendant shall pay them.

**Sec. 17.** *Be it further enacted,* That the complainant shall file exceptions, or a replication, or set down a cause for hearing upon petition and answer, within thirty days after the time limited or granted for filing the answer, or on failure thereof his petition shall be dismissed with costs, unless good cause be shewn to the contrary.

**Sec. 18.** *Be it further enacted,* That when exceptions shall be filed to an answer, they may be entered of course with the clerk, either in term time or in vacation.

**Sec. 19.** *Be it further enacted,* That the complainant, if his exceptions be overruled, shall pay costs to the defendant; and the defendant, if his answer be adjudged inefficient, shall pay costs to the complainant.

**Sec. 20.** *Be it further enacted,* That when an answer shall be adjudged to be insufficient, the defendant shall file a second or further answer within thirty days after such adjudication, and on failure thereof the said petition shall be taken as confessed, and such proceedings be had thereon as if the first or original answer had not been filed within the limited or granted time.

**Sec. 21.** *Be it further enacted,* That if such second or further answer shall be adjudged to be insufficient, the defendant shall pay double costs, and shall file a third or further answer within twenty days after such adjudication, or on failure thereof, the said petition shall be taken as confessed, and such proceedings be had thereon as if the first or original answer had not been filed within the limited or granted time as aforesaid.

**Sec. 22.** *Be it further enacted,* That if such third or further answer shall be adjudged to be insufficient, the defendant shall pay treble costs; and in such case further time to answer shall not be allowed, but the said petition shall be taken as confessed, and such proceedings be had thereon as if the first or original answer had not been filed in due time; or the defendant may be examined upon interrogatories, and committed until he shall answer them and pay the costs.

**Sec. 23.** *Be it further enacted,* That every defendant may swear or affirm to his answer, before any judge or justice of the peace.

**Sec. 24.** *Be it further enacted,* That where it is necessary for the defendant to bring a new party before the court, he shall state it in his answer, and insert interrogatories for him to answer, and thereupon a subpoena shall be sent out and other proceedings be had, as in case of other defendants.

**Sec. 25.** *Be it further enacted,* That the defendant in chancery, after he shall have filed his answer, may exhibit interrogatories to the complainant, which shall be answered by him on oath or affirmation, and such answer shall be evidence in the cause, in the same manner and to the same effect as the defendant's answer to the complainant's petition is evidence; and if the complainant shall not answer such interrogatories by the time appointed by the court, he shall be in contempt, and his petition dismissed with costs.

**Sec. 26.** *Be it further enacted.* That after answer filed, and no plea in abatement to the jurisdiction of the court, no exception for want of jurisdiction shall ever afterwards be made, nor shall the court ever thereafter delay or refuse justice, or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting land lying without the jurisdiction of such courts, and also of infants and feme covert.

**Sec. 27.** *Be it further enacted,* That if a cross petition be exhibited, the defendant to the first petition shall answer thereto, before the defendant to the cross petition shall be compelled to answer such cross petition.

**Sec. 28.** *Be it further enacted,* That all rules, common or special, by consent of the parties or their counsel, shall be entered of course with the clerk, whether in term time or in vacation.

**Sec. 29.** *Be it further enacted,* That all amendments shall be made with or without costs, and on such equitable terms as the said courts shall direct.

**Sec. 30.** *Be it further enacted,* That parties to suits in chancery, shall take notice at their peril of

the filing of answers, demurrers, pleas, replications and other pleadings, and of the pronouncing and signing decrees.

**Sec. 31.** *Be it further enacted,* That if the complainant proceed to a hearing on the petition and answer only, the answer shall be taken to be true in all points, and no evidence shall be received unless it be matter of record to which the answer refers, and is provable by the said record.

**Sec. 32.** *Be it further enacted,* That every cause in the chancery side of either of the said courts, shall be deemed to be at issue, on filing a replication, and it shall not be necessary to issue a subpoena, or enter a rule to rejoin in any case.

**Sec. 33.** *Be it further enacted,* That the mode of proof, by oral testimony and examination of witnesses in open court, shall be the same in the chancery side as in the common law side of either of the said courts, and it shall be the duty of the said courts respectively, to cause the facts on which they found their sentence or decree, fully to appear upon the records, either from the pleadings and decree itself, or from a state of the case agreed by the parties or their counsel, and where the parties or their counsel cannot agree on the facts, then the court may either cause the examination of the witnesses to be reduced to writing by some person named by the court, which being read to, approved of, and signed by the examinant, shall be entered on record and made use of on the trial of the cause, either at that time or at any future hearing of the same, or the court may direct the facts to be enquired of by a jury, empannelled and sworn under the direction of the court for that purpose, who shall bring in a special verdict, which verdict shall in like manner be entered on the record, and made use of on the trial of the cause as aforesaid; and if any matter of fact whatever shall render the intervention of a jury necessary, then the

court is hereby authorised to direct an issue for the trial of the same.

**Sec. 34.** *Be it further enacted,* That every cause shall be set down for hearing at the next stated term after the filing of the replication, or on failure thereof, the complainant's petition shall be dismissed with costs, unless the court, on just cause and reasonable terms, allow further time for the said hearing, and if the said hearing be not had within the time so limited or allowed, then the court shall dismiss the said petition with costs: *Provided always,* That there be ten days between the filing of the replication and the next stated term, and if there be not, then the hearing shall be had at the subsequent stated term.

**Sec. 35** *Be it further enacted,* That if the complainant shall not attend at the time appointed for the hearing of the cause, his petition shall be dismissed with costs.

**Sec. 36.** *Be it further enacted.* That if the defendant shall not attend at the time appointed, for the hearing of the cause, the petition, answer, replication, documents and proofs shall be read, and the witnesses examined on the part of the complainant, and the court shall thereupon decree in favor of the complainant, or dismiss his petition, as the case may require.

**Sec. 37.** *Be it further enacted,* That the petition, answer, pleadings, papers, documents and proofs filed in the cause, shall be used at the argument or hearing for which no charge shall be made by the clerk, except for filing.

**Sec. 38.** *Be it further enacted.* That a petition for a re-hearing shall be signed by counsel, and preferred within thirty days after making the order on the hearing, and the prayer of such petition shall be allowed or disallowed at the discretion of any two judges of the court making the order on the hearing of the whole state of the case.

**Sec. 39.** *Be it further enacted,* That when any cause in chancery shall be finally determined, the clerk of the court shall enter together in order, the petition, answer, pleadings, reports, decretal orders, statements of facts found by the jury, or agreed by the parties, and decree in such cause, in a book to be kept for that purpose, which shall be signed by the court at the next term, as of the day on which such decree was pronounced; but such decree shall not contain any recital of the petition, answer or other pleadings.

**Sec. 40.** *Be it further enacted,* That the decree of either of the said courts sitting in chancery shall, from the time of their being pronounced, have the force, operation and effect of a judgment at law, from the time of the actual entry of such judgment.

**Sec. 41.** *Be it further enacted,* That where a decree shall be made for a conveyance, release or acquittance in either of the said courts, sitting as a court of chancery, and the party against whom the said decree shall pass, shall not comply therewith by the time appointed, then such decree shall be considered and taken in all courts of law and equity, to have the same operation and effect, and be as available as if the conveyance, release or acquittance had been executed conformably to such decree.

**Sec. 42.** *Be it further enacted.* That to the end that all decrees of either of the said courts, sitting as a court of chancery, may be speedily executed and fulfilled, the complainant having obtained a decree, and the defendant not having complied therewith by the time appointed, it shall be lawful for the said court, on the application of the complainant, to issue process for the immediate sequestration of the real and personal estate of the defendant, or so much thereof as may be sufficient to satisfy the demand of the complainant in the decree specified, with costs, or issue a writ of fieri facias against the goods and chattels, or a fieri facias et levare facias, against the goods and chattels, lands, tenements

and real estate of the defendant, upon which sufficient property shall be taken and sold to satisfy the said demand with costs, or to issue a writ of habere facias possessionem, or to issue a capias ad satisfaciendum against the defendant, upon which writs of fieri facias, and fieri facias et levare facias, and habere facias possessionem, and capias ad satisfaciendum, there shall be the same proceedings as at law; or to cause, by injunction, the possession of the effects and estate demanded by the petition, and whereof the possession or sale is decreed, and as the nature of the case may require, and in case of sequestration, the court shall order payment and satisfaction to be made out of the estate so sequestered, according to the true intent and meaning of the decree.

*Sec. 43. Be it further enacted,* That a writ of fieri facias shall bind the property of the goods of the person against whom it is issued, from the time it was actually executed by the sheriff or officer, as at law.

*Sec. 44. Be it further enacted,* That if the sheriff or other officer, shall neglect or refuse to execute any process of sequestration, to him directed and delivered, or to make payment of the rents, issues and profits of the estate, so sequestered, according to the order of the said court, or where the execution shall be by fieri facias or fieri facias et levare facias, shall neglect to file a just and true inventory of the goods and chattels, lands, tenements and real estate, so levied on and seized, unless he return, that he hath levied to the amount of the demand or sum therein specified, with costs, or shall voluntarily or negligently omit, for the space of six days, to render to the complainant or his representative or counsel, after demand made for that purpose, the money which he shall have received from the sale of the estate, real and personal, of the defendant, or otherwise, then such sheriff or officer shall be amerced by said court to the amount of the demand of the complainant, with costs, for the use of said complainant:

*Provided*, That three days notice in writing shall be given to the said sheriff or officer, by the complainant, his representative or counsel, of the intended application of such amercement; which amercement so ordered by the court shall have the force, operation and effect of a decree, whereupon execution in the name and for the use of the said complainant or his representative, may instantly, on motion in term time, and without further proceedings be awarded and issued against the goods and chattels, lands, tenements and real estate of the said sheriff or other officer.

Sec. 45. *Be it further enacted*, That if any party to a suit in chancery shall be aggrieved by the neglect, default, mal practice or misconduct of the sheriff or coroner, it shall and may be lawful for such party, his representative or attorney, to apply to the commissioners of the county for a certified copy of the bond executed by such sheriff or coroner; and the commissioners shall make out and certify such copy, and order a prosecution to be commenced upon the bond given by such sheriff or coroner and his sureties, and to be carried into effect at the costs and charges of the applicant; and when judgment shall be obtained upon any such bond, the court rendering such judgment shall direct so much money to be levied on such judgment as shall be sufficient to satisfy the party aggrieved for his debt or damages, with costs, to be paid to the adverse party: *Provided*, That nothing in this section shall be so construed as to prevent any other suit to be brought and prosecuted to final judgment and execution, on such bond, against such sheriff or coroner and his sureties, by the said commissioners, for the use of any other person or persons, who may think himself, herself or themselves aggrieved in manner aforesaid, until the full amount of the penalty of such bond is recovered.

Sec. 46. *Be it further enacted*, That if any sheriff or other officer, to whom any writ, process or or er of

either of the said courts sitting as a court of chancery, shall be directed or delivered, shall not make return thereof at the day of return, and according to the tenor of such writ, process or order, the same not being countermanded, he shall be in contempt, and process of contempt shall, on motion in term time, be issued against him, and before he shall be discharged from such contempt, he shall pay to the clerk, for the use of the county, as a fine for said contempt, a sum not exceeding fifty dollars, to be imposed by the court, and the costs incurred by means thereof.

**Sec. 47.** *Be it further enacted,* That to enforce obedience to the process, rules and orders of the said courts in chancery, where any person shall be in contempt, according to law, practice or course of the said court, he shall, for every such contempt, and before he be released or discharged from the same, pay to the clerk of the court, for the use of the county, a sum not exceeding fifty dollars, as a fine for the said contempt, and that the said person being in court, upon process of contempt or otherwise, shall stand committed and remain in close custody until the said process, rule or order shall be obeyed and performed, and until the fine, so imposed for such contempt, with the costs, be fully paid.

**Sec. 48.** *Be it further enacted,* That the clerk of each court shall account for, on oath or affirmation, and pay quarter annually to the treasurer of his county, the fines which he shall have received by virtue of this act.

**Sec. 49.** *Be it further enacted,* That, except where it is otherwise directed by this or some other act of the legislature, it shall be in the discretion of either of the courts, sitting as a court of chancery, to award costs or not, and the payment of costs when awarded, may be compelled by a writ of fieri facias, or fieri et levare facias, or capias ad satisfaciendum issuing out of the said court, or by subpoena and attachment.

**Sec. 50.** *Be it further enacted,* That it shall be lawful for either of the said court or courts of chancery, from time to time, to make, alter, amend or revoke any rule of practice, so as to obviate doubts, advance justice, and expedite suits in the said courts, so that the same be not contrary to the provisions of this or any other act of the legislature.

**Sec. 51.** *Be it further enacted,* That after final sentence or decree hath been pronounced, in any cause or suit in the court of common pleas in chancery; any person who may think himself aggrieved by any such final decree, may appeal therefrom to the superior court, on giving notice and security, within the time required by law in cases of appeals of suits at law.

**Sec. 52.** *Be it further enacted,* That the supreme court, or any court of common pleas in session, or any judge of the supreme court, or president judge, or any associate judge of the courts of common pleas, in vacation, may grant writs of ne exeat, to prevent the departure of any defendant out of the state, until security be given for performing the decree, and writs of injunction to stay proceeding in any of the courts of law.

**Sec. 53.** *Be it further enacted,* That writs of ne exeat shall not be granted but upon petition filed and affidavit made to the truth of the allegations, which being produced to the court in term time, or judge, president, or associate judge as aforesaid, in vacation, they may grant or refuse such writ, as to them shall seem just, and if granted, they shall direct to be inserted thereon, in what penalty bond and security shall be required of the defendant.

**Sec. 54.** *Be it further enacted,* That if the defendant shall, by answer, satisfy the court that there is no reason for his restraint, or give sufficient security to perform the decree. the writ may be discharged.

**Sec. 55.** *Be it further enacted,* That no injunction shall be granted by the supreme court or any judge

thereof, to stay proceedings in any suit at law, unless the matter in dispute be of value sufficient to admit of original jurisdiction in the court of common pleas, nor unless the court in term time, or one judge thereof in vacation, shall be satisfied of the plaintiff's equity, either by affidavit certified at the foot of the petition, that the allegations thereof are true, or by other means, and shall order the same.

**Sec. 56.** *Be it further enacted,* That no injunction shall be granted by any court of common pleas, or by any president or associate judge thereof, in vacation, to stay proceedings in any suit at law, unless the said court, in term time, or president or associate judge as aforesaid, in vacation, shall be satisfied of the complainant's equity in his petition, either by affidavit in open court, or before one of the judges or a justice of the peace, that the allegations thereof are true, and shall record the same.

**Sec. 57.** *Be it further enacted,* That where any injunction shall be granted as aforesaid, either in term time or in vacation, the clerk of the court, out of which the subpoena and injunction issues, shall endorse on the subpoena, that the effect thereof is to be suspended until the party obtaining the same shall give bond with sufficient security, in the office of the clerk of the court granting the injunction; and the party obtaining the injunction shall then enter into bonds with sufficient security, to be approved of by such clerk, and such clerk shall file the same in the clerk's office of that court in which, or with the justice of the peace before whom the proceedings at law were had, for paying all money and costs due, or to become due to the other party in the action at law; and also, all such costs as shall be awarded against him or her, in case the injunction shall be dissolved; and the clerk shall endorse on the subpoena that the bond is filed, and the names of the sureties.

**Sec. 58.** *Be it further enacted,* That when a sheriff or other officer, under any execution, shall receive the whole or any part of the money for which the said execution issued, and the person against whom such execution may have issued, his executors or administrators, shall obtain an injunction to such execution, or for any part of the money mentioned therein, before the money so received by such sheriff or officer is paid to the plaintiff, his agent or attorney, or his executors or administrators; in any such case, the sheriff or other officer, his executors or administrators, shall repay to the person or persons against whom such execution is issued, his executors, administrators or agent, the money so received, or such part thereof as may be enjoined; and if any sheriff or other officer his or their executors or administrators, shall fail or refuse, when required, to pay such money, so received, or such part thereof as may be enjoined, to the person having a right to demand and receive the same, such sheriff or other officer shall be liable to be amerced, on motion in open court for the use of the plaintiff, in the same manner that such sheriff or other officer would be liable to be amerced, under the act, entitled "An act regulating judgments and executions," for failing to pay over monies made on execution.

**Sec. 59.** *Be it further enacted,* That if the person against whom an injunction shall be given to stay waste, shall, after the service thereof, do or commit, or consent, direct or suffer to be done, or committed, any waste or destruction of or upon the premises, contrary to the said injunction, and the court, on affidavit or other proof, shall be of opinion that such waste or destruction hath been done or committed, then the said court may, on motion, order an attachment of contempt to be issued against the person charged with disobedience to and a breach of the said injunction; and if the person, so offending, shall be brought before the court by virtue of the said attachment, and shall not make it appear to

their satisfaction, that no waste or destruction hath been done or committed as aforesaid, then the said court may, in their discretion and on motion, order such defendant to pay into the hand of the clerk, a fine not exceeding fifty dollars, to and for the use of the county, and also to make immediate restitution to the party injured, or in default thereof, to order such defendant to be committed and kept in close custody until he shall fully comply with such order, or be otherwise legally discharged.

**Sec. 60.** *Be it further enacted,* That when either party has been called on for a discovery on oath, and the fact as to which the discovery was prayed, is afterwards submitted to a jury, the answer put in as to such fact shall be laid before the jury in the same manner as is practised with regard to answers on an issue, directed to be tried at law by a court of chancery.

**Sec. 61.** *Be it further enacted,* That if suit shall hereafter be commenced in any court of chancery in this state, against any defendant or defendants, who are out of the state, and other defendant or defendants, or other person or persons within the same, have in their hands effects of, or are otherwise indebted to such absent defendant or defendants, and the appearance of such absentee be not entered and security given, to the satisfaction of the court, for performing the decrees, upon affidavit that such defendant or defendants are out of the state, it shall and may be lawful in such case for the said courts of chancery to make an order and require security, if it shall appear necessary, to restrain the defendant or defendants in this state, or other person or persons, from paying over, conveying away, or secreting the debts by them owing to, or the effects in their hands of such absent defendant or defendants, and for that purpose may order such debts to be paid, and effects delivered to the said plaintiff or plaintiffs, or such other person or persons as the court may appoint, upon his or their giving sufficient

security for the return thereof, to such person or persons, in such manner as the court shall direct.

**Sec. 62.** *Be it further enacted,* That any person who was a party to any decree of a court of chancery, his heirs, executors or administrators may, as heretofore, bring and file a petition for a review of the proceedings in which such former decree was made: *Provided,* That no petition for a review shall be brought but within five years next after rendering such decree, unless the person entitled thereto was an infant, feme covert, non compos mentis, imprisoned or beyond sea, then within five years exclusive of such disability.

**Sec. 63.** *Be it further enacted,* That if the petition for a review, examination and reversal of a former decree, be brought upon errors of law appearing in the body of the decree, or proceedings themselves, it may be filed as an original petition in chancery, as a matter of course; but if the petition for a review, examination and reversal of a former decree, be brought upon the discovery of new matter, since the hearing on the former decree, it shall only be exhibited and filed by leave of the court previously granted as heretofore; and in either case, if the court think it reasonable, under all the circumstances of the case, to stay proceedings on the former decree, they may direct proceedings on such decree to be stayed until a decree on the said petition for a review shall be made, or until the further order of the said court: *Provided,* Such application to stay the proceedings on a former decree be made at the first term; and where the proceedings on the former decree shall not be stayed as aforesaid, the party against whom such former decree was entered shall comply therewith.

**Sec. 64.** *Be it further enacted.* That if proceedings on a former decree shall be directed to be stayed as aforesaid, the court shall direct such security to be given as is usual in cases of appeal, or injunction to any proceedings at law; and if proceedings on the

former decree shall not be stayed as aforesaid, the court shall direct security to be given, if they deem it necessary, for the costs.

Sec. 65. *Be it further enacted*, That if the complainant reside out of the county, he shall, before the issuing process to appear, give bond and security for the payment of costs.

Sec. 66. *And be it further enacted*, That an act, entitled "An act directing the mode of proceeding in the courts of chancery," passed the seventeenth day of February, eighteen hundred and four, and an act, entitled "An act to amend the act, entitled an act regulating the proceedings of courts in chancery," passed February the third, eighteen hundred and seven, be, and the same are hereby repealed.

This act shall take effect and be in force from and after the first day of May next.

EDWARD TIFFIN,  
*Speaker of the house of representatives.*  
 DUNCAN McARTHUR,  
*Speaker of the senate.*

February 19, 1810.

## CHAPTER LXI.

### *AN ACT supplementary to the last named act.*

Courts may direct how		}	Power and duty of courts	
notice shall be given,	1		where lands lie in sev-	
May appoint a master in			eral counties,	2
chancery,	ib	}	Proviso,	ib
His duty confined,	ib			

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That in all cases of proceedings in chancery, where all the defendants are absent or reside out of this state, it shall be competent for the courts of this state, having proper jurisdiction in the case accor-

H h

ding to the law and usages of courts of chancery, to direct any mode of giving notice to such absent defendant or defendants as may be consistent with the usages and practice of courts of chancery; and it shall be competent for each of the courts having chancery jurisdiction within this state, to appoint a master commissioner in chancery, whose duty it shall be, under the order and direction of the court, to take down testimony in writing, either in or out of court, and to do all such other matters and things of a ministerial nature, as are usually done and performed by master commissioners in chancery, according to the usages and customs of chancery courts.

**Sec. 2.** *Be it further enacted,* That in all cases of bills in chancery, touching the equitable title to real estate, if such land lie in different counties in this state, it shall be competent for the court having jurisdiction of such cause, by reason that a part of such land lies in the county in which such court may be holden, in rendering a decree in the premises, to include in the provisions, orders or regulations of such decree, as well the lands lying in other counties as those lying in the county in which such court may be holden: *Provided always,* That such decree, as to so much thereof as relates to the equitable title to lands out of such county, shall have no operation against bona fide purchasers, until after such decree shall have been recorded in the office of the recorder of deeds for the county in which such lands may be situated; and it shall be competent for all plaintiffs having received judgment in this state, either at law or in chancery, and who are authorised thereon to sue out process of execution, to take out the same directed to the sheriff of any county in this state as formerly or at the election of such plain-

iff, to institute his action upon] such judgment, in any county within this state.

**JOHN POLLOCK,**  
*Speaker of the house of representatives.*  
**THOMAS KIRKER,**  
*Speaker of the senate.*

December 24, 1812.

## CHAPTER LXII.

**AN ACT** *regulating the fees of civil officers, in civil and criminal cases.*

Sheriffs' fees in common pleas, - - -	1	Coroners' fees, - - -	ib
Continued, - - -	ib	Justices fees in civil cases, -	ib
In the supreme court, -	ib	In criminal cases, - - -	ib
In forcible entry and detainer, - - -	ib	Constables' in civil cases, -	ib
Where the state of Ohio fails in prosecution, &c. -	ib	In criminal cases, - - -	ib
Fees of the clerk of the supreme court in civil cases, - - -	ib	Jurors' - - - - -	ib
Continued, - - -	ib	Grand jurors' - - - -	ib
Clerk of the supreme court in criminal cases, -	ib	Witnesses' - - - - -	ib
Continued, - - -	ib	For certain services, - - -	ib
Clerk of common pleas, -	ib	Attornies and counsellors in the supreme court, -	ib
Continued, - - -	ib	Common pleas, - - - -	ib
Clerk of common pleas, -	ib	Compensation to officers for advertising, - - -	2
Continued, - - -	ib	Penalty on officers neglecting to publish the table of rates, and for charging more than limited fees, - - - - -	3
For probate and testamentary business, - - -	ib	Certain laws repealed, - - -	4
Clerk of common pleas in criminal cases, - - -	ib	Continued, - - - - -	ib
Recorders' fees, - - -	ib		

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio. That from and after the taking effect of this act, the fees and compensations to the several officers, and other persons herein mentioned, shall be as follows, and no more, viz,*

*Sheriffs' fees in the common pleas.*

For the service of every writ or summons and return thereof (subpœnas only excepted) when only one defendant is named therein, thirty-five cents.

Each additional defendant named therein, fifteen cents.

For every bail bond, fifty cents.

Every commitment to prison, thirty cents.

Discharging a person from prison, thirty cents.

Attending a prisoner before a judge or in court when required, thirty cents.

Serving a writ of possession with the aid of the posse commitatus, two dollars.

Serving the said writ without such aid, seventy-five cents.

Executing a writ of enquiry. and returning the same with the inquisition, one dollar and twenty-five cents.

The copy of any writ or process necessary to complete a service, for each hundred words thereof, ten cents.

Serving and returning a subpœna, for each person named therein and actually summoned, ten cents.

Travelling fees upon each writ of subpœna, four cents.

Summoning a jury, to be allowed on each issue tried, including travelling fees, fifty cents.

Summoning a grand jury to attend the court of common pleas. including travelling fees, to be paid by the county, two dollars.

Making out a list for striking a special jury, and delivering the same, fifty cents.

Summoning a special jury, including travelling fees, two dollars.

Travelling fees upon all writs, precepts and subpœnas not otherwise provided for, to be computed from the place of return to the place of service, per mile, five cents.

Poundage on all monies made on execution, two per cent.

Service of a declaration in ejectment and return, the same fees as allowed for the service of a summons.

Making and executing a deed for land sold on execution, to be paid by the purchaser, two dollars.

Making a deed for lands sold for taxes, to be paid by the purchaser, one dollar.

Serving a scire facias and making return thereof, thirty five cents.

Serving any person with an order of court, and making return thereof, thirty cents.

Serving a subpoena in chancery, thirty cents.

Keeping and providing for a debtor in jail, each day, twenty-five cents.

On each action for opening court, to be charged once every term, eight cents.

On calling action, each term, eight cents.

For calling jury, ten cents.

For calling each witness, four cents.

### *Sheriffs' fees in the supreme court.*

Executing a criminal, to be paid out of the county treasury, eight dollars.

Bringing up a person on habeas corpus, in civil causes, seventy five cents.

Travelling fees, the same as in common pleas.

And all other services rendered in the supreme court, the same fees as are allowed for similar services in the court of common pleas : *Provided*, That no compensation shall be allowed the sheriff for any service performed in the supreme court, for which service a compensation is not herein provided in the court of common pleas.

Sheriffs' fees for summoning a jury on forcible entry and detainer, or forcible detainer, two dollars.

Serving a writ of restitution, seventy-five cents and mileage thereon, as in other cases.

Serving summons in forcible entry and detainer, or forcible detainer, thirty-five cents and mileage as in other cases.

When the state of Ohio fails in prosecution, or the defendant proves insolvent, or unable to pay the fees when convicted, no fees for any services by the sheriff or other officer, in such case performed, shall be paid by the county treasury, (the ordinary diet, fuel and water furnished to a prisoner, only excepted) any law, custom or usage to the contrary notwithstanding: *Provided*, That the sheriffs of the several counties, for their fees in all prosecutions where the state of Ohio fails in prosecution, or where the criminal shall prove insolvent, or unable to pay; for publishing writs for electing members of the general assembly, and all other public and county services not otherwise provided for, they shall respectively receive annually, a sum not more than sixty, nor less than twenty dollars, to be paid out of the county treasury, upon the order of the commissioners,

*Clerks' fees in the supreme court, in civil cases.*

For filing ticket, sealing writ and entering the same, twenty five cents.

Filing declaration or other paper, when required, six cents.

Entering the sheriff's return, six cents.

Docketing every cause, to be charged but once, six cents.

Entering the appearance of either party, by attorney or personally, to be charged but once, eight cents.

Entering every special rule, six cents.

Entering special bail, twelve cents.

Swearing and empannelling a jury, twenty-five cents.

Administering an oath or affirmation (except to jurors) in court, four cents.

Taking and entering verdict, six cents.

Entering up every judgment or a copy thereof, sixteen cents.

Engrossing special verdict, per sheet of one hundred words, ten cents.

Entering a discontinuance, ten cents.

Attending on striking special jury and delivering copies, fifty cents.

Entering satisfaction on record, ten cents.

Drawing process, when required, for every sheet of one hundred words, ten cents.

Entering issue joined, fifteen cents.

Drawing cost bill, thirty five cents.

Copy of a rule of reference, twenty-five cents.

Commission to take depositions, with the seal of court, fifty cents.

Each and every continuance, ten cents.

Venire facias, twenty five cents.

Making a complete record in every cause, for every twenty words, two cents.

Copy of record and proceeding, when required, per sheet of one hundred words, ten cents.

Certificate with the seal annexed, fifty cents.

Every copy of every paper or record, not herein otherwise provided for, for every twenty words two cents.

Every writ of error, supersedeas, certiorari or habeas corpus, twenty-five cents.

Taking bond on issuing writ of error, supersedeas, certiorari or habeas corpus, thirty-seven and an half cents.

Filing the record upon an appeal, writ of error, supersedeas, certiorari or habeas corpus, twelve and an half cents.

Every order to a witness for attendance, to be charged to the party against whom such order goes, six cents.

Subpoena in chancery, twenty cents.

Filing each bill, answer, replication or other pleading in chancery, ten cents.

**An order to advertise, twenty five cents.**

**Entering every decree at large, for every twenty words, two cents.**

**For entering security for costs, six cents.**

**A search or examination of the records, if a copy is not required, twelve and an half cents, (suitors and officers of the court excepted.)**

***Clerks' fees in the supreme court in criminal cases.***

**For entering defendants' appearance eight cents.**

**Discharging on bail, ten cents.**

**Drawing process, twenty-five cents.**

**Entering plea, six cents.**

**Drawing a subpoena and seal, twenty five cents.**

**Administering an oath or affirmation (excepting to jurors) in court, four cents.**

**Making up the record, for every sheet of one hundred words, ten cents.**

**Entering judgment, twelve and an half cents.**

**Taking recognisance and entering the same, twenty-five cents.**

**Copies of indictments or pleadings, per sheet of one hundred words, ten cents.**

**Copy of the traverse, ten cents.**

**Entering every order or special rule of court, ten cents.**

**Copy of the same, when required, eight cents.**

**Entering nolle prosequi or cessat processus, six cents.**

**A search or examination of the records and reading the same, if a copy is not required, twelve and an half cents.**

***Clerks' fees in common pleas.***

**For filing ticket and issuing capias, attachment, replevin, execution, certiorari, supersedeas or summons**

under the seal of the court, and entering the same, twenty-five cents.

Drawing writs, *scire facias*, with the seal of the court annexed per sheet of one hundred words, ten cents.

Entering the appearance of either party, by attorney or personally, to be charged but once, eight cents.

Entering the sheriff's return, six cents.

Docketing every cause, to be charged but once, six cents.

Filing declaration, demurrer, pleadings, depositions or other necessary documents, each four cents.

Receiving the pannel and swearing the jury, twelve cents.

Swearing each witness, four cents.

Every order to a witness, for attendance, to be charged to the party against whom such order goes six cents.

Swearing a constable, four cents.

Taking and recording a verdict, ten cents.

Entering judgment, ten cents.

Entering a discontinuance, ten cents.

Entering every special rule, six cents.

A commission to take depositions under the seal of the court, fifty cents.

Every writ of subpoena for one or more witnesses, twelve cents.

Taking bail, twelve cents.

Issuing bail piece when required, forty cents.

Recording the proceedings and judgment in each action, per sheet of one hundred words, ten cents.

Copy of record or pleadings on file, when required, per sheet of one hundred words, ten cents.

Entering confession of judgment, ten cents.

Entering confession of lease, entry and ouster in ejectment, ten cents.

Copy of a rule of reference, with the seal of the court annexed, twenty five cents.

Entering satisfaction of a judgment on record, twelve and an half cents.

The writ of venire, to be taxed on each issue tried, twelve cents.

Entering a continuance, ten cents.

A venire facias, for a special jury, twenty five cents.

Attending the striking a special jury, and furnishing the pannel thereof to each party, fifty cents.

Reading and entering allowance of habeas corpus, writ of error or certiorari, and the return, fifteen cents.

Making out a copy of a record, with a seal of the court and certificate annexed, upon appeal, writ of error, habeas corpus or certiorari, and transmitting the same, for each sheet of one hundred words, ten cents.

Each certificate to which the county seal is required, and not herein provided for, fifty cents.

For the probate of any will or testament, and certificate thereof, thirty three cents.

Recording a will, for every twenty words, two cents.

Administering an oath to executor or administrator and taking bond, forty cents.

Entering the order or orders for appraising the estate, twelve and an half cents.

Copy thereof, twelve and an half cents.

Letters of administration and copy, one dollar.

Recording inventory, for every twenty words, two cents.

A copy of a will or inventory, for every twenty words, two cents.

Filing appeal from justice of the peace, and docketing the same, eight cents.

Entering security for costs, six and one fourth cents.

A search or examination of the records, and reading the same, if a copy is not required, twelve and an half cents.

A search or examination of the estray book, and reading the same, if a copy is not required, six and one fourth cents.

For entering appeal, and taking bond to prosecute it, thirty-three and one third cents.

Subpoena in chancery, twenty cents.

Filing each bill, answer, replication or other pleading in chancery, eight cents.

An order to advertise, twenty five cents.

Entering every decree at large, for every twenty words, two cents.

For drawing cost bill, thirty-five cents.

For entering allowance of writ of error, habeas corpus or certiorari, fifteen cents.

And the clerks of the respective courts shall be allowed by the commissioners of their proper county annually, a reasonable compensation for money expended in purchasing blank books, which sum shall be paid out of the county treasury.

*Clerk's fees in the court of common pleas, in criminal cases.*

For issuing a capias or other process upon indictment, under the county seal, twenty-five cents.

Writ of subpoena for one or more witnesses, twenty cents.

A venire for traverse jury, to be allowed in each trial. twenty-five cents.

Entering defendant's appearance or plea, six cents.

Receiving the pannel and swearing the jury, twelve cents.

Swearing each witness, four cents.

Swearing a constable, four cents.

Receiving and entering verdict, twelve cents.

Entering judgment, sixteen cents.

Making up the record, for every sheet of one hundred words, ten cents.

Copies of a record or original paper on file when required, per sheet of one hundred words, ten cents.

Drawing up a recognisance in form, when required, twenty-five cents.

Drawing cost bill, thirty-five cents : *Provided*, That the clerks of the courts of common pleas in the several counties, for their fees, in all prosecutions where the

state of Ohio fail, or where the criminal shall prove insolvent, or unable to pay, shall respectively receive, annually, a sum not exceeding sixty dollars, nor less than twenty dollars; and for opening, adjudging and certifying the returns of members to the general assembly, and county officers, they shall respectively receive, annually, a sum not exceeding six dollars, nor less than two dollars, to be paid out of the county treasury, upon the orders of the commissioners.

### *Recorders' fees.*

For recording a mortgage, deed of conveyance, letter of attorney, or any other instrument of writing, for every sheet of one hundred words, twelve and an half cents.

All copies of records, for every sheet of one hundred words, ten cents.

Every search, twelve and an half cents.

### *Coroners' fees.*

For the view of a dead body, three dollars.

Drawing all necessary writings and making return, for every hundred words, ten cents.

For travelling each mile to the place of view, five cents.

For issuing a venire for a jury, twenty five cents.

To each jury upon inquisition of a dead body, fifty cents.

The coroner's, constable's and jurors' fees, to be paid out of the county treasury.

All services rendered under the authority of the court, the same fees as are allowed the sheriff for the same services.

### *Fees of justices of the peace in civil cases.*

For a summons or capias, twelve and an half cents.

Every subpoena for one person, ten cents.

Each person in addition, four cents.

**Entering judgment on trial, twenty-five cents.**

**When confessed, twelve and an half cents.**

**Granting and issuing execution, twenty-five cents.**

**A certified copy of all proceedings on an appeal or certiorari, thirty cents.**

**Every continuance or adjournment, at the request of the party, ten cents.**

**Granting and entering rule of reference, ten cents.**

**Copy thereof, ten cents.**

**Taking recognisance of bail, twenty five cents.**

**Issuing bail piece, twelve cents.**

**Swearing witnesses, each four cents.**

**Issuing writs of attachment, twenty five cents each.**

**Scire facias, twenty cents.**

**Advertising bans of matrimony, fifty cents.**

**Marrying and making return thereof, one dollar and fifty cents.**

**The proof or acknowledgment of a deed or other instrument of writing, with a certificate thereon, twenty-five cents.**

**Taking depositions, ten cents for every hundred words.**

**For granting certificate, ten cents.**

**For entering discontinuance or satisfaction, ten cents.**

### *Fees of justices of the peace in criminal cases.*

**For a warrant in criminal cases, twenty five cents.**

**Taking an examination in writing, ten cents for every hundred words.**

**Swearing each person, four cents.**

**Taking recognisance, twenty five cents.**

**A commitment to jail, twenty five cents.**

**A search warrant, twenty five cents.**

### *Constables fees in civil cases.*

**For serving summons or other writ not herein provided for, on each person therein named, ten cents.**

Travelling in going to serve the aforesaid process, per mile, five cents.

And when two or more persons are named in such process, mileage to be allowed only to the most remote place of service.

Copy of a summons left at the place of abode, twelve and an half cents.

Serving execution on body or goods, twenty cents and mileage as above.

Commitment to prison, twenty-five cents and mileage as above.

Summoning a jury upon a dead body, seventy-five cents

On all sums made on execution, four per centum.

Attending upon a jury on each trial, twenty five cents.

### *Constables fees in criminal cases.*

For serving a warrant, on each person named therein and return, twenty five cents and mileage as in civil cases.

Serving a subpoena, on each person named therein, ten cents and mileage as above.

Commitment of each person, twenty-five cents.

Mileage from the place of examination to prison, each mile, five cents.

For every day's attendance on the grand jury, seventy-five cents, to be paid out of the county treasury.

### *Jurors fees.*

For each juror upon each cause he may be empannelled to try, forty cents, to be advanced by the person in whose favor the verdict shall be given, and taxed in the bill of costs.

### *Grand jurors fees.*

For each day's attendance, seventy-five cents, which

shall be paid out of the county treasury upon the order of the commissioners.

*Witnesses fees.*

For going to, attending at and returning from court, under a subpoena, per day, fifty cents.

*Fees under the law against forcible entry and detainer.*

There shall be allowed to the several persons performing services under said act, except for services herein before provided for, the same fees as are allowed and taxed in the court of common pleas, for performing similar services.

*Fees allowed for services actually rendered under the act for the partition of real estate.*

To each commissioner, for each day he shall be actually employed in the partition of any real estate, and in going to and returning therefrom, one dollar and fifty cents.

The surveyor, for each day he shall be employed in making a survey under the said act, two dollars.

Each chain carrier and axe-man, for each day employed in making such survey, seventy-five cents.

The officers of the court, the same fees as are allowed for the same or similar services, in other cases of a like nature.

In the supreme court, attornies and counsellors at law shall be entitled to receive of the party against whom judgment is entered for a docket fee after trial, eight dollars.

For a docket fee, if cause is settled before trial, five dollars.

*And in the court of common pleas.*

For a docket fee after trial, six dollars.

For a docket fee if cause is settled before trial, three dollars.

**Sec. 2.** *Be it further enacted,* That in all cases in law, where an officer in the due execution of his office, shall be required to write or set up an advertisement for the sale of lands, such officer shall be allowed for every such advertisement, twenty five cents; and if such advertisement is required to be published in a newspaper, the officer proving such publication, shall be refunded the money he may pay therefor, to be taxed in the bill of costs.

**Sec. 3.** *Be it further enacted,* That all and every of the respective officers, whose fees are herein ascertained, limited and appointed, shall, and they are hereby required to make, fair tables of their fees respectively, according to this act, and to publish and set up the same in their respective offices, within three months after the taking effect of this act, in some conspicuous part, for the inspection of all persons who have business in the said offices, on pain of forfeiting for each day the same shall be missing, through the said officer's neglect, the sum of five dollars, which penalty may be recovered in any court of record, by action of debt, one half to the informer and the other half to the use of the county where the offence shall have been committed; if any officer whatsoever, shall ask, take or demand greater fees, than are herein before expressed and limited, for any service to be done by him in his office, and if any officer shall charge or demand and take any of the fees herein ascertained, when the business for which such fees are charged shall not have been actually done and performed, such officer, for every such offence, shall on conviction thereof before any court of record for the proper county, forfeit and pay to the party injured, any sum not exceeding fifty dollars; it shall and may be lawful for any person to refuse payment of fees to any officer, who will not make out a bill of particulars,

signed by him if required, and also a receipt or discharge, signed by him, for the fees paid.

Sec. 4. *Be it further enacted*, That so much of the act, entitled "An act to regulate county levies," as authorises the county commissioners, at their annual meeting, to allow compensation to the justices of the peace, clerks of the courts of general quarter sessions of the peace, sheriff and constables, for services by them or either of them performed, for and on behalf of their several counties respectively; also, the law, entitled "A law, ascertaining and regulating the fees of the several officers and persons therein named," adopted and published at Cincinnati, the sixteenth day of June, one thousand seven hundred and ninety-five; also, the law in addition to the same, published at Cincinnati the first day of May, one thousand seven hundred and ninety-eight; and also, the act, entitled "An act regulating the fees of constables in the several counties within this territory," passed at Cincinnati, the nineteenth day of December, one thousand seven hundred and ninety-nine; and also, the act entitled "An act regulating the fees of civil officers, and for other purposes," passed the twenty third day of January, one thousand eight hundred and two, and also, the fourth section of the act, entitled "An act allowing compensation to the associate judges, and for other purposes," passed the eighteenth day of February, one thousand eight hundred and four, be, and the same are hereby repealed: *Provided*, That nothing herein contained, shall be construed to extend to or affect, the fees, for services performed prior to the taking effect of this act.

This act shall take effect and be in force from and after the first day of June next.

MICHAEL BALDWIN,

*Speaker of the House of Representatives,*

DANIEL SYMMES

February 21, 1805.

*Speaker of the Senate,*

K k

## CHAPTER LXIII.

**AN ACT** authorising the governor to fill vacancies in certain cases.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That when any officer, the right of whose appointment is, or may be vested in the general assembly, shall during the recess die, or his office by any means become vacant, the governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the legislature.

This act to commence and be in force from and after the passing thereof.

MICHAEL BALDWIN,

*Speaker of the house of representatives*

DANIEL SYMMES,

*Speaker of the Senate.*

February 14, 1805.

## CHAPTER LXIV.

**AN ACT** defining and regulating the duties of the secretary of state.

Secretary of state to take		{ distributed, ..	-	3
charge of public records	1	{ To countersign commis-		
To make out copies of all		{ sions, &c.	-	4
acts, &c. and superin-		{ To procure seals,	-	5
tend printing,	2	{ Device,	-	ib
To cause the laws to be		{ Repealing clause,	-	6

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That all public acts, laws and resolutions, heretofore made and passed by the territorial legislature, or heretofore made and passed, or which shall be made and passed by the general assembly of this state, shall be carefully deposited in the office of

the secretary of state, which said office shall at all times be kept at the seat of government; and the secretary of state is hereby charged with the safe keeping of the said office, and of all public laws, acts and records deposited, or which shall hereafter be deposited therein.

*Sec. 2. Be it further enacted,* That the secretary of state shall cause to be made out true and accurate copies of all laws, acts and resolutions of the general assembly, which shall be ordered to be printed, with necessary marginal notes; and such copies so made out, he shall deliver to the person or persons authorized to print the same; and the secretary of state shall likewise superintend the printing of such laws, acts and resolutions, carefully comparing the printed copies with the original laws and rolls deposited in his office, correcting all errors that may appear in such printed copies, and shall make and cause to be printed, at the end of such printed copy, his certificate, that the acts and resolutions so printed are exact copies of the rolls in his office; and also a table of contents, referring to the page on which each act commences.

*Sec. 3. Be it further enacted,* That the secretary of state shall cause to be distributed into the several counties in this state, the printed laws and journals of the general assembly, and likewise so many of the laws of the United States as shall be allowed to the several counties respectively, in such numbers and in such manner as is or shall be provided for by the general assembly, and the reasonable expenses attending such distribution shall be paid out of the state treasury.

*Sec. 4. Be it further enacted,* That all commissions, required by law to be issued by the governor, shall be countersigned by the secretary of state, who shall make a register of each commission, specifying the person to whom it is granted, the office conferred,

and the date and tenure of such commission, in a book to be provided and kept for that particular purpose.

Sec. 5. *Be it further enacted*, That the secretary of state shall procure a seal of the supreme court for each clerk thereof that may be appointed, of one inch and three-fourths in diameter; and also one other seal one inch and a half diameter, for the use of each and every county hereafter to be erected, on which seals shall be engraved the following device: on the right side, near the bottom, a sheaf of wheat, and on the left a bundle of seventeen arrows, both standing erect in the bank ground, and rising above the sheaf and arrows, a mountain, over which shall appear a rising sun; the seal of the supreme court to be surrounded by these words, "the supreme court of the state of Ohio;" and the county seal with these words, "common pleas of the county of \_\_\_\_\_;" and the expense of said seals to be paid out of the state treasury.

Sec. 6. *And be it further enacted*, That an act, entitled "An act defining and regulating the duties of the secretary of the territory," passed the first day of January, eighteen hundred and two, and the act, entitled "An act designating the duties of the secretary of state," passed March twenty fifth, eighteen hundred and three, be, and the same are hereby repealed.

This act shall take effect and be in force from and after the first day of June next.

**MICHAEL BALDWIN,**

*Speaker of the House of Representatives.*

**DANIEL SYMMES,**

*Speaker of the Senate,*

**February 19, 1805.**

## CHAPTER LXV.

**AN ACT** for the confinement of prisoners under the authority of the United States, in the jails of this state.

Preamble.

Sheriffs or keepers of jails  
to receive prisoners, &c. 1

Penalty for neglect, &c. *ib*

Proviso, - - - *ib*

Sheriffs to make out a list  
of the names of persons

§ committed, &c. annu-  
ally, - - - 2  
§ Auditor to draw on the  
treasurer for the amount  
of expense, and exhibit  
the accounts, - *ib*

Whereas, it hath heretofore been recommended by congress, to the legislatures of the several states, to pass laws making it expressly the duty of the keepers of the jails to receive and safe keep therein all prisoners committed under the authority of the United States until they shall be discharged by due course of the laws thereof, under the like penalties as in the case of prisoners committed under authority of such states respectively, the U. States to pay for the use and keeping of such jails, at the rate of fifty cents per month, for each prisoner who shall, under their authority, be committed thereto, during the time such prisoner shall be therein confined; and also, to support such of said prisoners as shall be committed for offences; therefore,

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That the sheriff or keeper of every jail in any county of this state, shall be, and he is hereby authorised and required to receive all prisoners committed to his custody by the authority of the United States, and to keep them safely until discharged by due course of the laws of the same; and if any sheriff or jailor shall neglect or refuse to perform the services and duties required of him by this act, or shall offend in the premises, he shall be liable to the like penalties, forfeitures and actions, as if such prisoner or prisoners had been committed under the authority of this state: *Provided,* That every prisoner who shall be committed for any offence by the authority of the United

States, shall be supported at the expense of the same, during his or her confinement in said jail.

Sec. 2. *And be it further enacted,* That the sheriff or keeper of every jail shall, on the first Monday of January, annually, make out under oath or affirmation, the name or names of all prisoners who, within the year then last past, shall have been committed to his custody, under the authority of the United States, and the time that he, she or they shall have been respectively confined, with an account of the expense thereof, at fifty cents per month, for the use and keeping of such jail, for every person so committed, together with an account of their subsistence, at the rate established by law for state prisoners, unless provided for by the United States, and transmit the same to the auditor of this state, who is hereby authorised and required to draw on the treasurer of this state, who shall pay the said account, out of any public money in his hands not otherwise appropriated; and the said auditor is hereby required to exhibit the several accounts by him received as aforesaid, against the United States, on or before the last day of March, annually, for allowance.

ABRAHAM SHEPHERD,  
*Speaker of the House of Representatives.*  
THOMAS KIRKER,  
*Speaker of the Senate.*

December 20, 1806.

---

---

## CHAPTER LXVI.

### *AN ACT concerning bills of exchange.*

Whereas bills of exchange are accounted, in all payments, as ready money; and it is expedient, for the advancement of trade and commerce, that the credit of such bills should be preserved, by making

the same a sufficient security, and expediting the recovery of money thereupon; therefore,

Sec. 1. *Be it enacted by the general assembly of the state of Ohio, That* when any bill of exchange shall be drawn for the payment of any sum of money, and such bill shall be legally protested, for non-acceptance or non-payment, the drawer or endorser, shall be subject to the payment of fifteen per cent. damages thereon, if drawn on any person living without the jurisdiction of the United States; and ten per cent. damages thereon, if drawn on any person living within the jurisdiction of the United States, and without the jurisdiction of this state; and the bill shall, in all cases, bear an interest of six per cent. from the date of the protest until the money therein drawn for, shall be fully satisfied and paid.

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

ABRAHAM SHEPHERD,

*Speaker pro tem. of the house of Representatives.*

DUNCAN M. ARTHUR,

*Speaker of the Senate.*

January 31, 1810.

## CHAPTER LXVII.

***AN ACT*** for the more speedy distribution of the laws and journals, and for other purposes.

Contracts conditions there	3	copies of laws,	-	3
of, - - -	1	Duty of county clerks,	-	ib
Secretary's duty, -	2	Journals how distributed,	-	4
What officers entitled to				

Sec. 1. *Be it enacted by the general assembly of the state of Ohio, That* whenever the legislature, or any person or persons, by their instructions, shall make a contract with any printer or printers, for the necessary

printing for the use of the state, the secretary of state shall, on the part of the state, take from such printer or printers a bond or bonds, with sufficient security, conditioned for the true and faithful performance of such public printing, agreeable to contract; or shall enter into an article or articles of agreement with such printer or printers, on such conditions as the legislature may direct, and when the conditions of any such bond or article of agreement shall be forfeited, the secretary of state shall (if the nature of the contract be such that damages will lie) commence and prosecute an action or suit against such delinquent printer or printers, before any court having competent jurisdiction.

*Sec. 2. Be it further enacted,* That the secretary of state shall, at the close of each session of the legislature, lay off the state into convenient districts, and give notice in a newspaper, printed at the seat of government, that he will, on a day certain, receive separate proposals for carrying the laws and journals into the several counties in each district mentioned in said notice; and the person or persons who may undertake to carry the laws and journals for the lowest sum shall have the contract, on giving bond with sufficient security, conditioned for the faithful delivery of the laws and journals at the office of the clerk of the court of the proper county, on or before a day certain, to be fixed on by the secretary of state; and in case of the failure of any person or persons who may undertake to carry the laws or journals as aforesaid, the secretary of state shall prosecute such delinquents in the same manner that he is authorized to prosecute delinquent printers.

*Sec. 3. Be it further enacted,* That each associate judge, justice of the peace, sheriff, coroner, recorder, and each county commissioner, shall be entitled to one copy of the laws, and each member of the general assembly shall be entitled to one copy of the laws, and one volume of the journals of both houses of the general assembly, annually; and the clerk of the court of common

pleas of each county shall deliver to each officer above mentioned, one copy of the laws, on demand, and distribute the balance, if any there may be, to the trustees of the several townships, in proportion to the number of inhabitants, to be delivered to the township clerks on demand, and by them to be distributed amongst the several officers in said township: *Provided however*, That if any or all of the above named officers, shall fail in making a demand at the clerk's office for a volume of the laws, within twenty days after the clerk shall have received the same, in that case the clerk shall keep in his office so many volumes as he may deem sufficient for the officers aforesaid, and distribute the remainder among the several townships, as before directed.

**Sec. 4.** *And be it further enacted*, That there shall be forwarded by the secretary of state, as aforesaid, to each county in this state, an equal proportion of the journals of each house of the general assembly, according the number of volumes of the laws sent to each county, annually, to be distributed by the clerk of such county, among the several townships in his county; to each township clerk, at least two volumes of the journals of each house.

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

**ALEXANDER CAMPBELL,**

*Speaker of the house of representatives,*

**THOMAS KIRKER,**

*Speaker of the senate.*

**February 17, 1809.**

## CHAPTER LXVIII.

***AN ACT*** prescribing the manner of contesting elections for governor.

Returns when opened,	1	{	What evidence may be in-	
Contestator to give notice	ib		roduced,	3
The two houses to deter-			Rules to be observed,	4
mine the contest,	2		Special provision,	5

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That after the returns for governor from the several counties within this state, are opened and published by the speaker of the senate, agreeably to the second section of the second article of the constitution, any candidate or elector being desirous of contesting the election of the person declared elected shall, within two days, file a notice of such his intention with the clerk of the senate, specifying the particular points on which he means to rely.

**Sec. 2.** *Be it further enacted,* That upon such notice being filed as aforesaid, the two houses shall, by joint resolution, determine on what day they will meet in the representatives chamber in order to hear and determine the said contest; and thereupon a certified copy of the notice filed by the contestor, shall be served upon the governor elect, or by leaving a copy thereof at his last place of residence, by such person as by resolution shall be appointed, with a notice when he is required to attend in the representatives chamber, in order to answer the contest.

**Sec. 3.** *Be it further enacted,* That on the trial of any contested election for governor, the parties to such contest, may introduce either written or oral testimony, but no depositions shall be read on such trial, unless the opposing party shall have had reasonable notice of the time and place of taking the same.

**Sec. 4.** *Be it further enacted,* That in conducting any contested election for governor the following rules shall be observed, to wit :

1. On the day and at the hour appointed for that purpose, the senate and house of representatives with their clerks, shall attend in the representatives chamber.

2. When the speaker of the senate is not the acting governor, he shall preside ; but when he is the acting governor, a candidate or contestor, the speaker of the house of representatives shall preside.

3. The parties to the contest shall then be called by the clerk of the house of representatives ; and if they answer, their appearance shall be recorded.

4. The contestor shall first introduce his testimony, and then the governor elect shall introduce his, and after the testimony is gone through on both sides, the contestor may, by himself or his counsel, open the contest ; the governor elect may then proceed, by himself or counsel, to make his defence, and the contestor be heard in reply.

5. After the arguments are thus gone through by the parties, any member of either house shall be at liberty to offer the reasons for the vote he intends to give.

6. When the speaker of the senate presides, the two houses shall be governed in their debates by the standing rules of the senate ; and when the speaker of the house of representatives presides, the two houses shall be governed by the standing rules of the house of representatives.

7 The clerk of each house shall keep a regular journal of the proceedings.

8. The manner of taking the decisions shall be by an alphabetical call of the members by the clerk of each house ; first the senate, and then the house of representatives, and a majority of all the votes given, shall decide ; the speaker of the senate, when acting

as governor, a candidate or contestor, not being permitted to vote.

9. The two houses met as aforesaid, shall have liberty to adjourn, from time to time, as may be thought necessary.

Sec. 1. *Be it further enacted*, That any candidate or elector, being desirous to contest the election of the present governor elect, shall file with the clerk of the senate, within two days after the passage of this law a specification of the points upon which they intend to rely in the contest, which contest shall be conducted in the same manner as by this act future contests are to be conducted.

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

PHILEMON BEECHER,

*Speaker of the house of representatives,*

THOMAS KIRKER,

*Speaker of the senate,*

December 23, 1807.

---

## CHAPTER LXIX.

*AN ACT to continue in force the act, entitled An act for the incorporation of manufacturing companies.*

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*. That the act, entitled An act for the incorporation of manufacturing companies passed January the eleventh, eighteen hundred and twelve, be and the same is hereby continued in force; and all manufacturing companies that may hereafter regularly associate themselves together shall be enabled to avail themselves of the privileges granted by the provisions thereof as fully and amply as if the said act did not expire by limitation.

This act to take effect and be in force from and after the eleventh day of January next.

**THOMAS KIRKER,**  
*Speaker of the House of Representatives.*  
**ABRAHAM SHEPHERD.**

*Speaker of the senate.*

December 20, 1816.

## CHAPTER LXX.

### *AN ACT to provide for the regulation of turnpike companies.*

General provision for incorporating turnpike companies, - - -	1	Manner of collecting the same, - - -	ib
Authorised to hold property, - - -	ib	Duties of turnpike companies in laying out said road, - - -	7
May sue and be sued and have a common seal, - - -	ib	Manner of assessing damages done by the roads when the parties are not agreed, - - -	ib
Subscription book to be opened. - - -	2	The company authorised to take materials from the road and vicinity, - - -	9
Thirty days notice of opening books to be given, - - -	ib	Proviso as to notice of such intention, - - -	ib
Proviso - - -	ib	Value of materials to be assessed by three freeholders if the parties cannot agree, - - -	ib
Further proviso, - - -	ib	Width of the road, - - -	9
When the stock is subscribed for a meeting of the stockholders to be called together by notice, - - -	3	Manner of constructing the same, - - -	ib
Manner of conducting elections and when holden, - - -	ib	When ten miles are completed the company may apply to the county commissioners who shall appoint 3 freeholders to view the same and make report thereon, - - -	10
Directors to take an oath and continue in office one year, - - -	4	Proceedings on said report - - -	ib
Directors to appoint officers and agents, also to make bye-laws, &c. - - -	5		
Penalty on stockholders for neglect of payment, - - -	6		

Persons exempted from toll, - - -	11	How recovered, -	ib
Penalty for attempting to evade the payment of toll, - - -	12	Penalty on toll gatherers for detaining travellers or demanding improper toll, - - -	17
Proviso, - - -	ib	Proviso, - - -	ib
Proceedings when any part of the road is reported to be out of repair, -	13	Turnpike companies to keep an account of expenses, &c. -	18
Mile stones to be set up, -	14	The state or county may purchase the right of any road, -	ib
Rates of toll to be posted up, - - -	ib	Manner commencing and conducting suits against turnpike companies, - - -	19
Penalty for defacing mile stones or guide posts, -	15	Fees to justices, constables and freeholders, -	20
Carriages, &c. meeting others to keep on the right hand side of the road, - - -	16	No company may use their funds in banking, -	21
Penalty for neglect or refusal, - - -	ib		

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio, That each and every company or association of individuals, which may be hereafter incorporated by the general assembly for the purpose of making any turnpike road or roads, within this state, shall be a body politic and corporate with perpetual succession, by such name and title as shall be given them by the act incorporating such company, with all the privileges and immunities incident to a corporation or body politic, and shall in their corporate name and capacity, be capable of taking and holding capital stock to the amount limited by their act of incorporation, and the increase and profits thereof—and of purchasing, receiving and holding to them their successors and assigns in fee simple or for any lesser estate, all such lands, tenements or hereditaments and estate, real, personal or mixed, as shall be necessary to enable them to complete the object of their corporation—and shall in their corporate name and capacity, be capable of suing and being sued, pleading and being impleaded, defending and being defended, answering and being answered, in*

any cause or action, bill, plaint or matter whatsoever, in any court of justice or equity within this state or elsewhere, and may have a common seal and the same to break, alter or renew at pleasure.

**Sec. 2.** *Be it further enacted,* That so soon as the persons named in any act for the incorporation of a turnpike company or a majority of them, shall have associated themselves together and organised such company, by written articles of association, recognising the special act under which they may be incorporated and this act, they may then proceed to open subscription books at the places pointed out by such special act of incorporation, and at such other places as they may think proper, for the purpose of receiving subscriptions to the stock of such company in shares of such amount each, as may be pointed out by such special act, which books shall be opened at such time or times, and under such regulations as shall be directed by such commissioners, or a majority of them, giving at least thirty days notice in some public paper in general circulation, printed on or nearest to the route of such intended turnpike road, of the time and place or places of opening such subscription books: *Provided,* That not more than five per cent. on each share shall be demanded at the time of subscribing, nor more than ten per cent. at any subsequent installment, and at least sixty days notice shall be given in manner aforesaid, of the time and place or places of paying in any instalment subsequent to the instalment paid at the time of subscribing: *Provided also,* That no instalment shall be called for in less than sixty days from the day of payment of any preceding instalment.

**Sec. 3.** *Be it further enacted,* That whenever so much of the capital stock of any such turnpike company as is required by the special act incorporating such company, shall be subscribed; it shall be the duty of the commissioners named in such act, to call a meeting of the stockholders, at such place adjoining the propo-

scil route of such turnpike as they may deem most expedient, for the purpose of electing five or more directors as may be prescribed by the special act, of the time and place of holding which meeting, not more than thirty nor less than fifteen days notice shall be given by said commissioners by publication, as prescribed in the second section of this act, at which election at least three of the commissioners aforesaid shall preside, and all votes shall be by ballot, each stockholder shall be entitled to one vote on each share he may own, not exceeding ten, for every two shares above ten and not exceeding fifty, one vote, and for every five shares above fifty, one vote; stockholders may vote by proxy under such regulations as may be prescribed in the bye laws of such company, and all elections after the first, shall be held on the second Monday in January annually at such place as the directors shall appoint, of the time and place of holding, which annual election at least thirty days notice shall be given by the president in the manner prescribed in the second section of this act: *Provided however*, That it shall and may be lawful to hold an election at any other time, on notice being given as aforesaid.

**Sec. 4.** *Be it further enacted*, That the directors when elected, as provided in the preceding section, shall each take an oath or affirmation, diligently and impartially to discharge the duties of his office, and the directors or a majority of them, when thus qualified shall on the day of their election or the succeeding day proceed to elect a president from their number, and the president and directors shall hold their offices for one year, and until their successors are chosen and qualified.

**Sec. 5.** *Be it further enacted*, That the president and directors shall in all cases manage the concerns of the company, appoint such officers and agents as may be necessary, fill all vacancies which may happen in their body, until the next annual election, make bye-laws for the regulation and government of the company,

provided the same shall be consistent with the constitution and laws of this state and of the United States, they may require such oath or affirmation of any of the agents of said company as they may think necessary, may call special meetings of the stockholders, always giving at least ten days notice as directed in the second and third sections of this act, keep records of all the transactions of said company, and do all other matters and things touching the concerns of said company, contemplated in this act.

**Sec. 6.** *Be it further enacted,* That if any stockholder in any such turnpike company shall neglect or refuse to pay any instalment after sixty days notice of the time and place of payment being given in manner provided in the second section of this act, he shall for every month the same remains unpaid, forfeit and pay to said company five per cent. on the amount of such instalment, and provided the same remains unpaid for the space of six months, after the time when the same was required to be paid, it shall be at the option of the directors to declare the stock of such delinquent forfeited to the company, together with whatever may have been paid thereon, or to collect the same, together with the penalty which may have accrued thereon, by suit: *Provided always,* that this act shall not be construed so as to affect the estate of any deceased stockholder until said estate can be legally settled; and no delinquent stockholder shall have a right to vote at any meeting of said company.

**Sec. 7.** *Be it further enacted,* That any such turnpike company or their agents, shall have a right to lay out, locate, survey and make the turnpike road for the making of which such company shall be incorporated, through any improved or unimproved lands on the best route between the points or places designated in the special act by which such company may be incorporated, in such manner as may be prescribed by such special act; paying the owner or owners of any

ground over which the road may pass, the damages done to said ground by laying out and making such road over the same, doing as little damage as possible, and repairing all breaches made in any inclosure by laying out and making said road through the same; and if such owner or owners, and said company or their agents cannot agree, respecting the damages done to any ground by laying out and making such road over the same, the amount of such damages shall be assessed and determined by three disinterested freeholders, one to be chosen by such owner or owners, one by such company or their agent, and the third by the other two chosen as aforesaid (provided the parties cannot otherwise agree,) and the freeholders thus appointed, shall, before entering on the duties assigned them, take an oath or affirmation faithfully and impartially to discharge the duties of their appointment; and in assessing the damages they shall take into view whether the plantation or tract of land with the improvements thereon is made less valuable to the owner or owners by laying out and making said road over the same, and if they shall be of opinion that said tract of land or plantation is made less valuable, they shall assess the amount of such damage, and said freeholders shall make out their assessment in writing, a copy of which shall be given to the owner or owners of the land, and another copy to said company or their agent, and before such company or their agent shall in any wise enter such ground, to lay out or make said road other than to survey the same, they shall pay or offer to pay such owner or owners the amount of damages so as aforesaid assessed, and if such owner or owners, or said company shall refuse or neglect to join in such choice, it shall be lawful for the other party to apply to any justice of the peace, of the township in which the land may lie, whose duty it shall be, upon such application, to appoint three disinterested freeholders for the purpose aforesaid.

**Sec. 8. *Be it further enacted,*** That any turnpike company incorporated as aforesaid shall have a right to take from the ground occupied by any such road after the same shall have been laid out and surveyed, any stone, gravel, sand or timber necessary for constructing a firm, even, secure and substantial road, and if sufficient materials for constructing such road cannot be found on the ground occupied by the same, it shall be lawful for said company to enter upon any unimproved lands adjoining to or in the vicinity of said road, to procure such necessary materials: *Provided,* said company or their agent shall give notice to the owner or occupier of said land of such their intention, and the owner or occupier of said land may designate, and point out to said company or their agent the place where such owner or occupier may choose to have such materials taken, and if such owner or occupier shall fail to designate any place for procuring such materials, or shall designate a place where such materials cannot be procured, it shall be lawful for such company to enter upon any such unimproved lands contiguous to such road, and to dig, cut down, take and carry away any of the aforesaid materials necessary to construct a firm and substantial road, not previously appropriated by the owner or occupier of such land, to any other particular use, doing as little damage as possible, paying the owner or owners for such materials, and for any damage which may be done in procuring the same, and repairing any breaches that may necessarily be made in any inclosure in conveying such materials to such road, and if any difference shall arise between said company and the owner or occupier of any such land, as to the amount of damages done in procuring such materials, or the value of such materials, the same shall be determined by three disinterested freeholders, to be chosen or appointed as provided in the preceding section, and all expenses incurred

under the provisions of this or the preceding section, shall be paid by such turnpike company.

Sec. 9. *Be it further enacted*, That all turnpike roads shall be opened not exceeding sixty six feet wide, thirty three feet of which shall be cleared from brush and logs, and at least eighteen feet shall be made an artificial road composed of stone, gravel, wood or other convenient materials well compacted together, in such manner as to secure a firm, even and substantial road, rising in the middle with a gradual arch, and in no case shall the ascent in any such turnpike road be greater than five degrees.

Sec. 10. *Be it further enacted*, That so soon as any turnpike company shall have completed any such turnpike road as aforesaid or any part thereof not less than ten miles together, in any part of the route, and so from time to time as often as five miles in addition, shall be completed adjoining any ten miles previously completed, the commissioners of the county in which such finished road lies, or in case the same lies in two or more counties, the commissioners of either of said counties shall, on the application of the agent of the company, appoint three judicious disinterested freeholders, who shall on oath or affirmation, examine the same, and report their opinion to the commissioners in writing, and if such report shall state the road or such part thereof to be completed agreeably to the provisions of this act, the commissioners shall by license in writing, authorise the company to erect gates at suitable distances, and demand and receive of persons travelling such road, the tolls allowed by the special act incorporating such company, and in case it should happen that said commissioners or either of them should be stockholders in the turnpike company making application as aforesaid, the duties hereby required of them shall devolve upon the associate judges of the county or counties aforesaid, and if such associate judges or either of them should be stockholders as

aforsaid, said duties shall devolve upon the president of the circuit in which such road lies, or the president of any of the circuits in which such road may lie, in case the same lies in two or more circuits.

**Sec. 11.** *Be it further enacted,* That all persons going to and from public worship on the Sabbath, funerals, militia musters, jurymen, going to and from court, the troops and armies of the United States and of this state, and all persons conveying the public mails of the United States may pass on any such turnpike road free from toll.

**Sec. 12.** *Be it further enacted,* That if any person or persons using any such turnpike road, shall with intent to defraud any such turnpike company, or to evade the payment of toll, pass through any private gate or bars or along any other ground near any turnpike gate which shall be erected in pursuance of this act or any special act incorporating any such turnpike company, or shall practice any fraudulent means with intent to evade or lessen the payment of such toll, or if any person shall take off another person with intent to defraud any such turnpike company, each and every person concerned in any such fraudulent practices shall for every such offence, forfeit and pay to the president, directors and company owning such turnpike road, the sum of five dollars, to be recovered with costs of suit, before any justice of the peace of the county in which such offence may have been committed, without stay of execution: *Provided,* Nothing in this act shall be so construed as to prevent persons using any such road between the gates, for common purposes.

**Sec. 13.** *Be it further enacted,* That if any turnpike company shall fail to keep their road in good repair for five days in succession, and complaint thereof be made to a justice of the peace in the county in which such road is out of repair, such justice shall issue a precept, directed to any constable of his township, commanding him to summon three judicious disinter-

ested freeholders to meet at a certain time within two days, at the place on said road which is complained of, of which meeting the constable shall give notice to the keeper of the turnpike gate nearest thereto, and the said freeholders shall at such time and place, having taken an oath or affirmation to act impartially, proceed to examine such road, and if the same be found out of repair, shall make return of their opinion thereon to said justice in writing, under their hands and seals, and the said justice shall certify and send one copy of said report to the keepers of the two turnpike gates between which such defective place or places may be, and nearest to the same, and from thenceforth no toll for the intermediate distance between the two gates nearest such defective road, and between which such defective road may lie, shall be demanded or received at said gates, until the said defective part or parts of said road shall be put in good order and repair, and if any of the keepers of the gates shall attempt to exact tolls for the intermediate distance between the gates aforesaid, from any traveller, during the time such road shall continue out of repair, such keepers shall forfeit and pay to the person from whom such toll is demanded or received, the sum of five dollars, to be recovered before any justice of the peace having jurisdiction in an action of debt, and the company shall moreover be liable to any person for any damage which such person may sustain, in consequence of any such turnpike road being suffered to remain out of repair through the neglect of said company.

**Sec. 14.** *Be it further enacted,* That all turnpike companies hereafter to be incorporated as contemplated by this act, shall put up a post or stone at the end of each mile, with the number of miles from some noted point or place at one end of the turnpike, fairly cut or painted thereon, and also in a conspicuous place near each gate, shall be placed a board with the rates of toll painted thereon, and no toll shall be demanded unless

such rates are kept up, and directions to keep to the right as the law directs.

**Sec. 15.** *Be it further enacted,* That any person wilfully defacing or destroying any guide board, mile post or stone or painted list of rates of toll, shall on conviction thereof before a justice of the peace be fined not exceeding twenty dollars with costs of prosecution, to be recovered at the suit of any person for the use of the company.

**Sec. 16.** *Be it further enacted,* That all persons driving carriages or riding on horse back on any turnpike road, shall on meeting carriages or persons on horse back, keep to the right so as to leave at least half of the road free, and if any person shall neglect or refuse to comply with the provisions of this section, or shall in any other manner hinder or obstruct any person in the free passage of any such turnpike road, he shall on conviction thereof before any justice of the peace having jurisdiction thereof, for every such offence, forfeit and pay not less than one dollar nor more than twenty dollars, at the discretion of said justice, at the suit and for the use of the person aggrieved, and shall moreover be liable to the person aggrieved for any damage which such person may have sustained.

**Sec. 17.** *Be it further enacted,* That if any toll gatherer on any turnpike road shall unreasonably detain any passenger, after the toll has been paid or offered to be paid, or shall demand or receive greater toll than shall be allowed by law on such road, he shall for every such offence forfeit and pay a sum not exceeding twenty dollars, to be recovered with costs of suit, before any justice of the peace having competent jurisdiction thereof, without stay of execution: *Provided,* No suit shall be commenced against any toll gatherer for any offence committed or penalty incurred under this section, unless the same shall be commenced within twenty days from the time of committing or incurring the same, and the defendant or defendants in any such suit or

action, may plead the general issue and give this act and special matter in evidence.

**Sec. 18.** *Be it further enacted,* That every turnpike company hereafter to be incorporated, as contemplated by this act, shall cause to be kept a fair and accurate account of the whole expense of making any such turnpike road, with the expense of toll gatherers, and all other necessary agents or officers, whom the company may find it convenient to employ, and also a fair and accurate account of the amount of toll received, and of shares forfeited or penalties recovered for the use of said company, and the state or the county or counties through which any such turnpike road may pass, shall have a right to purchase the same, on paying the company owning said road a sum of money, which, together with the toll received, shall equal the cost and expense of such roads, with an interest of twelve per cent. per annum, and the books of every such company shall always be open for the inspection of the commissioners, of any county through which such road may pass, or of the agent of the general assembly of the state, and if any turnpike company shall neglect or refuse to exhibit their accounts, agreeably to the provisions of this section, when thereunto required by such commissioners or the agent of the general assembly of all the rights granted by this act or the special act incorporating such company shall cease and determine.

**Sec. 19.** *Be it further enacted,* That the method of commencing suit against any turnpike company shall be by the proper officer or person, leaving an attested copy of the process or bill with the president of said company, if he may be found within the jurisdiction of the court or magistrate before whom any such suit or action, may be commenced and if the president cannot be found within the jurisdiction of such court or magistrate, a copy of such process or bill may be left with either of the directors of said company.

**Sec. 20.** *Be it further enacted,* That justices and constables shall be allowed the same fees for any duties performed by them under the provisions of this act as they are allowed by law for similar services, and the freeholders who may be appointed to perform any duties under the seventh, eighth, tenth and thirteenth sections of this act, shall each be allowed one dollar and fifty cents, for each and every day they may be employed in performing said duties.

**Sec. 21.** *And be it further enacted,* That if any turnpike company shall at any time use their funds or any part thereof in any banking transaction or business, or shall issue or put in circulation any bonds, bills or notes calculated or intended to circulate as money or bank paper, or to pass as a circulating medium or medium of exchange, or shall appropriate or use their funds for any other purpose or in any other business, than that of making and keeping in repair the road for the making of which such company shall be incorporated, then and in either case such charter shall be forfeited and all rights granted to any such company by any special act incorporating the same, or by this act shall cease and determine.

**THOMAS KIRKER,**

*Speaker of the House of Representatives.*

**ABRAHAM SHEPHERD,**

*Speaker of the Senate?*

January 7, 1811.

## CHAPTER LXXI.

**AN ACT** to provide for the incorporation of schools and library companies.

Six or more persons may  
associate together, may  
obtain letters of incor-  
poration,

Conditions thereof,  
10,000 dollars worth of  
property may be held or  
owned,

N n

Articles of association to be submitted to the inspection of judges of courts, - - -	2	§	ty of the incorporation,	4
Who shall endorse the same, - - -	ib	§	Existing incorporations may be incorporated under this act, - -	5
Articles to be recorded, - - -	3	§	Banking prohibited,	6
Privileges, powers and duties of the incorporation,		§	Proceedings thereon,	ib
		§	Future legislature may alter incorporations,	7

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That at any time when six or more persons shall have associated themselves together for the purpose of establishing a school and building a school house, or for the purpose of establishing a library, and shall have given themselves a name, it shall and may be lawful for such association to obtain letters of incorporation, in the following manner: such persons shall make out and subscribe their articles of association, in which shall be set forth the name of the association, the time and manner of electing their officers, to consist of a president and four trustees, and such officer to serve as a treasurer, clerk or librarian, as may be proper and necessary; the time for the stated meetings of the president and trustees, and the method of convening a special meeting, such articles shall make provision for the acquisition and disposition of property real and personal, by the association, and shall prescribe the manner of enacting bye laws, for the good government of the school or library, and for the proper management and preservation of the estate and funds of the association, the property to be owned by such association, except philosophical and mathematical apparatus, books, maps and charts, shall at no one time exceed the value of ten thousand dollars, no part of which shall any time be applied to any other purpose than the establishment and support of a school or a library, as the case may be.

**Sec. 2.** *Be it further enacted,* That the articles thus made out and subscribed shall be submitted to the inspection of the president of the court of common pleas

of the circuit in which such association is about to be established, and if such articles are found to be conformable to the provisions of this act, the president of the court of common pleas shall endorse on said articles, that he approves the same; the said articles shall then be submitted to the inspection of two judges of the supreme court, who if they find them conformable to the provisions of this act, shall in like manner endorse thereon that they approve the same; and the articles thus endorsed shall be deposited in the recorder's office of the county, wherein such association is established.

Sec. 3. *Be it further enacted*, That the recorder shall record all articles deposited with him, which shall be endorsed by the president of the court of common pleas and two judges of the supreme court, in the manner herein before directed, and shall certify upon said articles that they have been duly recorded, distinctly stating the day upon which such record was made; for which the association shall pay him the same fees as may be allowed him by law for recording deeds.

Sec. 4. *Be it further enacted*, That from and after the day of recording such articles, the association therein named shall be to all intents and purposes a body corporate and politic, with perpetual succession, and as such shall be known in law by the name in said articles set forth, and by such name may sue and be sued, plead and be impleaded, answer and be answered unto in any court in this state, and may have one common seal, and break the same at pleasure; and moreover shall have power to make and enact bye-laws respecting all matters specified in their articles of association, and to prescribe reasonable penalties for the enforcing of the same: *Provided*, Such bye-laws shall in no case contravene the constitution or laws of the United States or this state.

**Sec. 5.** *Be it further enacted,* That all existing associations for the establishment of schools and library companies, may obtain letters of incorporation under this act.

**Sec. 6.** *Be it further enacted,* That if any association incorporated under the provisions of this act, shall at any time use or attempt to use any of their funds for any kind of banking purpose, or shall in any way transcend their charter, by the exercise of powers not warranted by this act, such association shall forfeit its charter of incorporation; and for the purpose of vacating such charter, the association may be proceeded against by the prosecuting attorney of the proper county, by writ of quo warranto before the court of common pleas of the supreme court; and upon such proceeding, either of the said courts shall have power to vacate the charter of any association that shall be found to have violated the same.

**Sec. 7.** *And be it further enacted,* That nothing in this act contained, shall be understood or construed to preclude any future legislature from making any regulations or provisions respecting such incorporations as may be deemed necessary or proper.

**THOMAS KIRKER,**  
*Speaker of the house of representatives,*  
**ABRAHAM SHEPHERD,**  
*Speaker of the Senate,*

January 24, 1817.

## CHAPTER LXXII.

**AN ACT** *regulating the mode of taking the enumeration of the white male inhabitants above the age of twenty one years.*

Duty of township listers		{	Duty of the cl'ks of courts,	2
in 1819, -	1		{	Duty of Governor, -
Duty of listers in general,	2	{	Duty of the township trus-	

tees, - - -	ib	{	lect of their duty,	6
Duty of township trustees		{	How collected,	ib
in townships where no		{	Compensation to listers,	7
chattel tax is required,	5	{	Repealing clause,	8
Penalty on officers for neg-		{		

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That the lister of taxable property in each of the several townships within this state, shall in the year one thousand eight hundred and nineteen, and every fourth year thereafter, take the enumeration of all white male inhabitants above twenty one years of age, whose usual place of residence shall be in any family within his township, or who may be found therein, without any settled place of residence in any other township, but are inhabitants of the state at the time of taking such enumeration.

**Sec. 2.** *Be it further enacted,* That the lister shall take the enumeration of the white male inhabitants every fourth year, agreeably to the provisions of the first section, at the same time he is or may be required by law to take the list of taxable property; and shall make out a list of the names, of said white male inhabitants, in alphabetical order, and return the same to the clerk of the court of common pleas, at the same time he is or may be required by law to make return to the county commissioners, of the list of taxable property.

**Sec. 3.** *Be it further enacted,* That each of the clerks of the courts of common pleas in the several counties, shall file in his office, and carefully preserve the several lists returned as aforesaid, and shall make out a statement of the aggregate amount of the white male inhabitants, above the age of twenty-one years within his county, agreeably to the returns made to him as aforesaid, under his hand and the seal of the court, and transmit the same to the speaker of the senate, within ten days after the commencement of the next session of the general assembly.

**Sec. 4.** *Be it further enacted,* That it shall be the duty of the governor, on or before the first Monday in

January in each year, when the enumeration of the white male inhabitants is required to be taken by the first section of this act, to issue his writ or proclamation to the clerks of the courts of common pleas, of the several counties within this state, directing them on or before the first Monday of February next succeeding, at the time they shall make out the apportionment of jurors, to be sent to the trustees of the different townships within their respective counties, to give notice to said trustees that an enumeration of the white male inhabitants above the age of twenty one years, is that year to be taken, and the trustees of the several townships shall give notice of the same, at the time notice is given of township elections, and the trustees shall give special instructions to the listers of their several townships, to take said enumeration agreeably to the provisions of this act.

*Sec. 5. Be it further enacted,* That the trustees of the several townships in any county, where the county commissioners do not levy a tax on personal property, for the year in which an enumeration is by this act required to be taken, on being notified as aforesaid, shall at the time of advertising township elections, give notice to the electors of their township to choose a lister, who shall perform the duties required of listers by this act, and if from any other cause no lister, should be elected in a township, or if the lister should die or remove out of the township, or be unable to perform the duties required of him by this act, the township trustees shall appoint a lister, who shall perform all the duties required of a lister by this act.

*Sec. 6. Be it further enacted,* That if any clerk of any court of common pleas shall neglect or refuse to perform all or any of the duties required of him by this act, he shall forfeit and pay for every such offence, a sum not exceeding three hundred dollars; and if any lister shall fail to take an enumeration as herein directed, or shall fail to make out and return a list at the time

required by this act, or shall through neglect or design, make out or return a false list of the enumeration for his township, he shall forfeit and pay the sum of thirty dollars; all of which fines or penalties imposed by this section shall be recovered by indictment for the use of the county.

**Sec. 7.** *Be it further enacted,* That the county commissioners shall allow the listers such compensation for the duties performed by them under the provisions of this act, as they shall deem reasonable, to be paid out of the county treasury, on the order of the commissioners.

**Sec. 8.** *And be it further enacted,* That the act, entitled "An act regulating the mode of taking the enumeration of the white male inhabitants, above twenty-one years of age," passed April the sixteenth, eighteen hundred and three, be, and the same is hereby repealed.

**THOMAS KIRKER,**

*Speaker of the house of representatives*

**ABRAHAM SHEPHERD,**

*Speaker of the Senate.*

January 28, 1817.

## CHAPTER LXXIII.

### *AN ACT regulating marriages.*

Who may be joined in marriage, - - -	1	{	Certificate to be sent to clerk, - - -	5	
Who may solemnise marriage, - - -	2		{	Persons offending against this act to be fined,	6
Notice to be given or license to be obtained, - - -	3			Fines how recovered,	7
Duty of clerk, - - -	4			Repealing clause, -	8

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That male persons of the age of eighteen years, female persons of the age of fourteen years, and not nearer of kin than first cousins, not having a husband or wife living, may be joined in marriage: *Pro-*

*ded always*, That male persons under the age of twenty-one years, female persons under the age of eighteen years, shall first obtain the consent of their fathers respectively, or (in case of the death or incapacity of their fathers) of their mothers or guardians.

Sec. 2. *Be it further enacted*, That it shall be lawful for any justice of the peace in his respective county, to solemnise marriages, and ordained ministers of any religious society or congregation, (such minister producing to the court of common pleas of the county in which he resides, credentials of his being a regular minister of such society) whereupon the court is hereby required to grant such minister a license, whereby he shall be authorised to solemnise marriages, so long as he shall continue a regular minister in such society or congregation, between any persons legally applying to him, within this state; and the society of people called Quakers and Menonists, in their public meetings, or agreeable to the rules and regulations of their church, are authorised to join together, as husband and wife, all persons, not prohibited by this law, who may apply to them in manner herein after provided.

Sec. 3. *Be it further enacted*, That previous to persons being joined in marriage, notice thereof shall be given, either in writing affixed at some public place within the township where the female resides, fifteen days before the day of marriage, under the hand and seal of a justice of the peace, or publicly declared on two different days of public worship, the first publication to be at least ten days previous to such marriage, within the county where the female resides, or license obtained for that purpose, from the clerk of the court of common pleas in the county where such female may reside.

Sec. 4. *Be it further enacted*, That the clerk of the court of common pleas as aforesaid, may enquire of the party applying for marriage license as aforesaid (upon oath or affirmation as the case may be) relative to the legality of such contemplated marriage, and if the clerk

shall be satisfied that there is no legal impediment thereto, then he shall grant such marriage license ; and if any of the persons intending to marry shall be under age, and shall not have had a former wife or husband, the consent of the parents or guardians (as the case may be) shall be personally given before the clerk, or certified under the hand and seal of such parent or guardian, attested by two witnesses, one of which shall appear before said clerk and make oath or affirmation (as the case may be) that he saw the parent or guardian whose name is annexed to such certificate, subscribe and acknowledge the same, and the clerk is hereby authorised to administer such oath or affirmation, and thereupon issue and sign such license, and affix thereto the seal of the county ; the clerk shall be entitled to receive as his fee for administering the oath and granting license with the seal affixed thereto, recording the certificate of marriage and filling the necessary papers, the sum of seventy five cents ; and if any clerk shall, in any other manner, issue or sign any marriage license, he shall forfeit and pay a sum not exceeding one thousand dollars, to and for the use of the party aggrieved.

*Sec. 5. Be it further enacted,* That a certificate of every marriage hereafter solemnised, signed by the minister or justice solemnising the same, shall be transmitted to the clerk of the county wherein the marriage was solemnised, within three months thereafter, and recorded by such clerk ; every justice, minister or clerk, (as the case may be) failing to transmit such certificate to the clerk of the county in due time, shall forfeit and pay fifty dollars, and if the clerk shall neglect to make such record, he shall forfeit and pay fifty dollars, to and for the use of the county.

*Sec. 6. Be it further enacted,* That if any justice or minister, by this law authorised to join persons in marriage, shall solemnise the same contrary to the true intent and meaning of this act, the person so offending

shall, upon conviction thereof, forfeit and pay any sum not exceeding one thousand dollars, to and for the use of the county wherein such offence was committed; and if any person not legally authorised, shall attempt to solemnise the marriage contract, such person shall, upon conviction thereof, forfeit and pay five hundred dollars, to and for the use of the county wherein such offence was committed.

Sec. 7. *Be it further enacted*, That any fine or forfeiture arising in consequence of the breach of this law, shall be recovered by an action of debt, with costs of suit, in any court of record, or any court having cognisance of the same.

Sec. 8. *And be it further enacted*, That the law regulating marriages, passed the fourth of April, eighteen hundred and three, be, and the same is hereby repealed.

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

EDWARD TIFFIN,  
*Speaker of the House of Representatives.*  
DUNCAN M'ARTHUR,  
*Speaker of the Senate,*

February 16, 1810.

## CHAPTER LXXIV.

***AN ACT*** pointing out the manner in which suits may be prosecuted on the bonds of executors, administrators and officers.

Suits may be sustained on the certified copy of a bond,	}	Proceedings thereon, Scire facias may issue.	2
- - - 1	}		

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That it shall be competent for any per-

son injured by the misconduct of an executor, administrator or officer within this state, to obtain from the person holding the bond executed by such executor, administrator or officer, a certified copy thereof, on which copy the person so injured, may institute and carry on, in the name of the obligee of such bond, for the use of the person so suing, an action of debt against such executor, administrator or officer and his securities, in any court having proper jurisdiction, and recover judgment for the amount of the bond, on which judgment, an execution may issue, for such sum as it may be ascertained will be sufficient to indemnify the person so suing: *Provided*, That in no case shall the obligee of the bond be responsible for costs; but in case judgment should be rendered in favor of the defendant, cost shall be taxed and recovered against the person for whose use the suit was commenced.

Sec. 2. *And be it further enacted*, That it shall be lawful for any other person injured as aforesaid, to proceed by scire facias, in such judgment, until the amount thereof be exhausted: *Provided*, That the plaintiff shall always set forth the breach or breaches on which he may intend relying, to support his suit: *And provided also*, That nothing in this act shall be so construed, as to prohibit such executor, administrator or officer and his securities, from pleading any matter which may be pertinent to their defence.

**MATTHIAS CORWIN,**

*Speaker of the House of Representatives.*

**PETER HITCHCOCK,**

*Speaker of the Senate.*

**February 23, 1816.**

## CHAPTER LXXV.

***AN ACT*** declaring offices vacant in certain cases, and to provide for filling the same.

Commissions of judges to	-	§	sidered vacant,	-	2
be forwarded by the sec-		§	Judge removing out of a		
retary of state to the clk		§	district his place to be		
of the proper county,	4	§	vacant,	-	3
Clerk's duty,	-	ib	Sheriff, &c. refusing to be		
Each judge to take oath,	ib	§	qualified their place to		
In what case an office con-		§	be vacant,	-	4

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That every commission that may be hereafter issued, by the governor, to any judge of the supreme court, president or associate judge of either of the courts of common pleas, shall be transmitted by the secretary of state, to the clerk of the court of common pleas of the county wherein such judge may reside; and it is hereby made the duty of such clerk to receive, and forthwith to transmit the same to the person entitled thereto; whereupon, such person having received such commission, shall take the oath or affirmation required by the constitution and laws of this state, and transmit a certificate thereof to the same clerk, signed by the officer administering such oath or affirmation, within twenty days after he shall have received such commission; and the county commissioners of the county to which such commission may be forwarded, shall make an allowance to the said clerk, for postage and other expenses necessarily incurred in complying with the requisitions of this section, to be paid out of the county treasury. in case the person entitled to receive said commission should refuse to accept the same and pay said expense.

**Sec 2.** *Be it further enacted,* That in all cases where such certificate may not be transmitted to the clerk. within the said twenty days, as is herein above provided, the person entitled to receive such commis-

sion shall be deemed to have refused to accept the office mentioned in such commission, and said office shall be considered vacant; whereupon, said clerk shall, forthwith thereafter, certify the said matter to the governor, who shall proceed according to law to fill the said vacancy.

*Sec. 3. Be it further enacted,* That in case any judge of the supreme court should remove his residence out of this state, or any president of the court of common pleas out of his circuit, or any associate judge out of his county, he shall be considered as having resigned and vacated his office; whereupon, such vacancy shall be filled according to law.

*Sec. 4. And be it further enacted,* That every sheriff, coroner, justice of the peace, or other officer, of whom bond or security may be by law required, previous to the performance of the duty required of him, who shall neglect or refuse to execute such bond or find such security agreeably to, and within the time prescribed by law, and in all respects to qualify himself for the performance of his official duties, such sheriff, coroner, justice of the peace or other officer shall be deemed to have refused to accept his office, and the same shall be considered vacant; whereupon, such vacancy shall be filled as other vacancies are by law to be filled.

This act to take effect and be in force from and after the first day of June next.

JOHN POLLOCK,

*Speaker of the house of representatives.*

THOMAS KIRKER,

*Speaker of the senate.*

January 25, 1813.

## CHAPTER LXXVI.

*AN ACT concerning divorce and alimony.*

Supreme court power of granting divorces,	1	{ aggression of the husband	
Proceedings in cases of divorce,	2	{ if no issue. wife restored to land,	4
Court on testimony may decree marriage dissolved,	3	{ If on aggression of wife,	<i>ib</i>
Divorce decreed on aggression of the husband		{ Barred of dower,	5
		{ Repealing clause,	6

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That the supreme court shall have the sole cognisance of granting divorces, where either of the parties had a former wife or husband living at the time of solemnising the second marriage, or where either of the parties shall be wilfully absent from the other five years, or in case of adultery, or of extreme cruelty in either of the parties.

**Sec. 2.** *And be it further enacted,* That in all cases where divorces shall be applied for, the complainant shall file his or her petition in the office of the clerk of the supreme court, three months before the sitting of the said court, and shall also serve the adverse party with a copy of said petition, within one month after filing the same in the office as aforesaid, unless the party is not resident in the state, in which case public notice shall be given in one of the newspapers of the state, for three months, which petition shall state the true cause of complaint; whereupon a summons shall issue, requiring the party complained of, to appear before the judges of the said court and answer the allegation of the said petition, which answer shall be received without oath; and if the party complained of shall not appear, or appearing, shall deny the fact or facts stated in the said petition, the court shall thereupon proceed to hear and determine the same; and it shall be the duty of the court to assign counsel to either party, where they are not of

sufficient ability to pay an adequate compensation, and such counsel or attorney shall not charge or receive any compensation for such service.

**Sec. 3.** *And be it further enacted,* That if, upon trial, it shall appear by disinterested testimony to the satisfaction of the court, that the party complained against had a husband or wife of a former marriage living, or was guilty of adultery, wilful absence, or extreme cruelty as aforesaid, then in any such case, the court shall proceed by sentence or decree in the same court, to pronounce the marriage between the parties dissolved, and both of them freed from the obligation of the same: *Provided,* That the confession of neither of the parties shall be received as testimony: *Provided always,* That the dissolution of such marriage shall in no wise affect the legitimacy of the children thereof; and the court shall take such order for the distribution, care and maintenance of the children of such marriage, if any there be, as shall appear just and reasonable, and the circumstances of the parties may require.

**Sec. 4.** *And be it further enacted,* That when a divorce shall be decreed in case of the aggression of the husband, the woman, if no issue of the marriage be living at the time of the divorce, shall be restored to all her lands and tenements, and be allowed out of the man's real and personal estate, such share as the court shall think reasonable, having regard to the personal property that came to him by marriage, and his ability at the time of the divorce; but if there be issue living at the time of the divorce, then in that case the court shall restore to the woman, such share of the personal property as circumstances may require; but if the divorce shall arise from the aggression of the wife, and there be no issue living of the marriage at the time of the divorce, the court may order to her restoration of the whole, or part of her lands, tenements and hereditaments, as to them shall appear to be just and right, and also such

share of the man's personal property as may appear reasonable, all circumstances considered.

Sec. 5. *And be it further enacted*, That when the cause of the divorce shall arise from the aggression of the wife, she shall be barred of her right of dower, whether there be issue or not.

Sec. 6. *And be it further enacted*, That the law respecting divorce, passed by the governor and judges, at Cincinnati, the fifteenth day of July, one thousand seven hundred and ninety-five, and all other laws and parts of laws on the subject of divorce and alimony, be and they are hereby repealed.

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

MICHAEL BALDWIN,  
*Speaker of the House of Representatives.*  
JOSEPH KERR,

*Speaker pro tem. of the senate.*

December 29, 1804.

## CHAPTER LXXVII.

***AN ACT*** securing certain persons from arrest, in certain cases.

Persons privileged from		{	arrest shall be made,	4
arrest,	1		Privileges not to extend to	
Fine for arresting,	ib	{	treason, felony, &c.	5
Persons privileged from			No privilege in case of a	
arrest,	2	{	summons,	6
Continued,	3		Repealing clause,	7
Time and places that no				

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That the members of the senate and house of representatives, and the clerks, sergeant at arms, door-keeper and messengers, of either branch of the general assembly, shall be privileged from arrest

during the sitting of the legislature, and also during the time necessarily employed in travelling to, and returning from the place of their meeting, allowing one day for every twenty miles of the distance, by the road most usually travelled; and all proceedings in suits pending, in which one of the persons above mentioned is a party, shall be stayed during the time aforesaid; and whoever shall arrest either of the persons above named, during the time they are entitled to privilege, as above provided, shall forfeit and pay, for every such offence, the sum of one hundred dollars, to be recovered with costs of suit, by action of debt, in the name and for the use of the person injured; and all persons legally qualified to vote for representatives to the general assembly, shall be privileged from arrest during the time of their attendance at the election, and while on the way going to and returning from such elections.

*Sec. 2. Be it further enacted,* That the judges, clerks of the supreme court, and presidents of the court of common pleas, shall be privileged from arrest, while attending at the said courts, and also during the time necessarily employed in going to, holding and returning from the said courts, which it is made their duty to attend.

*Sec. 3. Be it further enacted,* That the associate judges of the several courts of common pleas within this state, during the sitting of their respective courts, and all attorneys, counsellors at law, clerks, sheriffs, coroners, constables and criers, and all suitors, witnesses and jurors, while attending court, and while going to and returning from court, shall be privileged from arrest.

*Sec. 4. Be it further enacted,* That no person shall be arrested while doing militia duty, under the order of his commanding officer, or while going to or returning from the place of duty or parade; nor shall any

person be arrested in the senate chamber or house of representatives, during their sitting, or any court of justice, during the sitting of the court, or on the first day of the week, commonly called Sunday, or on the fourth day of the month of July, the anniversary of American Independence.

*Sec. 5. Be it further enacted,* That nothing herein contained shall be construed to extend to cases of treason, felony or breach of the peace: *Provided always,* That when a member, or any of the aforesaid members of the general assembly, shall be arrested during the sitting of the legislature, upon any charge of treason, felony or breach of the peace, it shall be the duty of the person issuing the process on which the arrest is made, forthwith to give written notice thereof to the house of which the person arrested shall be a member or officer.

*Sec. 6. Be it further enacted,* That nothing herein contained shall be construed to privilege any person herein named from being served, at any time with a summons or notice to appear; and all arrests, not contrary to the provisions herein contained, made in any place, or on any river or water course, within or bounding on the state, shall be deemed lawful; and if any person shall be arrested contrary to the provisions herein contained, such person may, and shall be discharged by a writ of habeas corpus, or in a summary way, by motion before the court from which the process shall have issued, at the costs of the party suing out such process.

*Sec. 7. And be it further enacted,* That an act, entitled "An act regulating privileges in certain cases," passed December the sixth, one thousand seven hundred and ninety-nine, be, and the same is hereby repealed.

This act shall commence and take effect from and after the first day of June next.

**MICHAEL BALDWIN,**  
*Speaker of the house of representatives.*

**DANIEL SYMMES,**  
*Speaker of the senate.*

February 14, 1805.

## CHAPTER LXXVIII.

**AN ACT** to prevent destroying publications.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio.* That if any person shall intentionally deface, obliterate, tear down or destroy in part or in whole, any copy or transcript of or extract from any law or act of the United States or of this state, or any proclamation, publication, advertisement or notification whatsoever, set up in any public place within this state, for the public information of any citizen, by the authority of any law or act of the United States or this state, such person shall, on conviction thereof, before any court having jurisdiction of the same, be fined in any sum not exceeding ten dollars, and may be committed to jail for a time not exceeding twenty-four hours, at the discretion of the court.

Sec. 2. *And be it further enacted,* That all laws and parts of laws, on the subject of tearing or defacing publications, set up by authority, heretofore in force in this state, are hereby repealed.

This act shall take effect and be in force from and after the first day of June next.

**MICHAEL BALDWIN**  
*Speaker of the house of representatives.*

**JOSEPH KERR.**  
*Speaker pro tem. of the senate.*

January 11, 1805.

## CHAPTER LXXIX.

*[AN ACT to prevent firing woods and prairies.]*

Sec. 1. *Be it enacted by the general assembly of the state of Ohio.* That if any person shall wilfully or negligently set on fire, or cause to be set on fire, any woods, prairies or other grounds within this state, the property of any other person, or shall intentionally permit the fire to pass from his own woods, prairies or grounds, to the injury of the property of any other person, the person so offending shall, on conviction thereof, for every such offence, be fined in a sum not exceeding fifty dollars, at the discretion of the court having cognisance of the same, to be recovered by indictment, to be paid into the treasury of the county where the offence was committed, for the use of the county, and stand committed until the sentence of the court is complied with, and moreover shall be liable to the action of the party injured, for damages.

Sec. 2. *And be it further enacted,* That the act, entitled "An act regulating the firing of woods prairies and other lands," passed December sixth, one thousand seven hundred and ninety nine, and all other laws and parts of laws heretofore passed on this subject are hereby repealed.

This act shall commence and be in force from and after the first day of June next.

JOHN SLOANE,

*Speaker pro tem. of the house of Representatives.*

DANIEL SYMMES,

*Speaker of the senate.*

February 11, 1805.

## CHAPTER LXXX.

*AN ACT to provide for the recording of town plats:*

Proprietors of towns to record plats, - - -	1	{	Penalty for causing plats to be recorded which do not set forth, -	8
Substance of plats to be acknowledged and certified, - - -	2		Disposition of forfeitures, -	4
			Repealing clause, -	5

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That whenever any town shall hereafter be laid out within this state, the proprietor or proprietors of such town, shall cause a true and accurate map or plat thereof to be recorded in the recorder's office of the county where the same lies, before any lot or lots therein be offered for sale; and if any person or persons shall sell, or offer for sale, any lot or lots within such town before the plat thereof be recorded as aforesaid, such person or persons shall forfeit and pay the sum of ten dollars for every lot so sold.

**Sec. 2.** *Be it further enacted,* That such maps or plats as are required by this act to be recorded, shall particularly set forth and describe all the public ground within such town, by its boundaries, courses and extent, and whether it be intended for streets, alleys, commons or other public uses, and all the lots intended for sale by progressive numbers, and their precise length and width; and the map so made and acknowledged, before a justice of the peace or associate judge of the court of common pleas of the proper county where the town lies, or before a judge of the supreme court, and certified under the hand and seal of the judge or justice taking such acknowledgment, and recorded, shall be deemed a sufficient conveyance to vest the fee of such parcels of land as are therein expressed, named or intended to be for public uses in the county in which such town lies, in trust to and for the

uses and purposes therein named, expressed or intended, and for no other use or purpose whatever.

**Sec. 3.** *Be it further enacted,* That if any proprietor or proprietors, their agent or attorney, shall cause any map of a town to be recorded as aforesaid, which does not set forth and describe in manner aforesaid, all and every parcel of ground which has been, or shall be promised or set apart by the original articles of sale, for public uses, and other lots, such person or persons shall forfeit and pay double the value of the ground so promised, and not set forth on the map, three fourth parts thereof to the use of the county wherein such town lies, for the express purpose of purchasing ground within, and for the use of such town, in lieu of that which was so promised, and the other fourth part to the use of the person prosecuting.

**Sec. 4.** *Be it further enacted,* That the several forfeitures arising under this act, may be recovered in an action of debt *qui tam*, before any court having cognizance of the same, and in any action to be brought for any penalty incurred under this act, where judgment shall be given for the plaintiff, the court shall also award to him his legal costs of suit; and if, in any case, the body of a proprietor cannot be found, the property of such proprietor shall be liable to be attached as for any other demand; and where any forfeitures are not by this act otherwise appropriated, three-fourth parts thereof shall be applied to and for the use of the county in which they accrue, and the other fourth part to the use of the person prosecuting for the same.

**Sec. 5.** *And be it further enacted,* That an act, entitled "An act to provide for the recording of town plats," passed the sixth of December, eighteen hundred, be, and the same is hereby repealed.

This act shall take effect and be in force from and after the first day of June next.

MICHAEL BALDWIN,  
*Speaker of the House of Representatives.*

DANIEL SYMMES,  
*Speaker of the senate.*

February 14, 1805.

## CHAPTER LXXXI

### *AN ACT defining seals to be affixed to instruments of writing.*

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That to all deeds, bonds, wills, powers of attorney for the conveyance of real estate, which shall hereafter be executed within this state, there shall be affixed a seal, either of wax, wafer or ink, otherwise called a scrawl; and all other instruments of writing which may hereafter be executed, to which by law a seal is, or may be made necessary, each of the before mentioned methods of sealing shall have equal effects in law: *Provided,* That nothing in this section shall be construed in any wise to affect any law requiring any specific seal to be affixed to any instrument of writing therein mentioned.

Sec. 2. *And be it further enacted,* That the act, entitled "An act defining seals affixed to certain instruments of writing," be, and the same is hereby repealed.

This act shall commence and be in force from and after the first day of June next.

JOHN SLOANE,  
*Speaker pro tem. of the house of representatives.*

DANIEL SYMMES,  
*Speaker of the senate.*

February 11, 1805.

## CHAPTER LXXXII.

*AN ACT for the relief of insolvent debtors.*

Persons insolvent may petition for relief, -	1	{ Trustees to give notice of the time and place of receiving claims, -	7
And exhibit a schedule of his property, -	2	{ Proviso, -	ib
Notice to be given by the court of the pendency of petition, -	3	{ Penalty for concealing property, -	8
On final hearing the applicant to make oath, -	ib	{ Privileged from imprisonment after assignment of property, -	9
Court to appoint trustees, -	4	{ Imprisoned how released, -	10
Who are to give bond and security, -	ib	{ Sheriff, &c. prosecuted may plead the general issue, -	11
Trustees their power and duty, -	5	{ Persons imprisoned in vacation how released, -	12
After collecting debts to make distribution, -	6	{ Repealing clause, -	13
Proviso, -	ib		

*Sec. 1. Be it enacted by the general assembly of the state of Ohio, That any person having resided within this state for the term of two years, who is insolvent and unable to pay his just debts; may, by petition in writing to the court of common pleas, in and for the county in, which said person resides, obtain relief in manner as hereafter prescribed.*

*Sec. 2. Be it further enacted, That before any insolvent person shall be entitled to the benefit of this act, such person on his application as aforesaid in a schedule for that purpose made, shall exhibit to the court an accurate statement of all debts by him owing, and of all debts and demands to him due or accruing, and of all property of every kind and description, by him owned, possessed or claimed.*

*Sec. 3. Be it further enacted, That the court to whom application as aforesaid shall be made, shall cause such notice of the pendency of such petition to be given in one or more of the public newspapers printed*

In this state, giving at least sixty days notice of the time and place of the court acting upon such petition, which notice shall be published at least three weeks successively; the court, on the final hearing of such petition, shall cause the applicant, on oath or affirmation, to attest to the truth of his petition preferred, and to the schedule exhibited, and that he will, without fraud or deceit, deliver up and convey to such person as the court may appoint, in trust and for the use of his creditors, all his estate both real and personal, and that never has, directly nor indirectly, in any way or manner, disposed of any of his property, with a view thereby to injure or defraud any of his creditors; and the court may cause such applicant, on oath or affirmation, to answer such questions as may be put to him, relating to his property.

**Sec. 4.** *Be it further enacted,* That on the final hearing and determination of the court, on the petition of any insolvent debtor, it is hereby made the duty of the court to appoint one or more trustees, for the purpose of accepting and receiving a conveyance or assignment from each insolvent petitioner, of all the lands, tenements, hereditaments, goods, chattels, rights, credits and effects (excepting such effects as are herein after excepted) as the said petitioner may possess; and before the trustees, appointed as aforesaid, proceed to act under the authority of their appointment, they shall give bond to the court, with sufficient sureties to the acceptance of the court, in double the amount of the property to them transferred by such insolvent petitioner, conditioned for the faithful performance of their trust.

**Sec. 5.** *Be it further enacted,* That the said trustee or trustees are hereby empowered to determine and adjust all controversies which arise in the settlement of such insolvent petitioner's affairs, either by suit at law or by arbitration, and such insolvent petitioners, in all cases, shall be entitled to a set off of all demands

against any and every creditor having claim against him; and the trustees may institute any suit or suits for the recovery of any and all debts, dues and demands, which may have been transferred or conveyed to them as aforesaid, in trust for the use of the creditors, and no suit instituted by such insolvent petitioner, and which is pending at the time of his assignment, shall abate thereby, but shall be continued in his name, and if recovery shall be had, the avails thereof shall be assets in the hands of the trustees, for the payment of the debts of the insolvent petitioners.

*Sec. 6. Be it further enacted,* That the trustees aforesaid, after having collected all the debts, dues and demands to them assigned, in trust as aforesaid, and after having converted all other property to them assigned, in trust aforesaid, into money, shall proceed without delay to make an equal dividend of the same, agreeable to the provision hereinafter specified, among the creditors who shall have exhibited their claims, in proportion to the amount of their just demands respectively: *Provided,* That the trustees may retain, for their services and expenses, such compensation as the court shall adjudge reasonable; also, that the court shall allow the insolvent petitioner to retain the necessary wearing apparel and bedding for himself and family.

*Sec. 7. Be it further enacted,* That the trustees, immediately after executing their bonds, as aforesaid, shall give notice by advertisements posted in three of the most public places in the county, of the time and place they will meet for the purpose of receiving and determining all claims against the petitioner; at which time and place the dividend aforesaid shall be made: *Provided always,* That six months notice, at least, shall be given of the time, place and purpose of said meeting, by the trustees, and if any creditor shall fail to exhibit his claim, at or within the time specified in said notice, he shall be entitled to no share in the dis-

tribution; and the said trustees shall make distribution of so much of such property as they may have been able to convert into money, every six months, and so on from time to time until the whole of such estate is distributed, except what is heretofore excepted: *And be it further provided*, That when any creditor conceives himself aggrieved by any decision or act of the trustees, he may at any time within five days after such decision of the said trustees, take an appeal therefrom to the next court of common pleas for the county, who are hereby empowered to make up a final decision upon the subject matter contained in such appeal.

Sec. 8. *Be it further enacted*, That if the insolvent petitioner shall have directly or indirectly sold, leased, concealed, kept back or otherwise disposed of any of his lands, tenements, rights, credits, monies or effects whatsoever, thereby to defraud any of his creditors, such petitioner, on proof of the same to the court, made at any time, within three years, on motion for that purpose by any injured creditor, shall be, on conviction thereof, deemed guilty of perjury, and punished accordingly.

Sec. 9. *Be it further enacted*, That after any person shall have assigned all his property as aforesaid; in trust for the use and benefit of his creditors, his person shall forever after be privileged from imprisonment for any debt due and owing by him, at the time of filing his petition as aforesaid.

Sec. 10. *Be it further enacted*, That should any insolvent petitioner be imprisoned, either on mesne process or capias ad satisfaciendum, at the time of filing his petition as aforesaid, it shall be the duty of the court to whom application is made, to discharge the applicant from his imprisonment, on his giving satisfactory bonds to the party at whose suit he is imprisoned, to the acceptance of the court, conditioned for

the faithful assignment of all his property, for the benefit of his creditors.

Sec. 11. *Be it further enacted*, That if any sheriff or other officer shall be prosecuted for the escape of any person liberated under this act, such sheriff or other officer may, under the plea of the general issue, give this act and the special matter in evidence.

Sec. 12. *Be it further enacted*, That when any person who is imprisoned for debt, either on mesne process or capias ad satisfaciendum, in vacation of the court of common pleas, shall be unable to support himself in prison, and having made oath to that effect, before any justice of the peace for the county, the plaintiff in either case, shall stand chargeable for his support; and in case the plaintiff shall refuse or be unable to support the debtor in prison, such debtor shall be immediately set at liberty.

Sec. 13. *And be it further enacted*, That the act, entitled "An act for the relief of poor persons imprisoned for debt," be, and the same is hereby repealed.

This act shall be in force from and after the first day of June next.

MICHAEL BALDWIN,  
*Speaker of the house of representatives,*  
DANIEL SYMMES,  
*Speaker of the Senate.*

February 2, 1805.

---

## CHAPTER LXXXIII.

### *AN ACT for ascertaining the boundaries of counties,*

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That whenever it shall appear to the commissioners of any county, that the boundary lines of the county are not sufficiently ascertained, it is hereby made the duty of the commissioners to issue their

order to the surveyor of the county, requiring him to ascertain and survey such line or lines.

**Sec. 2.** *Be it further enacted,* That it shall be the duty of the commissioners of any county, where the county line or lines are to be run, to give notice to the board of commissioners of the county or counties adjacent, declaring their intention of running the line or lines of said county; and said commissioners receiving such notice shall, if they think proper, order the county surveyor of such county, to proceed and run such lines with the surveyor or surveyors of the adjoining county or counties, at such time and in such manner as shall be fixed upon by the commissioners of said counties.

**Sec. 3.** *Be it further enacted,* That each county surveyor shall forthwith make out a return of such survey to the clerk of his respective county, whose duty it shall be to make record thereof.

**Sec. 4.** *And be it further enacted,* That the county surveyors shall receive for their services, done conformable to the directions of this act, such compensation as may be allowed by the commissioners of the county to which each surveyor respectively belongs, to be paid out of the county treasury, on the commissioners' order.

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

**MICHAEL BALDWIN,**

*Speaker of the house of representatives*

**JOSEPH KERR,**

*Speaker pro tem. of the Senate.*

**December 29, 1804.**

## CHAPTER LXXXIV.

***AN ACT defining a lawful fence, and providing against trespassing animals.***

A lawful fence described,	1	ify the same,	-	2
Owners injured by tres-		Duty of justice,	-	3
passing animals to apply		Proviso,	-	<i>ib</i>
to fence viewers,	<i>ib</i>	Compensation to fence		
If the fence is lawful to		viewers,	-	4
assess damages and cer-		Repealing clause,	-	5

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That if any horse, mare, mule or ass, or any cattle, hogs, sheep or goats, shall break into any grounds, being enclosed with a strong and sound worm fence, sufficiently staked and ridged, or locked at each joint, five feet six inches high, or with strong post and rails or posts and palings five feet high, or with a hedge two feet high, upon a ditch three feet deep and three feet wide, or instead of such hedge, a rail fence of two feet and a half high, or with a fence five feet six inches high, composed of strong sound timber, put up in any other proper manner not herein particularly expressed, and the owner or occupier of such enclosure shall consider him or herself aggrieved thereby, the person so injured may apply to the fence-viewers of the township, who shall forthwith repair to the place where such injury was done, and there diligently examine such fence, and for refusal or neglect so to repair and examine as aforesaid. the fence viewers shall respectively be liable to a fine of two dollars, to be recovered on suit of the party injured.

**Sec. 2.** *Be it further enacted,* That if, in the opinion of the fence-viewers. the fence over or through which the trespassing animal entered, is of such height and strength as is defined by the first section of this act, and in all other respects such a fence as good husbandmen generally keep, they shall proceed, from view and enquiry, to assess the damages sustained by such appli-

cant from such trespassing animal or animals, which assessment, including the sum due the fence-viewers for their services, by this act allowed, the said fence-viewers or a majority of them shall, under their hands and seals, certify and deliver to the person sustaining the damages, and if the owner or possessor of such trespassing animal or animals aforesaid, refuses to pay the said damages on demand, the person injured may deliver said certificate to any justice of the peace within the township, who shall issue process thereon, as in other cases of damages, and after trial had, shall enter up judgment and issue execution thereon, agreeable to law.

*Sec. 3. Be it further enacted,* That if it shall appear to such justice that damage hath been done to the plaintiff, he shall give judgment for the amount thereof (or double the amount, as the case may be) with costs of suit, and shall issue execution thereon, in the same manner and under like regulations as is by law directed in other cases tried before a justice of the peace; but if it shall appear that the plaintiff hath not sustained any damage, the justice shall give judgment against him, and award execution thereon for the costs of suit: *Provided, nevertheless,* That either party shall have the privilege of an appeal to the court of common pleas, as in other causes tried before a magistrate.

*Sec. 4. Be it further enacted,* That the sum of fifty cents per day, shall be allowed to each of the viewers of fences, for their services rendered under this act; and if any person directed to view and report the situation of any fence as aforesaid, shall fail or refuse to do the same, not having a reasonable excuse for such failure or refusal, such person shall be subject to a fine not exceeding two dollars, at the discretion of the magistrate, for the use of the township.

*Sec. 5. And be it further enacted,* That all laws and parts of laws, heretofore passed upon this subject, be, and they are hereby repealed.

This act shall commence and be in force from and after the first day of July next.

**MICHAEL BALDWIN,**  
*Speaker of the House of Representatives.*  
**DANIEL SYMMES,**  
*Speaker of the Senate.*

February 2, 1805.

## CHAPTER LXXXV.

### *AN ACT authorising and regulating arbitrations.*

Persons may submit controversies to arbitration,	1	Copies thereof to be delivered to the parties,	ib
Parties to enter in arbitration bonds,	2	Award how enforced,	ib
Bonds to specify time and place,	3	Corruption &c. to set aside award,	ib
Parties entitled to legal process to compel the attendance of witnesses	4	Proviso,	ib
The award to be in writing	5	Compensation to the umpire,	6
		Repealing clause,	7

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That all persons who have any controversy or controversies, except where the possession or title of real estate may come in question, may submit said controversy or controversies to the umpirage or arbitration of any person or persons, to be mutually agreed upon by the parties, and they may make such submission a rule of any court of record within this state,

Sec. 2. *Be it further enacted,* That when any persons have agreed to submit any matter or matters in controversy between them to umpirage or arbitration as aforesaid, and to make the same a rule of court, they shall enter into arbitration bonds, which bonds shall be conditioned for the faithful performance of the award or umpirage, and set forth the name or names of the

umpire or arbitrators, and the matter or matters submitted to his or their determination, and shall also expressly state their agreement, that the submission may be made a rule of any court of record within this state, or that it may be made a rule of such particular court as they may name or point out in their submission.

*Sec. 3. Be it further enacted,* That the said arbitration bonds shall specify some time and place, at which the umpire or arbitrators shall attend, to hear and determine upon the matter or matters in dispute, and may also give said umpire or arbitrators liberty to adjourn, from time to time, until the umpire is prepared to make up his umpirage, or the arbitrators are agreed upon their award: *Provided,* Some time certain be fixed in said bonds, at which said umpirage or award shall be made up.

*Sec. 4. Be it further enacted,* That the parties shall have the benefit of legal process to compel the attendance of witnesses, which process shall be issued by the clerk of the court of common pleas for any county, or by any justice of the peace for the township where the arbitration or umpirage is held, so far as his jurisdiction extends, and shall be returnable before the umpire or arbitrators on a day certain, and any person disobeying such process, shall be deemed guilty of contempt of the court from which such process is issued, and shall be subject to the same penalties and forfeitures, as are provided for disobeying writs of subpoena in other cases; and the costs of such witnesses shall be taxed by the umpire or arbitrators, according to the provisions contained in the law ascertaining the fees of witnesses, which costs, together with the sum hereinafter allowed to the umpire or arbitrators, shall be stated in the award or umpirage, and shall be made a part of the rule of court, and all witnesses examined by the umpire or arbitrators, shall be under oath or affirmation, which oath or affirmation any justice of

the peace of the proper county is hereby authorised to administer.

**Sec. 5.** *Be it further enacted,* That the award or determination of the umpire or arbitrators, shall be drawn up in writing, and shall be signed by such umpire, or by a majority of the arbitrators agreed upon in the submission, and a true copy of the said award or umpirage shall, without delay, be delivered by the umpire or arbitrators, to each of the parties, and if either of the parties shall refuse or neglect to obey the said award or umpirage, the other party may return the same, together with the submission or arbitration bond to the court named in the submission, or if no particular court be named in the submission, then to the court of common pleas or the supreme court, and the submission and award or umpirage so returned, shall be entered on record, and filed by the clerk, and a rule of court thereupon made, and after such rule is made, the party disobeying the same, shall be liable to be punished as for a contempt of court, either by sequestration or execution, as the nature of the case may require, which process shall not be stayed or impeded by order of any other court of law or equity, or by the court from whence it issued, until the parties shall, in all things, obey the award or umpirage, unless it shall be made to appear on oath or affirmation, that the umpire or arbitrators misbehaved, and that such award or umpirage was obtained by fraud, corruption or other undue means, and no testimony shall be received to impeach or invalidate the said award or umpirage, after the next term to which the submission was made a rule of court: *Provided,* That before any submission be made a rule of court, the party moving for such rule, shall produce to the court satisfactory proof of the due execution of the submission or arbitration bond, and also that the party refusing or neglecting to obey the award or umpirage, hath been furnished with a true copy thereof, at least ten days before the award or

umpirage is returned to the clerk of any court in this state, to be entered on record, and filed in his office.

Sec. 6. *Be it further enacted*, That the umpire or arbitrators shall be entitled to receive each, the sum of one dollar, for each and every day they shall be employed in performing the duties of their appointment.

Sec. 7. *And be it further enacted*, That a law, entitled 'An act authorising and regulating arbitrations,' passed November the fifteenth, one thousand seven hundred and ninety nine, be, and the same is hereby repealed.

This act to take effect and be in force from and after the first day of June next.

MICHAEL BALDWIN,  
*Speaker of the House of Representatives.*

DANIEL SYMMES,  
*Speaker of the senate.*

February 14, 1805.

## CHAPTER LXXXVI.

*AN ACT* providing that the repealing of an act shall not revive a former act.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That whenever a law shall be repealed, which repealed a former law, the former law shall not thereby be revived, unless specially provided for.

ALEXANDER CAMPBELL,  
*Speaker of the house of representatives.*

THOMAS KIRKER,  
*Speaker of the Senate.*

February 14, 1809.

## CHAPTER LXXXVII.

*AN ACT to restrict the entailment of real estate.*

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That from and after the taking effect of this act, no estate in fee simple, fee tail, or any lesser estate in lands or tenements, lying within this state, shall be given or granted by deed or will to any person or persons, but such as are in being, or to the immediate issue or descendants of such as are in being at the time of making such deed or will, and that all estates given in tail shall be and remain an absolute estate in fee simple to the issue of the first donee in tail.

This act to take effect and be in force from and after the first day of June next.

MATTHIAS CORWIN,

*Speaker of the House of Representatives.*

THOMAS KIRKER,

*Speaker of the Senate.*

December 17, 1811.

## CHAPTER LXXXVIII.

*AN ACT to prevent stoned horses from running at large.*

Stoned horses may be taken up, - -	1	} Further duty of taker up, Penalty for abusing es-	2
Duty of the taker up,	ib		trays, - - -

Sec 1. *Be it enacted by the general assembly of the state of Ohio,* That if any stoned horse of one and an half years old or upwards shall be found running at large, out of the enclosed ground of the owner or keeper of the said horse, it shall be lawful for any person to take up such horse, and forthwith give notice there-

of to the owner or keeper, and if the said owner or keeper shall not within five days after such notice secure such horse, and pay to the taker up, as a compensation for his trouble, the sum of two dollars, it shall be lawful for the said taker up to apply to a justice of the peace, and on making proof, to the satisfaction of the said justice of the peace that the said horse is of the age of one and half years or upwards, and that he was found running at large, out of the enclosed ground of the owner or keeper, and that the owner or keeper of such horse hath received the notice herein above required, and that he hath neglected or refused to pay the aforesaid sum of two dollars to the taker up, and to take away and secure the said horse it shall be the duty of said magistrate to issue his warrant to a constable of the township, commanding him to sell the said horse at public vendue, to the highest bidder, having first given at least fifteen days notice at three of the most public places within his township, by advertising the time and place of such sale; and it shall be the duty of the said constable to proceed to sell the said horse, for ready money, to satisfy the costs and reward aforesaid, and after deducting two dollars for his own fee, shall pay the remainder to the owner of such estray on demand.

*Sec. 2. Be it further enacted,* That if the owner or keeper of such estray is not known or cannot be found, it shall be the duty of the taker up to advertise the said horse in writing, at three of the most public places in the township, and on the door of the court house of the county in which such horse was taken up, and if no owner shall appear and claim such estray within twenty days, it shall be lawful for the taker up to geld or to procure to be gelded the said horse, which shall be done at the risk and expense of the owner; and if no owner shall appear to claim and prove his property within one year, the taker up shall deliver such estray to a constable of the township and take his

receipt therefor, and transmit the same to the township treasurer; and it shall be the duty of such constable after giving fifteen days notice in writing, to be fixed up at three of the most public places in his township, mentioning the time and place of sale, to proceed and sell such estray for ready money to the highest bidder, and after paying all the aforesaid rewards, fees and reasonable charges, and one dollar for his own trouble, shall pay the remainder to the township treasurer and take his receipt for the same; but if the owner should at any time thereafter, make satisfactory proof before a justice of the peace, that any estray so sold as aforesaid was his or her property, such justice shall give him or her an order on the township treasurer for the amount so paid, and the treasurer is hereby directed to pay the same.

**Sec. 3** *And be it further enacted,* That if any person taking up any estray as aforesaid, shall abuse the same, either by riding, working or negligent keeping, or shall dispose of any such estray contrary to the provisions of this act, shall be liable to the party injured, and upon conviction thereof shall pay the full amount of damages sustained and costs of suit.

This act shall commence and be in force from and after the first day of March next.

**JOHN SLOANE,**

*Speaker of the House of Representatives.*

**JAMES PRITCHARD,**

*Speaker of the senate.*

January 17, 1806.

---

## CHAPTER LXXXIX.

### *AN ACT concerning apprentices and servants.*

Clause to be inserted in indentures,	-	-	1	{ In case of misdemeanor how to proceed,	2
--------------------------------------	---	---	---	--	---

Manner of proceeding      { compound,      3  
 when parties cannot      }

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That in all indentures made by overseers of the poor, by and with the consent of a justice of the peace in any township in this state, or by any parents or guardians for binding or putting out any child as an apprentice or servant, shall among the covenants in such indenture, made and agreed upon between the parties, always have a clause to the following effect, that every master or mistress to whom such child shall be bound as aforesaid, shall at least cause such child to be taught and instructed to read and write; and the age of the person so bound, shall be inserted in the indenture, together with the time which they have to serve, as well as the money or property (if any) which they are to receive at the expiration of their servitude.

**Sec. 2** *Be it further enacted,* That if any master or mistress shall be guilty of any misuse, refusal of necessary provision or clothing, cruelty or other ill treatment, so that his or her said apprentice or servant shall have just cause to complain, or the said apprentice or servant be guilty of any misdemeanor or ill behavior, or do not perform his or her duty to his or her master or mistress, then the said master or mistress, apprentice or servant, having just cause of complaint, may repair to any justice of the peace in the township who shall upon the application by either of the parties, issue his warrant or summons for bringing the said master or mistress, apprentice or servant before him, and take such order or direction between the said master or mistress, apprentice or servant, as the equity and justice of the case shall require.

**Sec. 3.** *And be it further enacted,* That if the justice of the peace before whom the parties appear, cannot compound or agree the matter in dispute between them, he shall then issue a venire, directed to any com-

stable of the township, to summon five disinterested freeholders, to meet at some convenient place, not exceeding three days thereafter, (the time and place to be stated in the notice) and the justice giving such notice shall also attend, for the purpose of taking depositions; and the referees when met and qualified, shall hear all evidence which may come before them relating to the matter in dispute between the said master or mistress and their apprentice or servant, and determine such case by taking such order thereon as in their judgment will relieve the party injured, by removing the apprentice or servant, and binding him or her to some other master or mistress, if it shall seem necessary, or take such order thereon as may seem to them just and reasonable, and may also in the same manner hear and determine complaints of masters and mistresses against their apprentices and servants for desertion without good cause.

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

JOHN SLOANE,  
*Speaker of the house of representatives.*

JAMES PRITCHARD,  
*Speaker of the senate.*

January 27, 1866.

---

## CHAPTER XC.

### *AN ACT to prevent private lotteries.*

Penalty for setting on foot		}	Grand juries their duty	
private lotteries, -	1		under this act, -	2
For selling or bartering		}	President and senior as-	
tickets, &c. -	2		sociates their duty un-	
Penalty therefor, -	ib	}	der this act, -	ib

Sec. 1. *Be it enacted by the general assembly of the state of Ohio, That no person or persons shall, without*

a special act of the legislature, within this state, open, set on foot, carry on, promote, draw or make publicly or privately, any lottery, game or device of chance of any nature or kind whatsoever, or by whatever name, denomination or title it may be called, known or distinguished, or shall by such ways or means, expose or set to sale any houses, lands, tenements or real estate, or any goods, wares or merchandises, cash or other thing or things whatsoever; and that every person, who shall offend in the premises against the true intent and meaning of this act, and shall thereof be convicted in the court of common pleas in the county in which such offence was committed, shall be fined in a sum not exceeding five thousand dollars, to be paid into the treasury of the county in which such conviction shall take place.

*Sec. 2. Be it further enacted,* That if any person or persons shall vend, sell or barter, or offer to vend, sell or barter, any ticket or tickets of such lottery or device of chance, or be any ways concerned in such lottery, game or device of chance, either by printing or writing or publishing an account thereof, or where tickets may be had or obtained for the same, or be in any wise aiding in the same, every person shall, on conviction thereof, as above mentioned, in the event before mentioned, forfeit and pay, for every such offence, a sum not exceeding twenty dollars, and the costs of prosecution, to be levied and applied in like manner as is directed, with respect to other forfeitures herein before mentioned.

*Sec. 3. And be it further enacted,* That the grand juries in the several counties in this state shall, at the several terms of the courts of common pleas in their respective counties, make strict inquiry, and present every person who shall offend against the provisions of this act, by information or indictment; and it is further made the duty of the presidents of the courts of common pleas, and in case of their absence, the sen-

ior associate judges at each term, especially to give this law in charge to them.

This act shall take effect and be in force from and after the first day of May next.

ABRAHAM SHEPHERD,  
*Speaker of the house of representatives.*  
 THOMAS KIRKER,  
*Speaker of the senate.*

January 30, 1807.

## CHAPTER XCI.

### *AN ACT regulating enclosures.*

Fences to be kept up mutually,	1	{	agree fence viewers to determine,	3
Persons adjoining a fence to pay half expense,	2	{	Horses, &c. trespassing,	4
Where parties cannot a-		{	Damages how assessed,	15

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That whenever the fields, meadows, lots or other enclosures of any two or more persons are divided by a fence or palings of any kind, such fence or palings shall be erected and kept in repair at the joint and equal expense of the parties owning the enclosures on each side of such fence or palings: *Provided always,* That when either of the parties thinks proper to vacate such field, meadow, lot or other enclosure, that he shall be released from the before recited provisions of this act.

**Sec. 2.** *Be it further enacted,* That in all cases where a fence or palings has been, or hereafter may be erected by any person on the line of his, her or their land, or that on which he, she or they may have a lease, and the person owning or leasing the land adjoining thereto, shall make or cause to be made, an enclosure or enclosures on the opposite side of such

fence or palings, so as the same may answer the purpose of enclosing one side of his, her or their field, meadow, lot or other enclosure, such person or persons shall pay to the person erecting such fence, one half the value thereof, to be adjudged and assessed by the fence viewers of the township in which such fence is situate, and recovered by action of debt, before any court having competent jurisdiction thereof.

*Sec. 3. Be it further enacted,* That wherever the parties concerned, as in the first section of this act mentioned, cannot agree between themselves on the part or portion of such fence or palings by each party to be kept in repair, either party may apply to the fence viewers of the township in which such fence is situate, who shall proceed, on application as aforesaid, to view and assign to each party, his, her or their equal part of such fence or palings, by him, her or them to be kept in complete repair, which decision shall be final and conclusive between the parties; and the said fence viewers shall be entitled to demand and receive, for each day's service to be rendered as aforesaid, seventy five cents each, to be paid in an equal proportion by the persons interested.

*Sec. 4. And be it further enacted,* That if any horses, neat cattle or other beasts, shall injure or trespass on the ground or enclosure of any person in consequence of any partition fence erected as aforesaid, not being a sufficient and legal fence, the person failing or neglecting to keep his part of such partition fence in complete repair, shall forfeit and pay, to the person injured, all damages thus sustained, which shall be assessed by three judicious men, to be appointed by a justice of the township, and recovered by action of debt, before any court proper to try the same.

This act shall take effect and be in force from and after the first day of May next.

ABRAHAM SHEPHERD,  
*Speaker of the House of Representatives.*

THOMAS KIRKER,  
*Speaker of the senate.*

January 24, 1807.

## CHAPTER XCII.

***AN ACT requiring owners and occupiers of salt works and wells to enclose the same.***

Salt works to be enclosed,	1	} be enclosed,	-	2
Unoccupied salt wells to			} Penalty for failure,	

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That all owners or occupiers of any salt works or salt wells shall sufficiently enclose and keep enclosed all such parts of said works containing open wells, bitter water or unoccupied pits.

Sec. 2. *Be it further enacted,* That all owners of any unoccupied salt works or salt well or wells sunk for salt water, and remaining open, shall enclose the same with a good and lawful fence, and keep the same in good and constant repair.

Sec. 3. *And be it further enacted,* That if any owner or occupier of any salt works or salt wells as aforesaid shall neglect or refuse to comply with the provisions of this act, such owner or occupier, so offending, shall, on conviction thereof, before any court having jurisdiction of the same, be fined for every such neglect or refusal, in a sum not exceeding one hundred dollars, at the discretion of the court, for the use of the proper county, and shall moreover be liable to the action of any person or persons that may be injured by such neglect or refusal.

This act to take effect and be in force from and after the first day of April next.

**EDWARD TIFFIN,**  
*Speaker of the house of representatives.*

**THOMAS KIRKER,**  
*Speaker of the senate.*

January 30, 1811.

## CHAPTER XCIII.

*AN ACT providing for the relief and support of women who may be abandoned by their husbands and for other purposes.*

Preamble.		§	Proviso,	-	-	-	ib
Persons forsaking their families and wife may file her petition,	-	1	§	Grants, &c. made by the father to be void,	-	-	5
Clerk to issue summons,	2	§	Persons enticing others to forsake their families				
Proceedings thereon,	3	§	how punished,	-	-	-	6
Children how supported,	4	§					

Whereas, it is represented to the general assembly, that a sect of people in this state, called and known by the name of Shakers, inculcate and enjoin upon all who become attached to them, that they must lead a life of celibacy, in consequence of which women have been abandoned by their husbands, robbed of their children, and left destitute of the means of support :

Therefore,

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio.* That if any man being joined in the marriage relations, shall renounce the marriage covenant, or refuse to live with his wife in the conjugal relation, by joining himself to any sect, whose rules and doctrines require a renunciation of the marriage covenant, or forbid a man and woman to dwell and cohabit together in the conjugal relation, according to

the true intent and meaning of the institution of marriage, it shall and may be lawful for the wife in such case, to file her petition in the office of the clerk of the court of common pleas, or of the supreme court, at least two months before the time of the sitting of said court, and shall also serve the adverse party with a copy of said petition, within one month from the time of filing the same, which petition shall state the true cause of complaint; and in case he shall not reside in her county, she shall publish such notice in some newspaper published in said county, or in the next adjacent county in which a newspaper is published.

*Sec. 2. Be it further enacted,* That it shall be the duty of the clerk of such court, where the petition is filed, to issue a summons requiring the person complained of, to appear before the said court to answer the allegation of said petition; and if the party complained of shall not appear, or appearing shall deny the facts stated in the petition, the court shall proceed to hear and determine the same.

*Sec. 3. Be it further enacted,* That if it shall appear to the said court, that the woman complaining has been lawfully married to the man of whom complaint is made, and that he hath renounced or violated the marriage covenant, by joining such sect as above described, the court shall take such measures as to them shall seem right, to ascertain the amount of the property real and personal of such husband, and shall decree such part thereof to the woman as shall appear just and equitable.

*Sec. 4. Be it further enacted,* That if the said husband and wife shall have a child or children (yet being in a state of minority) the husband so violating the marriage covenant shall be considered as having renounced and divested himself of all the authority he could have otherwise exercised over his children, and the court shall decree such part (or the whole) of the remainder of his property, real and personal, as to them shall seem

right, to the use and support of the child or children aforesaid; and such child or children shall be and remain under the care and direction of the mother: *Provided*, That the court shall have power, if they shall deem it necessary, to appoint a guardian or guardians for such child or children, agreeably to the provisions of the thirty-fourth and thirty-fifth sections of the act, entitled "An act for the proving and recording wills and codicils, defining the duties of executors and administrators, the appointment of guardians, and the distribution of insolvent estates," passed February tenth, one thousand eight hundred and ten: *And provided also*, That if the court shall deem it necessary, they may direct such child or children to be bound to apprenticeship, agreeably to the sixth section of the act, entitled "An act for the relief of the poor," passed February nineteenth, one thousand eight hundred and ten.

**Sec. 5.** *Be it further enacted*, That all gifts, grants or devises of money or property, real or personal, which may be made by any man as aforesaid, violating the marriage covenant, to such sect as before described, or any members of such sect, which may tend to deprive his wife or children of that support to which they are entitled, according to the true intent and meaning of this act, shall be utterly void; and all money or property so given, granted or devised, may be recovered at the suit of the party injured.

**Sec. 6.** *And be it further enacted*, That if any person shall, with an intent of causing any married man or woman to renounce the marriage covenant, or abandon their wives, husbands or children, entice or persuade such person to join any sect or denomination of persons whatever, whose principles and practice inculcate a renunciation of the matrimonial contract, or the abandonment of wives and children, or either of them, contrary to the true intent and meaning of the marriage institution shall, on conviction thereof, be fined in any sum not exceeding five hundred dollars, at the discretion of the

court having by law jurisdiction ; and that all fines, incurred under this section, shall be paid into the treasury of the proper county for the use of the same : *Provided*, That nothing in this section contained shall be construed or understood to extend to any person for delivering any public sermon, exhortation or address.

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

EDWARD TIFFIN,  
*Speaker of the house of representatives.*  
 THOMAS KIRKER,  
*Speaker of the senate.*

January 11, 1811.

---

## CHAPTER XCIV.

### *AN ACT for regulating measures.*

Halfbushel to be provided,	-	-	-	1	} Offences against this act how punished,	3
Person appointed to keep it	-	-	-	2		

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That the county commissioners of each county in this state, are hereby required and directed to cause to be made for each county, one half bushel measure, which shall contain one thousand, seventy-five and two tenths solid inches, which shall be kept in the county seat, and shall be called the standard.

Sec. 2. *Be it further enacted*, That the commissioners of the respective counties shall appoint a person in each county seat to keep the standard measure, and shall procure a seal for the keepers of said standard measures, which keeper shall take an oath or affirmation for the faithful discharge of the trust reposed in him, and all persons desirous of trying their measures may resort to the aforesaid county standard for that pur-

pose; and the person appointed to keep the said standard shall, if he find them true and exactly to correspond, seal them with his seal, and the person so appointed shall be entitled to receive, for trying and sealing each half bushel as aforesaid, the sum of twenty-five cents.

Sec. 3. *Be it further enacted*, That three months after the appointment of a person to keep the said county standard shall have been made known as aforesaid, every person who shall knowingly sell any commodity whatever, by a measure that shall be less than the said county standard, or shall keep any measure larger for the purpose of buying, shall for every such offence forfeit and pay a sum not exceeding five dollars, for the use of the township, to be recovered by action of debt, before any justice of the peace for the township in which the offence shall be committed.

Sec. 4. *And be it farther enacted*, That the expense accruing under the provisions of this act, shall be paid out of the respective county treasuries, on the order of the commissioners.

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

EDWARD TIFFIN,  
*Speaker of the house of representatives.*  
THOMAS KIRKER,  
*Speaker of the senate.*

January 22, 1844.

---

---

## CHAPTER XXV.

**AN ACT** securing the benefits of the writ of Habeas Corpus.

Judges to issue habeas corpus,	1	} writ is directed, Discretionary power of judges,	2
Duty of officers to whom			3

T t

Persons refusing to obey said writ how punished,	4	}	Accessories how dealt with	8
Continued, - - -	5		Persons not to be sent out of this stat. for offences committed within it,	9
Persons set at large not to be imprisoned for the same offence, -	6		Proviso, - - -	ib
Persons in custody not to be removed to any other place, - - -	7		Penalties to be for benefit of party injured, -	10
			Proviso, - - -	ib

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That if any person, except persons convicted of some crime or offence, for which they stand committed, or persons committed for treason or felony, the punishment whereof is capital, plainly and specially expressed in the warrant of commitment, now is or shall be confined in any gaol of this state, or shall be unlawfully deprived of his or her liberty, and shall make application, either by him or herself, or any person on his or her behalf, to any one of the judges of the supreme court, or president or associate judges of the court of common pleas, and does at the same time produce to such judge a copy of the commitment, or cause of detention of such person, or if the person so imprisoned or detained is imprisoned or detained without any legal authority, upon making the same appear to such judge, by oath or affirmation, it shall be his duty forthwith to allow a writ of habeas corpus, which writ shall be issued forthwith by the clerk of the supreme court, or court of common pleas, as the case may require, under the seal of the court, whereof the person allowing such writ is a judge, directed to the proper officer, or person or persons who detain such prisoner.

**Sec. 2.** *Be it further enacted,* That it shall be the duty of the the officer or person to whom such writ shall be directed, to convey the person or persons, so imprisoned or detained, and named in such writ, before the judge allowing the same, or in case of his absence or disability before some other judge of the same

court, on the day specified in said writ, and shall make due return of said writ, together with the day and cause of the caption and detention of such person, according to the command thereof.

**Sec. 3.** *Be it further enacted,* That when the said judge shall have examined into the cause of caption and detention of the person so brought before him, and shall be satisfied that the person is unlawfully imprisoned or detained, he shall forthwith discharge such prisoner from said confinement; and in case the person or persons applying for said writ, shall be confined or detained in a legal manner, on a charge of having committed any crime or offence, the said judge shall, at his discretion, commit, discharge or let to bail, such person or persons; and if the said judge shall deem the offence bailable, on the principles of law, he shall cause the person charged as aforesaid, to enter into recognisance, with one or more sufficient securities, in such sum as the judge shall think reasonable, the circumstances of the prisoner and the nature of the offence charged considered, conditioned for his appearance at the next court, where the offence is properly cognisable; and said judge shall certify his proceedings, together with the recognisance, forthwith to the proper court, and if the person or persons charged as aforesaid, shall fail to enter into such recognisance, he or they shall be committed to prison by such judge.

**Sec. 4.** *Be it further enacted,* That if any person to whom such writ of habeas corpus shall be directed as aforesaid, shall neglect or refuse to obey, or make return of the same, according to the command thereof, or shall make a false return of said writ or upon demand made by the prisoner, or any person on his or her behalf, shall refuse to deliver to the person demanding, within six hours after the demand thereof, a true copy of the warrant or commitment and detainer of such prisoner, every person so offending shall, for the first offence, forfeit to the party aggrieved, the sum of

two hundred dollars ; and for the second offence, four hundred dollars, and shall, if an officer be incapable to hold his said office.

*Sec. 5. Be it further enacted,* That if any clerk of the supreme court, or court of common pleas, shall refuse to issue such writ, after allowance and demand made as aforesaid, he shall forfeit to the party aggrieved the sum of five hundred dollars.

*Sec. 6. Be it further enacted,* That any person who shall be set at large upon any habeas corpus, shall not be again imprisoned for the same offence, unless by the legal order or process of the court, wherein he or she shall be bound by recognisance to appear, or other court having jurisdiction of the cause or offence ; and if any person shall knowingly, contrary to this act, re commit or imprison, or cause to be re committed or imprisoned for the same offence, or pretended offence, any person so set at large, or shall knowingly, aid or assist therein, he shall forfeit to the party aggrieved five hundred dollars, any colorable pretence or variation in the warrant or commitment notwithstanding.

*Sec. 7. Be it further enacted,* That if any person of this state shall be committed to prison, or in custody of any officer, for any criminal matter, such prisoner shall not be removed therefrom into the custody of any other officer, unless by legal process, or where the prisoner shall be delivered to some inferior officer to carry to gaol, or shall by order of the proper court be removed from one place to another, within the state, for trial, or in case of fire, infection or other necessity ; and if any person after such commitment, shall make out, or sign or countersign any warrant for such removal, contrary to this act, he or she shall, for every such offence, forfeit to the party aggrieved five hundred dollars.

*Sec. 8. Be it further enacted,* That where any person shall appear to be committed by any judge or justice, and charged as accessory before the fact, to any

felony, the punishment whereof is capital, which felony shall be plainly and specially charged in the warrant of commitment, such person shall not be removed or bailed, by virtue of this act or in any other manner than if this act had not passed.

Sec. 9. *Be it further enacted*, That no citizen of this state, being an inhabitant or resident within the same, shall be sent prisoner to any place whatsoever, out of this state, for any crime or offence committed within this state, and every such imprisonment is hereby declared to be illegal; and if any such citizen shall be so imprisoned, he may, for every such imprisonment, maintain an action of false imprisonment, in any court having cognisance thereof, against the person or persons by whom he shall be so imprisoned or transported, contrary to the intention of this act, and against any person who shall contrive, write, seal, sign or countersign any writing for such imprisonment or transportation, or shall be aiding or assisting in the same or any of them; and shall recover treble costs, besides damages, which damages so to be given, shall not be less than five hundred dollars; and every person knowingly concerned in any manner as aforesaid, in such illegal imprisonment or transportation, contrary to this act, and being thereof lawfully convicted, shall be disabled from thenceforth to bear any office of trust or profit within this state: *Provided*, That if any citizen of this state, or person or persons, at any time resident in the same, shall have committed or be charged with having committed any treason, felony or misdemeanor in any other part of the United States or territories, where he or she ought to be tried for such offence, he, she or they may be sent to the state or territory having jurisdiction of the offence.

Sec. 10. *Be it further enacted*, That the penalties in this act made recoverable, shall be recovered by the party aggrieved, his or her executors or administrators, against the offender, his or her executors and ad-

ministrators, by action of debt, in any court having cognisance of the same: *Provided*, That no person shall be sued or molested for any offence against this act, unless within two years after the time when such offence shall have been committed; but if the party aggrieved shall then be in prison, then within two years after the decease of the person imprisoned, or his or her delivery out of prison; and in every such action it shall be lawful for the defendant to plead the general issue and give the special matter in evidence.

This act shall take effect and be in force from and after the first day of June next.

EDWARD TIFFIN,

*Speaker of the house of representatives*

THOMAS KIRKER,

*Speaker of the Senate.*

January 22, 1811.

## CHAPTER XCVI.

*AN ACT providing for the election of sheriffs and coroners, in certain cases.*

Vacancies how filled,	1	§	Clerks abolished to deliver over books, &c.	3
Day of election to be appointed by judges,	2			

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That when any sheriff or coroner shall die, or by any other means be incapacitated to serve as sheriff or coroner, it shall be the duty of the associate judges, or any two of them, of the county where such vacancy may happen, to appoint a day, without delay, on which the qualified electors of the said county shall meet in their respective townships and districts, and proceed to the election of a sheriff or coroner (as the case may be) in the same manner as is directed in case of the election of a sheriff or coroner at the general elec-

tion, agreeable to an act, entitled "An act regulating elections," passed the                      day of                      and the said sheriff or coroner so elected, shall perform the same duties and be liable to the same penalties as sheriff or coroners in other cases, and shall continue in office until the next general election, and until another sheriff or coroner (as the case may be) shall be elected and qualified agreeable to law.

*Sec. 2. Be it further enacted.* That when any new county is laid off or erected, it shall be the duty of the associate judges, or any two of them, within said county to appoint a day on which the qualified electors shall meet at the temporary seat of justice, giving at least ten days notice thereof in six of the most public places in said county of such election, and proceed to elect one sheriff and one coroner, in the same manner as is directed in the foregoing section of this act, except that the return of the votes given for the different candidates shall be made to the associate judges of said county, or any two of them, who shall give to the two persons who stand highest in votes for the different offices, a certificate of their respective elections, and in consequence of such certificate the governor is hereby authorised to grant commissions to the persons elected, accordingly; and the sheriff or coroner so elected shall perform the same duties, and be liable to the same penalties as in other cases, and shall continue in office until the next general election, and until another sheriff and coroner shall be elected and qualified, agreeably to law.

*Sec. 3. And be it further enacted,* That the clerks and prothonotaries of the several courts abolished by the act, entitled "An act organising the judicial courts," are hereby required to deliver over to the clerks of the supreme court or courts of common pleas in the respective counties, all the books, records, vouchers, documents and other official papers in their possession; and the said clerks of the supreme court and clerks of the courts of common pleas respectively are hereby authorised

and required to receive and preserve the same in their respective offices.

MICHAEL BALDWIN,  
*Speaker of the House of Representatives.*  
 NATHANIEL MASSIE,  
*Speaker of the Senate.*

April 15, 1803.

## CHAPTER XXVII.

### *AN ACT for the prevention of frauds and perjuries.*

Fraudulent deeds to be	1	{ to give right,	3
void,		{ Transfers, &c.	4
Also grants and convey-		{ Regulating actions,	5
ances,	2	{ May swear to accounts,	6
Possession for five years			

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That all deeds of gifts and conveyances of goods and chattels, made in trust to the use of the person or persons making the same, shall be, and hereby are declared to be void and of no effect.

Sec. 2. *Be it further enacted,* That every gift, grant or conveyance of lands, tenements, hereditaments, rents, goods or chattels, and every bond, judgment or execution, made or obtained with intent to defraud creditors of their just and lawful debts or damages, or to defraud or to deceive the person or persons who shall purchase such lands, tenements, hereditaments, rents, goods or chattels, shall be deemed utterly void and of no effect.

Sec. 3. *Be it further enacted,* That where any loan of goods and chattels shall be pretended to have been made to any person with whom (or those claiming under him) possession shall have remained for the space of five years, such goods and chattels shall be deemed

the property of the person having had such possession, unless a reservation of the right of such goods and chattels shall have been made to the lender, in writing, and such writing shall have been recorded within six months from the time of making such loan in the recorder's office for the county where one or both of the parties shall then have resided.

**Sec. 4.** *Be it further enacted,* That no leases, estates or interests, either of freehold or terms for years, or any uncertain interests of, in or out of lands, tenements or hereditaments, shall, at any time hereafter, be assigned or granted, unless it be by deed or note, in writing, signed by the party so assigning or granting the same, or their agents thereunto lawfully authorised, by writing, or by act and operation of law.

**Sec. 5.** *Be it further enacted,* That no action shall be brought whereby to charge the defendant upon any special promise, to answer for the debt, default or miscarriage of another person, or to charge any executor or administrator, upon any special promise, to answer damages out of his own estate, or to charge any person upon any agreement made upon consideration of marriage, or upon any contract or sale of lands, tenements or hereditaments, or any interest in, or concerning of them, or upon any agreement that is not to be performed within the space of one year from the making thereof, unless the agreement upon which such action shall be brought, or some memorandum or note thereof shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him or her lawfully authorised.

**Sec. 6.** *And be it further enacted,* That in all actions wherein any claim or defence is founded on book accounts, of not more than eight months standing, in which is drawn in question, the validity or amount of any such book accounts, the court or justice may examine the party or parties, under oath or affirmation, touching the validity of such account or accounts, which shall

be admitted as evidence on the trial, the credibility thereof being left to the jury or justice to determine.

This act to take effect and be in force from and after the first day of June next.

EDWARD TIFFIN,  
*Speaker of the house of representatives.*  
 DUNCAN M'ARTHUR,  
*Speaker of the Senate.*

February 19, 1810.

## CHAPTER XCVIII.

### *AN ACT to encourage the killing of wolves.*

Premium allowed,	-	1	{ To be presented to coun-	
Scalps to be produced				ty clerk,
within 30 days,	-	2	{ Duty of collector,	- 5
Duty of justice to grant			{ Repealing clause,	- 7
certificate,	-	3	{	

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That any person who shall kill or take any wolf or wolves, within this state, shall receive the following compensation, that is to say—for each wolf above six months old, the sum of four dollars, and for each wolf under the age of six months, the sum of two dollars.

**Sec. 2.** *Be it further enacted,* That any person claiming such reward shall produce the scalp or scalps with the ears entire, within thirty days after such wolf or wolves have been killed or taken, to some justice of the peace, who shall administer to such person the following oath or affirmation: "You, A B, do solemnly swear or affirm, (as the case may be) that the scalp or scalps now produced by you were killed or taken, within thirty days last past, and you verily believe the same to have been over or under the age of six months (as the case may be) and within this state; and

that you have not spared the life of any bitch wolf in your power to kill, with a design to increase the breed."

**Sec. 3.** *Be it further enacted,* That the justice before whom such oath or affirmation was made (after causing the ears to be destroyed in his presence) shall give to the person making the same a certificate, specifying therein the number of scalps, the name and place of residence of the person so qualified, and the sum that he may be entitled to by the provisions of this act, for destroying such wolf or wolves.

**Sec. 4.** *Be it further enacted,* That the person or his agent, procuring such certificate, shall, within sixty days, produce the same to the clerk of the court of common pleas of the proper county, who shall file the same in his office, and under the seal thereof grant to the person producing the same, an order on the treasurer of state, for the amount of the monies that may be due such persons by the provisions of this act; and the person receiving such order shall pay, to the clerk granting the same, the sum of twelve and a half cents for every such order; which order shall be received by any collector of the taxes on land, in discharge thereof.

**Sec. 5.** *Be it further enacted,* That it shall be the duty of the district collectors, who shall have received any order or orders as provided in the fourth section of this act, to forward or present the same to the auditor of state, who is hereby required to issue audited bills therefor, payable at the treasury of state.

**Sec. 6.** *Be it further enacted,* That the commissioners may raise the bounty of wolf scalps to six dollars, which additional bounty shall be paid out of the treasury of such county.

**Sec. 7.** *And be it further enacted,* That all acts heretofore passed on this subject be, and the same are hereby repealed.

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

EDWARD TISFIN,  
*Speaker of the House of Representatives.*  
 DUNCAN MARFUR,  
*Speaker of the senate.*

February 19, 1810.

## CHAPTER XCIX.

*AN ACT providing the mode of perpetuating testimony in certain cases.*

Sec. 1. *Be it enacted by the general assembly of the state of Ohio, That any two associate judges of the court of common pleas, in their respective counties, may take the deposition, in writing, of any person residing therein, to perpetuate the remembrance of any fact, matter or thing; and the said associate judges, before whom such deposition is to be made, shall cause such person or persons, whom they know to be interested, either directly or indirectly, or otherwise affected by such deposition, if within their county, to be duly notified of the time and place of the caption, and if without the county, his or their attorney, if any they have, who shall be at liberty to interrogate and cross examine such deponent; and all such questions and answers shall be reduced to writing and included in such deposition; and the deposition being reduced to writing by one of the associate judges, or by the deponent in their presence, and subscribed, the said associate judges shall administer an oath and certify the caption; and the same deposition shall, within sixty days, be recorded within the office of the recorder of deeds, in the county where the land lies, if the deposition respects real estate; and if the same respects personal estate, then in the office of the clerk of the court of*

common pleas of the said county, where the same shall be taken, and such certificate shall be made on the deposition: and the same deposition, so certified, or a copy of the said record, may, in the case of the death of such deponent, absence out of the state, or inability to attend the court as aforesaid, be used as evidence in any cause to which it may relate: *Provided*, That nothing in this act contained shall be so construed as to prevent any and all legal exceptions being made and allowed to the reading of such depositions, on any trial at law or equity, in which the same may be introduced as evidence.

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

EDWARD TIFFIN,  
*Speaker of the house of representatives.*  
 DUNCAN M. ARTHUR,  
*Speaker of the Senate.*

February 19, 1810.

---

## CHAPTER C.

### *AN ACT allowing docket fees in certain cases.*

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That in all suits or actions commenced in the supreme court, or court of common pleas, the person recovering judgment shall be entitled to the following docket fee, to wit: in each and every case where the suit is settled and ended previous to the issue being joined, and after a declaration is filed, two dollars and fifty cents; after trial five dollars; which docket fee shall be taxed in the bill of costs, by the court.

Sec. 2. *Be it further enacted*, That no docket fee shall be allowed and taxed, in any suit determined

previous to the filing of a declaration ; nor when a suit is removed by certiorari, or on an appeal, when no trial is had by a jury, or by the court before whom the same is removed.

Sec. 3. *Be it further enacted*, That in all cases where the laws of this state have left to the court to determine who shall pay the costs, the docket fee shall be taxed as the said court shall order, any thing in this law to the contrary notwithstanding.

Sec. 4. *And be it further enacted*, That all laws and parts of laws allowing fees and salaries to attornies and counsellors at law, are hereby repealed.

This act to take effect and be in force from and after the first day of June next.

EDWARD TIFFIN,

*Speaker of the House of Representatives.*

DUNCAN M'ARTHUR,

*Speaker of the senate.*

February 19, 1810.

---

## CHAPTER CL.

### *AN ACT to restrain suttlers.*

Aggressors how dealt with	1	§	Fines how appropriated,	4
Fine not to exceed ten		§	Proviso, - - -	3
dollars, - - -	2	§		

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That if any person or persons shall expose, sell or offer for sale at any place where any religious society of people are collecting or collected together, for the purpose of religious worship, or within one mile thereof, any spiritous liquor, cider or beer, it shall be lawful for any justice of the peace of the proper county, on view or complaint made on oath or affirmation, to issue his warrant to some constable of the prop-

er county, commanding him forthwith to take such person or persons so offending into custody, and convey him, her or them, before said justice.

*Sec. 2. Be it further enacted,* That if it shall appear to the satisfaction of the justice, that such person or persons so brought before him, has been guilty of selling or offering for sale, as aforesaid, any spiritous liquor, cider or beer, it shall and may be lawful for such justice to fine any such person or persons so offending, in any sum not exceeding ten dollars, with costs of suit.

*Sec. 3. Be it further enacted,* That all fines collected under the provisions of this act, shall be paid into the township treasury, for the use of the township in which such offence shall have been committed, within twenty days, by the person collecting the same, who shall take the treasurer's receipt, and deposit the same with one of the trustees of said township, within ten days thereafter.

*Sec. 4. And be it further enacted,* That nothing in this act contained, shall extend to affect merchants, licensed inn-keepers, tavern-keepers, or distillers, or manufacturers of cider or beer, from selling ardent spirits, cider or beer, at their usual place of making the same, or at their residence.

This act to take effect and be in force from and after the first day of June next.

**EDWARD TIFFIN,**

*Speaker of the house of representatives.*

**DUNCAN M. ARTHUR,**

*Speaker of the senate.*

**January 25, 1840.**

## CHAPTER CII.

*AN ACT for the limitation of actions.*

Times limited for bringing certain actions,	1	{ Prosecutions for forfeitures on penal statutes,	4
Recovery by ejectment,	2	{ Proviso, - - -	<i>ib</i>
Proviso, - - -	<i>ib</i>	{ Causes of actions already occurred when barred,	5
Judgments arrested or reversed, - - -	3	{ Repealing clause, - -	6

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That all actions hereinafter mentioned, shall be sued or brought within the time hereinafter limited; all actions of trespass for assault, menace, battery and wounding; actions of slander for words spoken or libel, and for false imprisonment, within one year next after the cause of such actions or suits; and all actions upon book accounts, or for forcible entry and detainer, or forcible detainer, within four years after the cause of such action or suits; and all actions of trespass upon real property, trespass, detinue, trover and conversion, and replevin; all actions upon the case, and of debt for rent, shall be sued or brought within six years next after the cause of such actions or suits, and all actions of covenant or debt founded upon a speciality under hand and seal, shall be sued or brought within fifteen years next after the cause of such actions or suits: *Provided,* That no part of the principal or interest be paid or demand be made within that time.

**Sec. 2.** *Be it further enacted,* That no person or persons shall hereafter sue, have or maintain any writ of ejectment, or other action for the recovery of the possession, title or claim of, to or for any land, tenements or other hereditaments, but within twenty one years next after the right of such action or suits shall have accrued: *Provided,* That if any person or persons who are, or shall be entitled to have, sue or bring any suits, action or actions as aforesaid, shall be within the age

of twenty-one years, insane, feme coverts, imprisoned or beyond sea at the time when any suits, action or actions may, or shall have accrued, then every such person or persons shall have a right to have, sue or bring any action or actions aforesaid, within the time hereby before limited in this act, after such disability shall have been removed: *Provided moreover*, That when any person or persons against whom there is cause of action, shall have left the state, and remain out of the same at the time that such cause of action shall have accrued, or shall have left the state or country, and remain out of the same in a place or places unknown to the person or persons, in whose name such cause of action may exist, at any time during such time as is limited in the foregoing section of this act, the person or persons who shall or may have such cause of action; shall have liberty to bring his, her or their action or actions against such person or persons, within such time as is limited as aforesaid, after his, her or their return to the state or country.

Sec. 3. *Be it further enacted*, That if in any action or suit, commenced within the time limited by this act, judgment be arrested or reversed, and the time limited as aforesaid expires, the plaintiff may bring a new action: *Provided*, he do it within one year after such judgment has been arrested or reversed.

Sec. 4. *Be it further enacted*, That all actions or prosecution, which at any time hereafter shall be commenced for any forfeiture upon any penal statute made, or to be made shall be commenced within two years next after the offence committed against such penal statute: *Provided always*, That when any action, information, indictment or other suit, is or shall be limited by any statute to be had, sued, commenced or exhibited within a shorter time than is hereby limited, than, in every such case, the action, information, indictment or other

suit shall be brought within the time limited by such statute.

Sec. 5. *Be it further enacted*, That all causes of action enumerated in this act which accrued before the passage of an act, entitled "An act for the limitation of actions," passed the fourth day of January, in the year of our Lord one thousand eight hundred and four, shall only be barred by the provisions thereof, as well as those causes of action which have accrued since the passage of the act aforesaid, and before the passage of this law.

Sec. 6. *And be it further enacted*, That the act, entitled "An act for the limitation of actions," passed on the fourth day of January, eighteen hundred and four, and the act entitled "An act to amend an act, entitled An act for the limitation of actions," be, and the same are hereby repealed.

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

EDWARD TIFFIN,  
*Speaker of the House of Representatives.*  
 DUNCAN M'ARTHUR,  
*Speaker of the Senate.*

January 25, 1810.

### CHAPTER CIII.

#### *AN ACT providing for the erection of public buildings*

Buildings enumerated,	1	{	Proviso,	-	-	ib
Power of commissioners,	2	{	To appropriate money,			4
Commissioners to make		{	Repealing clause,	-		5
contracts for building,	3	{				

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That there shall be erected and established in each county, whenever the commissioners may deem it necessary, a good and convenient court

house, and a strong and sufficient jail or prison, for the reception and confinement of debtors, and criminals, well secured by timber, iron grates, bolts and locks, and also a whipping post; and every jail so to be erected, shall consist of not less than two apartments, one of which shall be appropriated to the reception of debtors, and the other shall be used for the safe keeping of persons charged with or convicted of crimes; and the commissioners shall, from time to time, alter or rebuild any of the aforesaid buildings, which have heretofore, or may hereafter be built, as circumstances may require.

*Sec. 2. Be it further enacted,* That every court house and jail, so to be erected as aforesaid, shall be formed of such materials, and of such dimensions, and on such places, as shall be directed by the commissioners of said county, who are hereby authorised to plan and project the same, and to accept as a gift or to purchase, for the use of the county, so much ground as they may judge convenient and necessary whereon to build all or any of the structures aforesaid, which purchase money shall be defrayed by the county.

*Sec. 3. Be it further enacted,* That when the said commissioners shall deem it expedient to proceed to erect any of the buildings aforesaid, they shall advertise the same at least thirty days, in three public places in said county, stating in such advertisements the day they will attend at the place of holding courts in said county; at which time and place the said commissioners shall proceed to set up the aforesaid public buildings at public auction, and the lowest bidder shall be the purchaser, who shall enter into bond with approved security, to the commissioners and their successors in office, for the performance of said buildings; and on default in the undertaker or undertakers, for want of attention or competent knowledge to carry on the work with propriety, the said commissioners shall have power to displace him or them, and shall pro-

ceed again as in this section directed : *Provided however*, That when any repairs are to be made to any of the aforesaid buildings, the amount whereof does not exceed sixty dollars, the commissioners are not bound to give the notice above required.

Sec. 4. *Be it further enacted*, That whenever said commissioners shall proceed to erect any of the aforesaid public buildings, they shall have power to appropriate any money which they may deem sufficient for the erection and completion of said buildings ; and the said commissioners shall, in behalf of the county, enter into bond for the faithful discharge of said contract or contracts.

Sec. 5. *And be it further enacted*, That the act, entitled "An act providing for the erection of public buildings," passed the seventeenth day of February, eighteen hundred and four, be, and the same is hereby repealed.

This act to take effect and be in force from and after the first day of June next.

EDWARD TIFFIN,  
*Speaker of the house of representatives.*  
 DUNCAN M'ARTHUR,  
*Speaker of the senate.*

January 23, 1810.

---

## CHAPTER CIV.

*AN ACT in addition to the last named act.*

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That the county commissioners, in each county within this state, shall, so soon as the pecuniary-circumstances of such county will permit, cause to be erected, one or more convenient fire-proof buildings, in some convenient place or places, near the court house, for such county, and within the limits of the jail bounds,

in which shall be kept the offices of the clerk of the supreme court, court of common pleas, master commissioner in chancery, recorder of deeds, and clerk of the county commissioners of such county; and the said commissioners are hereby authorised and required to proceed in the same manner, in planning, contracting for, and causing to be erected such building or building, as they are required to proceed by the said act, in causing to be erected other public buildings in said act mentioned.

JOHN POLLOCK,  
*Speaker of the House of Representatives.*  
THOMAS KIRKER,  
*Speaker of the senate.*

January 25, 1813.

## CHAPTER CV.

*AN ACT providing for the execution of real contracts, in certain cases.*

Courts of common pleas	{	twenty-one years,	-	§
empowered to complete	{	Heirs or guardians may		
certain contracts,	1 {	compel the conveyance		
Requisites necessary in the	{	of land,	-	4
petition,	2 {	Court to secure to parties		
Party contracting dying	{	their just proportion,		5
and leaving heirs under	{	Repealing clause,	-	6

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That if two or more persons, who heretofore have held or may hereafter hold lands, as coparceners, joint tenants or tenants in common, have heretofore or shall hereafter, become obligated for the sale and conveyance of the same, or of any part thereof, or if any one or more of the said coparceners, joint tenants or tenants in common, after the said contract and before the conveyance of the land so contracted for hath or have died or shall die it shall be lawful for the sur-

vivor or survivors, to present a petition to the court of common pleas, of the county in which the land, so contracted for, may or shall be situated, setting forth the facts relative to the said contract, and praying for an order for the execution thereof; and if it shall appear to the said court, by good and sufficient testimony, that such contract hath been made, and hath been fully complied with, on the part of the purchaser or purchasers, or that the said purchaser or purchasers is, or are then ready to comply with the said contract according to the terms thereof, so that he or they, hath or have a full right to demand and receive a conveyance of the said land, or any part thereof, it shall be lawful for the said court of common pleas, to make an order, authorising and empowering the said survivor or survivors, to complete the said contract, by conveying the land so contracted for; and the deed so made and executed, by virtue of the order aforesaid, shall convey as complete and perfect a title, and shall, in all respects, have the same effect as if the said deed had been executed by all the said coparceners, joint tenants or tenants in common.

**Sec. 2.** *Be it further enacted,* That the said petition shall recite the names of all the contracting parties, the situation, quantity and description of the land so contracted for, and the time of making such contract; and the deed to be made, by virtue of the order aforesaid, shall recite the said order, and it shall be the duty of the clerk of the said court, to record the said petition at length, and the order thereon granted.

**Sec. 3.** *Be it further enacted,* That if any person or persons, who have, or shall enter into any contract for the sale and conveyance of land or other real property, and before the completion of such contract on his, her or their part, have or shall die, leaving heirs under the age of twenty-one years, or otherwise, and the executor or executors, administrator or administrators, or other legal representatives of such person or persons, so de-

ceased. or who may hereafter die, may or shall be desirous of completing such contract or contracts, for and on behalf of such heirs, such executor, administrator or other legal representatives, may petition the court of common pleas of that county in which the lands or real property shall be situated, particularly stating the contract, in like manner as is provided in the case of a survivor or survivors; and the same orders and regulations shall be made and pursued as is herein above provided, and pointed out in case of a survivor or survivors; and upon sufficient proof of such contract having been made and entered into being given, to the satisfaction of the said court, an order of court shall be made, authorising and appointing the executor or executors, administrator or administrators, or other legal representatives of such deceased person, or such other persons as the said court of common pleas may deem suitable and proper, fully to complete the said contract or contracts of such deceased person or persons, and to make and execute a deed or deeds of conveyance, for and on behalf of the heir or heirs of such deceased person or persons, according to the terms and stipulations of such contract or contracts, and the person or persons so authorised by the said court of common pleas as aforesaid, shall pursue the same rules in making a conveyance, as are provided in case of a survivor or survivors; and such conveyance, when made according to the provisions of this act, shall be binding upon such heirs, and all other persons interested in the same manner as though the conveyance had been made by the person or persons making such contract or contracts, in his or their life time.

**Sec. 4.** *Be it further enacted,* That if any person or persons who have entered, or shall hereafter enter into any written contract, for the purchase of any land or other real property, has died or shall die, leaving an heir or heirs, such heir or heirs, his, her or their guardian or guardians, may compel the conveyance of such

land, in the same manner as such deceased person might have done, agreeably to the provisions of this act.

Sec. 5. *Be it further enacted*, That it shall be the duty of the said court, before the granting of the order aforesaid, to secure or cause to be secured to, and for the benefit of the estate or estates of the said deceased party or parties, their just part and proportion of the consideration of the said contract; and the person petitioning for such order, shall pay to the clerk of the said court, for making the necessary entries, the sum of twenty-five cents, and if the said order be granted, the further sum of ten cents for every hundred words contained in the said petition and order, for recording the same.

Sec. 6. *And be it further enacted*, That the "Act providing for the execution of real contracts, in certain cases." passed the nineteenth of February, one thousand eight hundred and five, and the act to amend the same, passed the thirtieth of January, one thousand eight hundred and seven, be, and the same are hereby repealed.

This act to take effect and be in force from and after the first day of June next.

EDWARD TIFFIN,

*Speaker of the house of representatives.*

DUNCAN M'ARTHUR,

*Speaker of the senate.*

January 16, 1810.

---

## CHAPTER CVI.

*AN ACT providing for the recovery of money secured by mortgage.*

Scire facias to be issued against the mortgagor for

§ default,  
§ Judgment by default may

be entered, . . . . .	2	} Prior rights not affected, 4 A retrospect to prior laws, 5 Repealing clause, 6
If the premises be not suf-		
ficient how to proceed, . . . . .	3	
Proviso, . . . . .	ib	

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That if any person or persons shall hereafter execute and deliver any mortgage for securing the payment of any sum or sums of money, hath or shall neglect or refuse to pay to the mortgagee or mortgagees, his or their heirs, executors, administrators or assigns, all monies due and owing, and which such mortgage was intended to cover and secure, according to the covenants and conditions in such mortgage, it shall and may be lawful for such mortgagee or mortgagees, or for his, her or their heirs, executors, administrators or assigns, at any time after the last day, whereon such sum or sums of money hath or shall become due and payable, according to the conditions and covenants of the said mortgage, to sue out a writ of scire facias against the said mortgagor or mortgagors, or his, her or their heirs, executors or administrators, which the clerk of the supreme court, or the clerk of the court of common pleas for the county in which the premises so mortgaged may be situated, is hereby authorised and on application for that purpose, required to issue, directed to the proper officer, commanding him that by two good and lawful men of his county, he make known to the defendant or defendants in such writ, that he, she or they be and appear before the court, to shew cause, if any there be, why the said mortgaged premises should not be taken in execution and sold to satisfy the money due and owing according to the conditions and covenants contained in such mortgage; and upon the return of the scire facias, it shall be lawful for the defendant or defendants to come in and plead payment or satisfaction for all or any part of the money demanded by the plaintiff or plaintiffs, or any other legal plea in bar, or avoidance of the

X x

deed or money thereon demanded, as the case may require, and thereon the parties shall proceed to issue and trial as in other cases.

**Sec. 2.** *Be it further enacted,* That if the defendant or defendants in such writ of scire facias, on being returned summoned, or on two writs of scire facias returned nihil, shall not appear, then judgment by default shall be entered, and the court shall proceed, according to law, to assess the damages and to enter final judgment thereon, on which a writ of levavi facias, may issue, by virtue whereof the mortgaged premises shall be taken in execution, and disposed of in the same manner and under the same regulations that lands and tenements are or may be by law disposed of for the satisfaction of judgments.

**Sec. 3.** *Be it further enacted,* That if the mortgaged premises, so taken in execution, be not sufficient to satisfy the said judgment, then the residue of said judgment, so remaining unsatisfied, shall be deemed and taken to be a debt of record, for which the plaintiff or plaintiffs may issue a writ or writs of scire facias, and proceed thereon to judgment and execution, as in other cases: *Provided,* That the sheriff or other officer executing a deed by virtue of the directions herein contained, shall not be bound to warrant and defend the right or title of the property so as aforesaid sold and conveyed.

**Sec. 2.** *Be it further enacted,* That nothing herein contained shall affect the right of any person or persons who may set up any claim to such mortgaged premises, by purchase from or under the mortgagor or otherwise, and which claim in law shall be paramount to the claim of such mortgagee; nor shall any thing contained herein be construed to prevent such claimant from availing himself of any defence that the mortgagor might or could have set up, in bar or discharge of such mortgage, or of any fraud or collusion between the mortgagor and mortgagee.

**Sec. 5.** *Be it further enacted,* That all money secured by mortgage, executed prior to the taking effect of this act for the recovery of money secured by mortgage, be, and the same is hereby made recoverable in the same manner that money secured by mortgage was made recoverable by the laws in force at the time such mortgage was executed, any law, usages or customs to the contrary notwithstanding.

**Sec. 6.** *And be it further enacted,* That an act, entitled "An act providing for the recovery of money secured by mortgage," passed the twelfth day of February, eighteen hundred and five, and an act supplementary to an act, entitled "An act for the recovery of money secured by mortgage," passed January the twentieth, eighteen hundred and seven, are hereby repealed.

This act shall take effect and be in force from and after the first day of May next.

**EDWARD TIFFIN,**

*Speaker of the House of Representatives.*

**DUNCAN MARTIN,**

*Speaker of the senate.*

January 2, 1810.

## CHAPTER CVII.

### **AN ACT** for the incorporation of manufacturing companies.

Two or more persons may		{	trustees, - - -	3
form a manufacturing		{	Proviso, - - -	ib
company, - - -	1	{	The company not dissolv-	
They shall sign and ac-		{	ed for neglect in electing	
knowledge articles, -	ib	{	trustees, - - -	4
The company incorporated		{	The capital stock not to	
for 20 years, - - -	2	{	exceed 100,000 dollars, -	5
The stock and property to		{	Proviso, - - -	ib
be under the direction of		{	Trustees may make by-	

laws,	-	-	-	6	§	personal estate and may	
The stock to be held as						be transferred,	-

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That at any time within five years hereafter, any two or more persons who shall be desirous to form a company, for the purpose of manufacturing woollen, cotton, hemp or linen goods, or cotton or other yarn, or for the purpose of making paper, glass or queensware, or pearl or pot ashes, or for the purpose of making from ore bar iron, mill irons, anchors, or steel, nail rods, hoop iron or ironmongery, sheet lead, shot, white lead and red lead, printers' types, or any metals used in the manufacture of types, or for the purpose of erecting and carrying on any manufactory by the operation of steam, may sign and execute articles of association, in which shall be stated the corporate name of said company, the objects for which it is formed, the amount of its capital stock, the number of shares therein, the number of trustees and their names, who may be first appointed to manage the concerns of the company, together with the term for which they may have been appointed to serve, and the names of the town and county in which such manufactories may be severally established; and the said articles, or the signatures thereto, shall exhibit the number of shares (if more than one) which each subscriber may have subscribed; which articles of association, when subscribed as aforesaid, shall be acknowledged by such subscribers, jointly and severally, before any judge or judges of the supreme court or court of common pleas, or justice of the peace, and when acknowledged as aforesaid the same articles, at the expense of said company, shall be recorded in the recorder's office of the proper county, and a certified copy of the record thereof shall at all times, both in courts of justice and without, be legal and competent evidence in any case where the original articles would otherwise be evidence; and a certified copy of the record of such articles shall also

be procured and transmitted by the trustees or other members of such company to the secretary of state, whose duty it shall be to file and preserve the same.

**Sec. 2.** *Be it further enacted,* That as soon as such certificate shall be filed as aforesaid, the persons who shall have signed and acknowledged the said certificate, and their successors shall, for the term of twenty years next after the day of filing such certificate, be a body politic and corporate, in fact and in name, by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be persons in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever; and they and their successors may have a common seal, and the same may make, alter and change at their pleasure; and they and their successors, by their corporate name, shall in law be capable of purchasing, holding and conveying any lands, tenements, hereditaments, goods, wares and merchandize whatever, necessary to enable the said company to carry on their manufacturing operations, mentioned in such certificate.

**Sec. 3.** *Be it further enacted,* That the stock, property and concerns of such company, shall be managed and conducted by trustees, who, except those for the first year, shall be elected at such time and place as shall be directed by the by-laws of the said company, and public notice shall be given of the time and place of holding such election, not less than thirty days previous thereto, in the newspaper printed nearest to the place where the manufacturing operations of the said company shall or are to be carried on; and the election shall be made by such of the stockholders as shall attend for that purpose, either in person or by proxy; and all elections shall be by ballot, and each stockholder shall be entitled to one vote for each share he may

own below ten; for all above ten and not exceeding twenty, one vote for every two shares; and for every five shares above twenty, one vote; and the persons having the greatest number of votes shall be trustees; and whenever any vacancy shall happen among the trustees aforesaid, by death, resignation or removal out of the state, such vacancy shall be filled for the remainder of the year, in such manner as shall be provided by the by laws of said company: *Provided always*, That the number of trustees shall not exceed seven, and that they shall be stockholders in such company.

Sec. 4. *Be it further enacted*, That in case it shall at any time happen that an election of trustees be not made on the day when, by the by laws of the said company it ought to have been done, the said company for that cause shall not be dissolved: *Provided*, They do on any other day, within one year thereafter, hold an election for said trustees, in such manner as shall be directed by the by laws of such company.

Sec. 5. *Be it further enacted*, That the capital stock of such company shall not exceed one hundred thousand dollars, and it shall be lawful for the trustees to call and demand from the stockholders, respectively, all such sums of money by them subscribed, at such times and in such proportions as they shall deem proper, under the penalty of forfeiting all dividend or dividends of the net profits previously declared (on the share or shares of such stockholder or stockholders as may refuse or neglect to comply with such call or demand) and not previously paid out, and all dividends which at any time may be subsequently declared previous to the payment of such sum or sums as may be required as aforesaid on each share as aforesaid: *Provided*, That no such forfeiture shall accrue to the said company until after the expiration of sixty days from and after the publishment in some newspaper, current in the county where such company may have been established, of a notice to all concerned, specifying the

amount of the money on each share required to be paid, and the time when such payment is to be made.

**Sec. 6.** *Be it further enacted,* That the trustees of such company, for the time being, shall have power to make and prescribe such by laws, rules and regulations as they shall deem proper, respecting the management and disposition of the stock, property and estate of such company, the duties of the officers, artificers and agents by them to be employed, the election of trustees, and all such matters as appertain to the concerns of the said company, to appoint such and so many officers, clerks and agents, for carrying on the business of the said company, and with such wages as to them shall seem reasonable : *Provided.* That such by laws be not inconsistent with the constitution and laws of this state or of the United States.

**Sec. 7.** *Be it further enacted,* That the shares in the capital stock of such company shall be deemed personal estate, and be transferable in such manner as shall be prescribed by the laws of the company ; and that for all debts which shall be due and owing by the company at the time of its dissolution, the persons then composing such company shall be individually responsible to the extent of their respective shares of stock in the said company, and no further ; and that it shall not be lawful for such company to use their funds, or any part thereof, in any banking transaction, or in the purchase of any public stock whatever, or for any other purposes than those specified in such instrument as aforesaid.

**Sec. 8.** *And be it further enacted,* That when such articles of association shall have been signed, executed, acknowledged and recorded, and a copy of such record deposited in the office of the secretary of state as is herein above provided, then such company shall be deemed

a body corporate, and as such entitled to all the rights and privileges by this act intended to be granted.

**MATTHIAS CORWIN,**

*Speaker of the house of representatives.*

**THOMAS KIRKER,**

*Speaker of the senate.*

January 11, 1812.

## CHAPTER CVIII

*AN ACT to provide for holding special elections in certain cases.*

Vacancy in the office of representative in con- gress how filled, -	1	{ Secretary of state to open the abstracts, -	4	
Duty of sheriffs, -	2		{ Sheriffs compensation, -	5
Further duty, -	3		{ Special provision, -	6

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That whenever a vacancy shall happen in the office of representative in congress in any of the congressional districts of the state, from death, resignation or in any other manner than from the expiration of the term of service, the governor of the state for the time being shall, upon information thereof, issue a writ or writs of election to the sheriff or sheriffs of the several counties composing such election district, directing him or them to hold a special election within such county or counties on a day specified in such writ or writs, for the purpose of filling such vacancy.

**Sec. 2.** *Be it further enacted,* That the said sheriff or sheriffs, having received said writ or writs of election, shall proceed in the usual manner to give not more than twelve nor less than six days notice of the time of holding said election; and all elections under the provisions of this act, shall be held and conducted confor-

mably to, and the returns thereof made to the clerks of the courts of common pleas, in the same manner as is provided by the act, entitled "An act to regulate elections."

**Sec. 3.** *Be it further enacted,* That the said sheriff or sheriffs shall, within six days after such election, attend at the seat of justice of his or their proper county or counties, and receive from the clerk of the court of common pleas, an abstract of the votes given in such county or counties, and within twenty days from the day of election shall transmit the same to the office of the secretary of state, and take his receipt therefor, upon the penalty of five hundred dollars, to be recovered before any court having competent jurisdiction thereof in an action of debt; and it shall be the duty of the treasurer of the county for the time being to sue for and recover the penalty aforesaid, to and for the use of the county.

**Sec. 4.** *Be it further enacted,* That the secretary of state shall, on the twentieth day from the day of holding said election or sooner, if all the returns shall be received, in the presence of the governor, for the time being, or in his absence, in the presence of the auditor and treasurer, and such of the aforesaid sheriffs as shall think proper to attend, open the abstracts and canvass the votes, and the person having the greatest number of votes shall be declared duly elected, and the governor shall forthwith transmit to him a certificate of his election as aforesaid.

**Sec. 5.** *Be it further enacted,* That the sheriffs shall be paid from the state treasury for their aforesaid services, at the rate of eight cents for each mile's travel to and from the seat of government, and six dollars for making proclamation of the election.

**Sec. 6.** *And be it further enacted,* That the several sheriffs within the third and sixth congressional districts, for services rendered and returns made of special elections held within said districts, on the twentieth

eth day of April, and the fourth day of May last, shall receive the same compensation as is provided in the preceding section of this act.

JOHN POLLOCK,  
*Speaker of the House of Representatives.*

OTHNIEL LOOKER,  
*Speaker of the senate.*

December 27, 1813.

## CHAPTER CIX.

### *AN ACT to punish kidnapping.*

Preamble.	§	tempting so to do, to be	
Persons kidnapping and	§	confined in the peniten-	
carrying away negroes	§	tiary from one to ten	
contrary to law, or at-	§	years, - - -	1

Whereas, it is provided by an act of Congress, passed the twelfth day of February, one thousand seven hundred and ninety-three, that when a person held to labor in any of the United States, or in any of the territories north-west or south of the river Ohio, under the laws thereof, shall escape into any other of the said states or territories, the person to whom such labor or service may be due, his agent or attorney, is authorised and empowered to seize or arrest said fugitive from labor, and to take him or her before any judge of the circuit or district courts of the United States, residing or being within the state, or before any magistrate of a county, city or town corporate, wherein such seizure or arrest shall be made, and upon proof to the satisfaction of such judge or magistrate either by oral testimony, or by affidavit, taken before and certified by a magistrate of any such state or territory, that the person so seized or arrested, doth, under the laws of the state or territory from which he or she fled, owe service or labor to the person claiming

him or her, it shall be the duty of such judge or magistrate, to give a certificate thereof, to such claimant, his agent or attorney, which shall be a sufficient warrant for removing the said fugitive from labor, to the state or territory from which he or she fled; and whereas, it has been represented to this general assembly, that upon pretence of seizing fugitives from service, under the provisions of the before recited act, unprincipled persons have kidnapped free persons of color, within this state, and attempted to transport them out of the state, and sell them into slavery; and whereas, it is necessary and proper to put a stop to this nefarious and inhuman practice: Therefore,

*Sec. 1. Be it enacted by the general assembly of the state of Ohio,* That if any person or persons, under any pretence whatsoever, shall by violence, fraud or deception, seize upon any free black or mulatto person, within this state, and keep or detain such free black or mulatto person in any kind of restraint or confinement, with intent to transport such free black or mulatto person out of this state, contrary to law, or shall in any manner attempt to carry out of the state, any black or mulatto person, without having first taken such black or mulatto person before some judge of the circuit or district court, or justice of the the peace, in the county wherein such black or mulatto person was taken, agreeably to the provisions of the above recited act of congress, and there prove his right to such black or mulatto person, every such person so offending, shall be deemed guilty of a high misdemeanor; and on conviction thereof before any court having competent authority to try the same, shall be confined in the penitentiary of this state at hard labor, for any space of time not less than one nor more than ten years, at the discretion of the court.

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

JOSEPH RICHARDSON,  
*Speaker of the house of representatives.*

ROBERT LUCAS,  
*Speaker of the Senate.*

January 25, 1819.

## CHAPTER CX.

***AN ACT*** allowing mutual debts and demands to be set off, and concerning tenders.

Pleas and pleadings,	1	{	pleading them barred	
Proceedings on a plea of			from recovering cost on	
tender, - - -	2	{	a suit to recover such	
Continued, - - -	ib		demands, - - -	3
Def't. having demands not		{	Repealing clause, -	4

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That in all actions and suits brought on any bond, bill, note, promise or account, in any court in this state, it shall be lawful for the defendant to plead the general issue, and at the same time to give notice in writing to the plaintiff or his attorney, of any debt, contract or demand against the plaintiff, which he may be desirous to have set off and allowed to him in such action or suit, or of any payment or payments he may have made on any such bond, bill, note promise or account; and if it shall appear that the plaintiff is indebted to the defendant in a sum equal to or exceeding what is found due from the defendant to the plaintiff, the defendant shall have judgment for the sum so found due with his costs, and if it shall appear that the plaintiff is indebted to the defendant in any less sum, then judgment shall be given for the plaintiff for such balance only and his costs: *Provided always,* That no bond, bill, note or other writing assigned over

to the defendant after the suit is commenced against him, shall be allowed to be brought in by way of set off to such suit.

Sec. 2. *Be it further enacted.* That in any action or suit brought on any writing obligatory, promise or contract, for the payment of money, if the defendant on a plea of tender shall prove that he did tender payment of the money due on such writing, obligatory, promise or contract, at the time and place when by such writing, obligatory, promise or contract, he was holden to pay the same or at any time before the commencement of such action or suit thereon and shall bring into court the money so tendered, the plaintiff shall not have judgment for more than the money so due and tendered, without costs; and shall pay the defendant his costs and in any action or suit brought on any writing, obligatory, promise or contract for the payment of any article or thing, other than money, or for the performance of any work or labor, if the defendant shall plead that he did tender payment or performance on such writing obligatory, promise or contract, at such time and place, and in such article or articles as by such writing obligatory, promise or contract he was bound to pay or perform, and the court or jury find that the defendant did tender as is alleged in his plea, they shall at the same time assess the value of the property or labor so tendered, and thereupon judgment shall be rendered in favor of the plaintiff for the sum so found without interest or cost, unless the defendant shall forthwith perform his contract or give to the plaintiff such assurance as the court may approve, that he will perform the same within such time as the court shall direct, in which case judgment shall be rendered for the defendant, and in case any article so tendered be of a perishable nature, it shall from the time of such tender be kept at the risk and expense of the plaintiff, provided the defendant take reasonable care of the same.

**Sec. 3.** *Be it further enacted,* That when any plaintiff or plaintiffs shall be indebted to any defendant or defendants, in any debt, contract or demand, and the defendant shall fail to plead the general issue, and give in evidence the said debt, contract or demand, agreeably to the provisions of this act, said defendant or defendants, shall forever be barred from receiving any costs upon any suit which may thereafter be instituted upon the said debt, contract or demand, unless it shall appear to the court that it was not in the power of the defendant in the former suit to produce the evidence of his said debt, contract or demand at the time of trial.

**Sec. 4.** *And be it further enacted,* That an act, entitled "An act allowing mutual debts and demands to be set off, and concerning tenders," passed January the eighth, eighteen hundred and ten, be, and the same is hereby repealed.

This act to take effect and be in force from and after the first day of June next.

**MATTHIAS CORWIN,**

*Speaker of the house of representatives.*

**PETER HITCHCOCK,**

*Speaker of the senate.*

**February 24, 1816.**

---

## CHAPTER CXI.

***AN ACT to organise the judicial courts, and regulate their practice.***

Supreme court to consist of four judges, -	1	{ Any judge of the supreme court in vacation may
Jurisdiction of the supreme court, -	2	{ allow writs of error, supersedeas, &c. -
Supreme court may issue writs of habeas corpus cum cauta certiorari &c.	3	{ Jurisdiction of the courts of common pleas,
		{ Judges of common pleas

may allow writs of certiorari, - - -	ib	in certain cases, - - -	ib
All judges to take an oath before they act as such, 5		Proceedings thereon, - - -	ib
Each court to appoint a clerk, - - - 6		Proceedings when obligors reside in several counties, - - -	17
Clerks each to take an oath, - - - ib		Proceedings on a recognisance returned by a justice to the court of common pleas, - - -	18
Also to give bond with security, - - - ib		Days of filing special bail, - - -	19
Clerks to take depositions and administer oaths, ib		Proceedings when special bail is not filed, - - -	20
Each clerk to keep an office at the seat of justice, - - - 7		Sheriff returning a capias served and not returning bail, or insufficient bail may be ruled to bring in the body at the return term and on failure may be amerced, - - -	21
Proviso as to new counties ib		Proviso, - - - ib	
In what cases suits in equity may be sustained, 8		Proceedings when the sheriff brings in the body according to command, - - -	22
Form of writs and process, 9		Sheriff may enter special bail, - - -	23
Clerk to issue writs when a precipe is filed, 10		Manner of proceeding when exceptions are taken to special bail, &c. - - -	24
Non-residents to have an indorser for cost, ib		Two days notice of justification or putting in new bail to be given, - - -	25
Proceedings against indorsers, - - - ib		Proceedings when bail has justified, - - -	26
In what actions special bail must be given, 11		Forms, - - -	27
Summons to issue in cases where special bail is not required, - - - 12		Recognisance of special bail, - - -	28
Service thereof, - - - ib		Bail piece, - - -	ib
Capias to issue when special bail is required, ib		Manner of justifying bail in supreme court, - - -	29
Proviso, - - - ib		Manner of justifying bail in common pleas, - - -	30
Penalty on sheriff or other officer failing to execute and return writs, 13		Form and manner of assigning bail bonds, - - -	31
Proceeding when process is served & so returned, 14		Proceeding in suit on bail bond, - - -	32
Manner of executing and returning a capias ad respondendum, 15		Further proceedings in suit on bail bond, - - -	33
An alias, &c. may issue on the sheriffs return if not served or not summoned, - - - 16			
A proclamation may issue			

Continuation of proceeding in suit on bail bond,	31	allowance of a writ of habeas corpus cum causa to remove a cause, also send a citation to the adverse party,	48
Continued,	35	Proviso,	ib
Continued,	36	Clerk of common pleas to return a transcript with writ,	49
Continued,	37	Duty of court in rendering judgment on articles of agreement, &c.	50
The principal may appear and render himself in discharge of his appearance bail,	38	Proceedings after judgment on articles of agreement or bonds with sundry conditions,	51
Proceedings on scire facias against bail,	39	Pleadings on actions of debt or scire facias,	52
Proceeding against bail by action of debt,	40	Proceedings on bonds, with a condition of defeasance,	53
Duty of court or judge before whom a render is made,	41	Tender of the amount of note and cost may be made any time during the pendency of the action,	54
Duty of clerk on receiving a certificate of render,	42	Pleadings in actions of replevin, &c.	55
Proviso as to notice to plaintiff,	ib	What may be given in evidence on a plea of the general issue,	56
Proceeding, when the sheriff returns the debt in prison for want of bail,	43	Of pleas in abatement and when admissible,	57
Sheriff not to be ruled to bring in the body after the 2d term from the return,	44	Cost to be taxed to the party on the plea of special demurrer being overruled,	58
Plaintiff not to file his declaration until bail entered, defendant in custody or waver entered,	45	Proceedings when several persons are made defendants in action of trespass, ejectment, &c.	59
When capias ad satisfaciendum returned not found the plaintiff may proceed against special bail,	46	Provisions as to executors,	ib
Execution may issue from the court in one county to the sheriff of any other county in the state,	ib	Proceedings on action of trespass, &c.	60
Proceedings against bail may be stayed by court when a writ of error has been allowed in the original suit,	47	Proceedings in ejectment,	61
Clerk to take bond on the		Continued,	62
		Proceedings in ejectment	

continued, - - -	63	copy of account from	
Continued, - - -	64	plaintiff or counsel,	73
Continued, - - -	65	Plaintiff entitled to a copy	
When an infant is entitled		from defendant of his	
to action his guardian,		acts, as set off,	74
&c. may prosecute for		Penalty on either party	
him, - - -	66	for refusing,	ib
By what authority an at-		Filing declaration or plea-	
torney may confess judg-		dings to be notice to the	
ment, - - -	67	adverse party,	75
The informer under a pen-		Defendant may move that	
al statute to pay costs		the declaration be a-	
if non-suited, - - -	68	mended before issue	
When judges of common		joined, - - -	76
pleas interested, the		Suits may be commenced	
case to be sent up to su-		against a defendant	
preme court, - - -	69	while in prison, - - -	77
Executors, &c. of the party		Issues in law to be tried	
to prosecute or defend		before issues in fact,	78
in case of death, - - -	70	All cases to be tried at the	
Penalty on executor, &c.		second term after com-	
for neglecting to prose-		menced, - - -	79
cute, - - -	ib	Proceedings on interlocu-	
In case where there are two		tory judgments,	80
plaintiffs or defendants		No motion for new trial to	
and one die, how to pro-		be made after motion for	
ceed, - - -	ib	arrest of judgment,	81
Testimony may be taken		Duty of clerk in indorsing	
out of court in certain		executions, - - -	82
cases and read in evi-		Duty of clerk to enter spe-	
dence on trial in any		cial verdicts or demur-	
civil suit, - - -	71	rer, - - -	83
Proviso as to notice thereof	ib	Judgments to die in five	
Duty of judge or justice		years if no execution is	
taking the depositions,	ib	issued, - - -	84
Further proceeding thereon	ib	An action of debt or scire	
Proviso as to issuing ded-		facias may however be	
imus, - - -	ib	maintained thereon af-	
Each court to make and		terwards, - - -	ib
ordain rules for its gov-		Proceedings thereon,	ib
ernment, - - -	72	Proceedings on scire facias	85
Clerk of supreme court to		Clerks to make out an is-	
transmit capias of rules		sue docket 12 days be-	
to the clerk of common		fore each term, and as-	
pleas, - - -	ib	sign a certain number of	
Defendant entitled to a		causes for each day of	

the court, - - -	86	ings except on demurrer	96
Clerk to make out a copy of issue docket for the court, - - -	87	Court may allow parties to amend pleadings on conditions, -	ib
Clerk to have charge of all documents belonging to the court, - - -	88	Supreme court may reverse judgments of common pleas, &c. -	97
Clerk to make out & read minutes of each day before adjournment which shall be assigned by court	89	Supreme court not to issue execution but order common pleas to do so, -	ib
Clerk to keep an execution docket, - - -	90	Proviso, - - -	ib
Proceedings on non-suits,	91	Provision as to costs on writs of error, -	98
Right of appeal allowed, -	ib	Appeals allowed, -	99
Parties may except to the opinion of the court, -	ib	Notice to be given on record, - - -	ib
Parties may be compelled by the court to produce books, &c. as evidence on trial, - - -	92	Bond to be given in thirty days, - - -	ib
New trials may be granted by courts, - - -	93	Proceedings in supreme court on appeals, -	100
Proviso, - - -	ib	Clerk to issue subpoenas on transcript filed, -	101
Execution may on motion in supreme court be stayed thirty days, -	94	Pleadings on appeals to the supreme court, -	102
If petition for new trial be filed and allowed in that time, the cause to stand continued, -	ib	Continued, - - -	103
Supreme courts may examine and reverse judgments of common pleas on writ of error, -	95	Proceeding when sundry counts are contained in a declaration, -	104
Proceedings thereon, -	ib	Proceeding in detinue, -	105
Want of form not to set aside process or pleadings except on demurrer	96	Proceedings when a quorum of judges fail to attend at the time of holding courts, -	106
		The venue may be changed from one county to another in certain cases	107
		Repealing clause, -	108

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio, That the supreme court shall consist of four judges, chosen in the manner directed by the constitution; the judges of said court shall have precedence according to the date of their commissions, or where their commissions are of the same date, then*

according to their respective ages ; and the judge entitled to precedence shall be styled chief judge of said court.

**Sec. 2.** *Be it further enacted,* That the supreme court shall have exclusive cognisance of all cases of divorce and alimony, and current jurisdiction of all civil cases, both of law and equity, where the cause or matter in dispute exceeds one thousand dollars, and appellate jurisdiction from the court of common pleas in all cases in which the court of common pleas has original jurisdiction ; and if the plaintiff appealing shall not recover a greater sum in damages, in the supreme court, than in the court of common pleas, exclusive of cost, he shall pay all cost that may have accrued in the supreme court in such case ; and if the defendant in any personal suit shall remove the same by appeal to the supreme court, and the plaintiff shall recover in such cause a judgment for the same sum or a larger sum than was recovered in the court of common pleas, exclusive of cost, the supreme court shall render judgment for the sum so recovered, together with seven per centum damages thereon and costs of suit.

**Sec. 8.** *Be it further enacted,* That the supreme court shall have power on good cause shewn, to issue writs of habeas corpus, cum causa, certiorari, mandamus, prohibition procedendo, error supersedeas, habeas corpus, and all other writs not specially provided for by statute, which may be necessary to enforce the due administration of right and justice throughout the state, and for the exercise of its jurisdiction, and agreeably to the usages and principles of law ; and either of the judges of the supreme court in vacation, shall on good cause shewn have power to allow writs of error, supersedeas and certiorari and also to grant writs of habeas corpus for the purpose of an enquiry into the cause of commitment ; *Provided,* That writs of habeas corpus shall in no case extend to prisoners in jail, unless

where they are in custody under or by colour of the authority of this state, or are committed for trial before some court of the same, or are necessary to be brought into court to testify.

**Sec 4.** *Be it further enacted,* That the courts of common pleas shall consist of a president and three associate judges, chosen in the manner directed by the constitution, and shall have original jurisdiction in all civil cases, both in law and equity, where the sum or matter in dispute exceeds the jurisdiction of a justice of the peace, and appellate jurisdiction from the decision of the justices of the peace in their respective counties in all cases; they shall have power to examine and take the proof of wills, and grant letters testamentary thereon, and to grant letters of administration on intestate estates, and to hear and determine all causes of a probate and testamentary nature; to appoint guardians for minors, idiots and lunatics, and to call such guardians to an account; they shall have exclusive cognisance of all crimes, offences and misdemeanors, the punishment whereof is not capital, and shall have the same power to issue remedial and other process (writs of error and mandamus excepted) as the supreme court has; and the presidents of the courts of common pleas within their circuits, or any associate judge of the courts of common pleas within his county, shall on good cause shown, have power to allow writs of certiorari directed to justices of the peace, to cause their proceedings to be brought before such court in order that right and justice may be done: *Provided,* each writ of certiorari bear date within fifteen days after the rendition of the judgment intended to be effected thereby.

**Sec 5.** *Be it further enacted,* That the judges of the supreme court and presidents and associate judges of the court of common pleas, before they proceed to execute the duties of their respective offices, shall each take an oath or affirmation to administer justice with-

out respect to person, and to do equal right to the poor and to the rich, and faithfully and impartially to discharge and perform all the duties incumbent on him as a judge according to the best of his abilities and understanding, agreeably to the constitution and laws of this state, and have the same endorsed on his commission.

**Sec. 6.** *Be it further enacted,* That the supreme court and courts of common pleas shall appoint clerks for their respective courts in each county, agreeably to the provisions of the constitution; and each of the said clerks shall, before he enters upon the execution of his office, take an oath or affirmation that he will truly and faithfully enter and record all the orders, decrees, judgments and proceedings of the said court, and faithfully and impartially discharge and perform all the duties of his said office according to the best of his abilities and understanding; and the said clerks shall also severally give bond with sufficient sureties (to be approved of by the supreme and common pleas courts respectively) to the state of Ohio, in the sum of two thousand dollars, conditioned that he will truly and faithfully enter and record all the orders, decrees, judgments and proceedings of the said court, and faithfully and impartially discharge and perform all the duties of his said office; which bond shall be lodged with the county treasurer, and it shall be lawful for the clerks of the several courts within this state to take depositions and administer oaths, in all matters appertaining to the business of their respective offices.

**Sec. 7.** *Be it further enacted,* That all clerks of courts shall keep their offices at the seat of justice in their respective counties, and any clerk failing or neglecting to keep his office at the seat of justice, shall be deemed and taken to have resigned the same: *Provided,* That the clerks of new counties shall not be compelled to do so in less than six months, after the courts shall be held at the place fixed upon for the permanent

seat of justice; and in case a vacancy shall happen in the office of clerk during the vacation, the associate judges may appoint a clerk pro tempore.

Sec. 8. *Be it further enacted,* That suits in equity shall not be sustained in the supreme court or courts of common pleas in any case where plain, adequate, and complete remedy may be had at law.

Sec. 9. *Be it further enacted,* That all writs and process issuing from the supreme court shall bear teste by the chief judge thereof; and all writs of process issuing from the courts of common pleas, shall bear teste of the president of each circuit of said courts, which said writs of process shall be under the seal of the court from whence they issue, and signed by the clerk thereof; and all writs and process shall run in the style of The state of Ohio, county, ss. and shall be dated on the day on which the same may issue.

Sec. 10. *Be it further enacted,* That any person requiring a writ, shall file a precipe with the clerk, who shall make out and deliver such writ or process as is directed; and in all cases of mesne process where the plaintiff doth not reside, or is not a freeholder in the county, the writ shall be endorsed by some freeholder resident in the county, as security for costs before the sheriff shall serve the same, and the clerk shall endorse on the writ for what it was brought, and also the amount appearing to be due or sworn to; and the person so endorsing his name on the writ shall thereby be bound and liable to pay all costs that may accrue in said suit, both in the court of common pleas and supreme court, and after final judgment rendered in the cause, such endorser, his executors and administrators may be proceeded against by writ of scire facias, in the name of the defendant or defendants, their executors or administrators, and on judgment being rendered on such scire facias, execution may issue as in other cases, for the benefit of the persons entitled to such costs.

**Sec. 11.** *Be it further enacted,* That the plaintiff shall be entitled to special bail in all actions brought on bonds, sealed bills, bills of exchange, or notes for the payment of a sum of money certain or on any contract, on which the plaintiff or his agent shall file an affidavit, that the sum due or damages sustained exceeds seventy dollars; or in cases of trespass upon real or personal property where the plaintiff shall file an affidavit, that he has sustained damage to a certain amount, exceeding seventy dollars as a matter of course, and in all other cases where the court from the particular circumstances of the case may direct, and order a bail to be filed.

**Sec. 12.** *Be it further enacted,* That the first process to be made use of in personal actions in either of the said courts, in cases where the plaintiff is not entitled to special bail as a matter of course shall be a summons, a copy whereof shall be served on the defendant, or left at his dwelling house or usual place of abode, at least four days before its return, excepting summonses issued in term time, which may be returnable forthwith; and in cases where the plaintiff is entitled to special bail as a matter of course, the first process shall be a *capias ad respondendum*, and shall be executed as hereafter directed: *Provided,* That nothing herein shall be so construed as to prevent a plaintiff from suing out a summons instead of a *capias*, if he is willing to wave appearance bail; and on the return of such summons the court on application, may require the defendant to enter bail to the action in the same manner as if a *capias* had been the first process.

**Sec. 13.** *Be it further enacted,* That it shall be the duty of the sheriff or officer to whom any summons, *capias ad respondendum*, or other process is directed, to return the same at the time and place therein mentioned, which shall be filed by the clerk of the court; and if the said sheriff or officer fail to make such return, unless he can make it appear to the satisfaction of the court that

he was prevented by inevitable accident from so doing, he shall be amerced by the court in any sum not exceeding the plaintiffs debt or demand, to and for the use of the said plaintiff; and the same being suggested on the record the cause shall proceed as though such writ had been returned.

Sec. 14. *Be it further enacted*, That when the sheriff or other officer shall return such summons, "served," or "summoned," the party shall be considered as being in court and may be proceeded against accordingly.

Sec. 15. *Be it further enacted*, That the sheriff or other officer, shall execute the said writ of *capias ad respondendum* by taking the body or bodies of the defendant or defendants, and in such case, shall return thereon, "I have taken the body," as to the defendant, or "I have taken the bodies," as to the defendants on whom the same hath been served, and shall endorse on the *capias ad respondendum*, the names of the bail by him taken, and shall deliver a copy of the bail bond to the clerk of the court at or before the return day of the same writ, which copy shall be safely kept by the said clerk in his office.

Sec. 16. *Be it further enacted*, That when the sheriff or other officer shall return on any writ of *capias ad respondendum*, in any civil action, "not found" as to the defendant or defendants, who is or are not to be found in his county; or any writ of summons to answer as aforesaid "not served," or "not summoned," the plaintiff may sue out an alias or pluries *capias ad respondendum* or summons, until the defendant or defendants shall be arrested or summoned; or a *testatum capias* or summons where he or they shall be removed into another county, subsequent to the commencement of the suit; and if the defendant at the time of suing out such process have a residence in or be an inhabitant of the county in which such process was sued out, the court may on motion of the plaintiff order a proclamation to issue, warning the defendant to appear at

a certain day therein named, or that judgment will be rendered against him, which proclamation shall be published three successive court days, at the door of the court house of the county to which the last process was directed, and also three times in some newspaper published in the state; and if the defendant shall fail to appear pursuant to such proclamation, the same proceedings shall be had and the same judgment given as in other cases of default.

*Sec. 17. Be it further enacted,* That if two or more persons are bound jointly, or jointly and severally, in any bond or writing obligatory, and the persons so bound shall reside in different counties, it shall be lawful for the clerk of the court where suit is brought against one of the obligors, on request of the plaintiff, to issue a *capias ad respondendum* or summons against the other obligor or obligors, directed to the sheriff or other officer of the county where he or they may reside; and the sheriff or other officer shall execute and return the same in the same manner and under the same penalties, as if the *capias ad respondendum* or summons had issued from the clerk of his county; and the court to whom such writ is returned shall proceed in the same manner thereon as if it had been returned by the sheriff of their own proper county.

*Sec. 18. Be it further enacted,* That whenever any justice of the peace or other person, who now is or hereafter may be authorized so to do, shall return to the court of common pleas any recognisance, a memorandum thereof shall be entered in the minute book of the court; whereupon the same shall be considered as of record in such court and be proceeded on by process issuing out of said court in the same manner as if such recognisance had been entered into in such court, and the same recognisance shall be made out and recorded in full in the book of records of said court in the same manner as recognisances taken in such court.

Sec. 19. *Be it further enacted,* That special bail shall be filed on the return day of the capias ad respondendum, or on the succeeding day.

Sec. 20. *Be it further enacted,* That if special bail be not put in and perfected in due time, the plaintiff may proceed on the bail bond, or rule the sheriff to bring in the body of the defendant.

Sec. 21. *Be it further enacted,* That if on a capias ad respondendum the sheriff or other officer returns "I have taken the body," or "I have taken the bodies" (as the case may be) and shall not return bail, and a copy of the bail bond, or if the plaintiff be dissatisfied with the bail taken by such sheriff or officer, and the defendant shall fail to appear and give special bail within the time above prescribed, the court on motion shall rule such sheriff or officer, to bring in the body of the defendant within the term; and if he fail so to do, the sheriff or officer shall be amerced by the court in any sum not exceeding the plaintiff's debt or demand with costs, which amercement shall have the same force and effect as a judgment; whereupon, an execution in the name and for the use of the said plaintiff may on motion in open court, and without any further proceedings be awarded and issued against the goods and chattels, lands, tenements and real estate of the sheriff or officer so amerced as aforesaid: *Provided nevertheless,* if such sheriff or other officer shall cause special bail to be put in and justified, if justification be required during the same term, he shall be excused from bringing in the body, and no amercement shall be entered against him on the said rule.

Sec. 22. *Be it further enacted,* That if the sheriff or officer when ruled so to do, shall on the return of I have taken the body, bring in the body of the defendant shall be committed, and upon the entry of such committitur, the plaintiff may proceed in the action and declare against the defendant as in custody.

**Sec. 23.** *Be it further enacted,* That the sheriff or other officer in order to save himself may put in special bail for the defendant without his consent; and the bail of such sheriff or officer may do the same for their indemnity.

**Sec. 24.** *Be it further enacted,* That if special bail be filed during the first or second day of the term to which process is returnable, exception shall be taken and entered thereto in the clerk's docket during the said term, of which exception a written notice shall be served on the defendant or his attorney of record, and in such case the defendant shall procure his bail to justify in eight days, exclusive after such exception and notice as aforesaid, or add other bail, who shall justify within the said eight days; and where bail is filed on the first or second day of the term, an exception entered after the expiration of the said term shall be of no validity.

**Sec. 25.** *Be it further enacted,* That two days notice of the time of justification of bail or of putting in new or additional bail and justification thereof, shall be given by the defendant or his attorney, to the plaintiff or his attorney, exclusive of the day it is given, and if Sunday intervene three days notice shall be given.

**Sec. 26.** *Be it further enacted,* That if the bail do not justify at the time appointed, they shall be considered out of court, and when they do justify and are allowed, an order of such allowance shall be drawn and a copy thereof served on the plaintiff or his attorney.

**Sec. 27.** *Be it further enacted,* That without the consent of the plaintiff or his attorney in cases where the sheriff or other officer shall be ruled to bring in the body, justification of bail shall not be permitted after the expiration of the term in which the said rule is entered.

**Sec. 28.** *Be it further enacted,* That the recognizance of special bail shall be to the effect following:

A. B.  
against  
C. D.

} In debt or case, as the action may be,

The state of Ohio,

county, to wit:

Be it remembered, that on the  
day of \_\_\_\_\_ in the year of our Lord one thou-  
sand eight hundred and \_\_\_\_\_ G. H. and E. F.  
of the county of \_\_\_\_\_ personally appeared  
before me J. K. one of the judges of the supreme court  
of the state of Ohio, or one of the judges of the court  
of common pleas, in and for the county of \_\_\_\_\_  
or clerk of the supreme court of the state of Ohio, or  
clerk of the court of common pleas in and for the county  
of \_\_\_\_\_ (as the case may be) and severally ac-  
knowledged themselves to owe unto A. B. the sum of  
(double the sum endorsed on the writ)  
each to be levied upon their several goods and chattels,  
lands, tenements and real estate, upon condition that  
if the defendant C. D. shall be condemned in this ac-  
tion at the suit of A. B. the plaintiff, he shall pay the  
costs and condemnation of the court, or be rendered  
or render himself into the custody of the sheriff of the  
said county for the same; or in case of failure, that the  
said G. H. and E. F. will pay the costs and condem-  
nation for him; taken and acknowledged the day and  
year above written, before me J. K.

And that on acknowledging the aforesaid recogni-  
sance, the bail piece shall be, the effect following, to  
wit: The state of Ohio, supreme court (or court of  
common pleas) of the term of \_\_\_\_\_ in the year of  
our Lord, one thousand eight hundred and \_\_\_\_\_ C.  
D. of the county of \_\_\_\_\_ is delivered to bail on a  
cepi corpus unto G. H. and E. F. of the said county,  
at the suit of A. B. in a plea of debt or trespass on the  
case, (as the action may be) Attest. S. M. clerk.

Sec. 29. *Be it further enacted*, That in actions  
which are or shall be instituted in the supreme court of  
this state, special bail may justify by affidavit in the

said court, or before one of the judges or clerks thereof, either in term time or in vacation, and that such affidavit shall set forth that the bail is a resident of the county, and that he is worth so much (mentioning the sum he is bail for) after all his debts are paid.

Sec. 30. *Be it further enacted*, That in actions which are or shall be instituted in any of the courts of common pleas of this state, special bail may justify by affidavit in the said court, or before one of the judges or clerk thereof in term time or vacation, which affidavit shall set forth that the bail is a resident of the county, and that he is worth so much (mentioning the sum he is bail for) after all his debts are paid.

Sec. 31. *Be it further enacted*, That if special bail be not put in and perfected in due time, the plaintiff if he be satisfied with the bail taken by the sheriff or officer, may take an assignment of the bail bond in the words or to the effect following: I, the within named O. P. do hereby assign and set over the within bond to the within named A. B. the plaintiff pursuant to the statute. Witness my hand and seal the       day of       in the year of our Lord, one thousand eight hundred and

Signed, sealed and delivered }  
in presence of E. K. and G. H. } O. P. (L.S.)

And this shall be deemed a good assignment in law, to ground an action on such bail bond in the name of the assigned.

Sec. 32. *Be it further enacted*, That the proceedings on the bail bond may be set aside if irregular, or stayed if regular upon terms, in order that a trial may be had in the original action.

Sec. 33. *Be it further enacted*, That where the plaintiff has not in the original action for want of special bail being filed in due time, lost a trial, the court or a judge may stay the proceedings on the bail bond, upon putting in and perfecting special bail, paying the costs incurred by the assignment, and prosecution of

the bail bond, receiving a declaration, in the original action pleading issuably and taking short notice of trial, so that the cause may be tried in the same term if the plaintiff think fit.

**Sec. 34.** *Be it further enacted,* That where the plaintiff has lost a trial in the original action for want of special bail being filed in due time, it shall be the duty of the court before the proceedings be stayed on the bail bond, further to require that the bail consent that judgment be entered against them on the bail bond for the plaintiff's security; and in such case, if the defendant fail in the original action, the bail shall be liable to immediate execution, and shall not discharge him or themselves by a render of the principal.

**Sec. 35.** *Be it further enacted,* That after the expiration of the term in which the plaintiff might have had judgment in the original action, if bail had been filed in due time, the proceedings shall not be stayed on the bail bond without the consent of the plaintiff.

**Sec. 36.** *Be it further enacted,* That whenever the defendant is guilty of a neglect in not putting in special bail in due time, by which the bail bond becomes forfeited, the notice in case the party means to put in special bail, in order to stay proceedings on the bail bond, shall be that he will put in and perfect special bail in open court, on such a day, specifying the day, and in that case the plaintiff may oppose the bail in court, without its being a waiver of the bail bond.

**Sec. 37.** *Be it further enacted,* That every court and judge shall take the fact to be true as sworn to in the affidavit, to hold the party to bail without going in to the merits.

**Sec. 38.** *Be it further enacted,* That on the return of the *capias ad respondendum* the defendant may appear in court and render himself in discharge of his appearance bail, and upon such render the appearance bail shall be discharged; and in such case, if the defendant does not immediately put in and justify special

bail he shall be committed, and upon the entry of such committitur, the plaintiff may proceed in the action and declare against him as in custody.

Sec. 39. *Be it further enacted*, That subsequent to the return of the *capias ad respondendum*, the defendant may render himself or be rendered in discharge of his special bail either before or after judgment: *Provided*, That such render be made at or before the appearance day of the first *scire facias*, against the bail returned *scire facio* or of the second *scire facias* returned *nihil*, and not after; but in either case the bail shall pay the costs of the said *scire facias*, and judgment for the same shall be entered against him accordingly.

Sec. 40. *Be it further enacted*, That if the plaintiff proceed against the special bail by action of debt on the recognisance, the render of the principal shall be made during the term to which process against such bail is returnable and not after, but the bail shall pay the cost of said action.

Sec. 41. *Be it further enacted*, That the court or judge before whom the render is made, shall make an entry or minute of such render and commitment and thereupon the defendant shall be committed to the custody of the sheriff or jailor attending the said court or judge.

Sec. 42. *Be it further enacted*, That on such render and commitment duly certified to the clerk of the court, if done in vacation, it shall be the duty of the said clerk to enter an exoneratur on the bail piece and thereupon the bail shall be discharged: *Provided*, the said bail give immediate notice of such render to the plaintiff or his attorney, if within the county.

Sec. 43. *Be it further enacted*, That when the sheriff or other officer shall return on any original mesne process, "I have taken the body," and that he hath committed such defendant to prison for want of appearance bail, the plaintiff may proceed in his action and the defendant make his defence; but the defendant

shall not be discharged out of custody until he shall put in good bail or the plaintiff shall agree to accept an appearance without bail; and in all personal actions, in which any defendant shall either before or after appearance entered and before final judgment be committed to prison, the plaintiff shall proceed to file his declaration or other pleading, within the same time he would be required to do so if the defendant was out on bail, and shall furnish the defendant with copies thereof, provided the same be demanded in writing, and if he fails so to do, he shall be non prossed, and such defendant shall also file his plea or other pleading within the time he would be required to do if he was out on bail, and if he fails so to do the plaintiff shall be entitled to judgment by default, as in other cases.

Sec. 44. *Be it further enacted,* That no sheriff or officer shall be liable to be called upon to produce the body of any defendant on a *capias ad respondendum*, returned "I have taken the body," unless he be required so to do before the expiration of the second term after the return of such *capias*, and if on such rule, he shall not bring in the body, he may be proceeded against by amercement, in manner herein before mentioned.

Sec. 45. *Be it further enacted,* That the plaintiff shall not in any action instituted by *capias ad respondendum* be permitted, to declare in chief until special bail be filed and perfected if required, or the defendant be returned in prison, or brought into court on a rule for that purpose, or has rendered himself into court in discharge of his appearance bail as herein before provided, and a *committitur* entered, unless the said plaintiff will wave his right to special bail and enter such waiver on the minutes of the court, and then the defendant shall be considered as in court, and may be proceeded against accordingly.

Sec. 46. *Be it further enacted,* That after a *capias ad satisfaciendum* shall have been returned not found by

the sheriff or officer, the plaintiff may proceed against the special bail upon his or their recognisance, and in all cases in which a judgment or decree hath been or shall be rendered, in any court of common pleas or in the supreme court in any county in this state, and the person or persons against whom such judgment or decree is or shall be rendered, shall remove into or be residing in any other county or shall have property in any other county, it shall be lawful for the party in whose favor such judgment or decree is or shall be rendered, to sue out of the office of the clerk of the court rendering such judgment or decree the same process of execution directed to the proper officer of such other county as he might or could sue out against parties living in the same county; and process so issued shall be executed and returned to the office from whence it may issue; and if the officer to whom such process may be directed and delivered shall neglect or refuse to execute and return the same agreeably to the command thereof or to pay over any money made thereon, it shall be the duty of the court from which such process issued, on motion for that purpose, to amerce the said officer in the same manner as though he were an officer of their own proper county, on which amercement process of execution may be taken out as in other cases.

*Sec. 47. B. it further enacted,* That if at any time before or after judgment be rendered against special bail, a writ of error is taken out and allowed on the judgment against the principal in the suit in which their recognisance was taken, the court may on motion stay proceedings against such bail for a reasonable time, on their paying all costs that may have accrued on the proceedings against them; and if on such writ of error the judgment against the principal in the suit in which the said bail are bound shall be finally reversed, so that the said principal be thereby discharged from the suit in which the said bail were bound,

then and in that case the bail shall be discharged from their recognisance.

Sec. 48. *Be it further enacted*, That when a writ of habeas corpus cum causa shall be allowed for removing a cause from the court of common pleas into the supreme court the clerk of the supreme court shall take bond and security from the party applying for such writ to the adverse party, in the same manner as if such cause was removed by a writ of error, and shall also make out and sign a citation to the adverse party, which shall be served on him in the same manner and within the same time as is required on a writ of error: *Provided*, That no cause in which the matter in dispute does not amount to one thousand dollars shall be removed by the writ aforesaid, without a special allowance from one of the judges of the supreme court, which shall not be granted unless on good cause shewn.

Sec. 49. *Be it further enacted*, That the clerk of the court of common pleas shall return with the writ of habeas corpus cum causa, a transcript of the record of such court in said cause; and the supreme court shall proceed thereon in the same manner, as if such suit had been commenced and proceedings had therein.

Sec. 50. *Be it further enacted*, That in all cases brought before either the supreme court or courts of common pleas, to recover the forfeiture annexed to any article of agreement, covenant, bond or other speciality, where the forfeiture or non performance shall appear by the default or confession of the defendant or upon demurrer, and on all judgments by default or on demurrer, the court before whom the action is, shall render judgment therein for the plaintiff to recover so much as is due according to equity; and when the sum for which judgment should be rendered is uncertain, the same shall, if either of the parties request it, be assessed by a jury.

**Sec. 51.** *Be it further enacted,* That when judgment by default, confession or on demurrer as mentioned in the preceding section shall be given for the plaintiff in such action, he may assign as many breaches of the covenants, agreements or conditions aforesaid as he shall think fit; and if the defendant after such judgment entered, and before execution executed, shall pay into the court where the action is or shall be brought, to the use of the plaintiff or his executors or administrators, such damages as the court or jury shall assess as herein before provided, by reason of all or any of the breaches of such covenants, agreements or conditions, together with costs of suit, a stay of execution of the judgment shall be entered on record; and if by reason of any execution executed, the plaintiff or his executors or administrators shall be fully paid or satisfied, all such damages so assessed with costs of suit and the legal charges for executing the said execution, the body, lands, goods and chattels of the said defendant shall be thereupon forthwith discharged from the said execution, which shall likewise be entered on record; but in every case the said judgment shall notwithstanding remain as a security to the plaintiff, his executors and administrators, for any other breaches which may afterwards happen of such covenants, agreements or conditions, upon which the plaintiff or his executors or administrators may have a *scire facias* against the defendant, his heirs devisees, executors or administrators, assigning other breaches to summon him or them respectively, to shew cause why execution should not be had or awarded on the said judgment, and thereupon damages shall be assessed as aforesaid, and execution issued accordingly; and that upon payment or satisfaction in manner aforesaid of such future damages, costs and charges aforesaid, all further proceedings on the said judgment shall be stayed, and so on as often as the same may happen; and the defendant, his body, lands, goods and chat-

tels, shall be discharged from the said execution in manner aforesaid.

**Sec. 52.** *Be it further enacted,* That in any action of debt on single bill, or action of debt or scire facias on judgment, if the defendant hath paid the money due on such bill or judgment or any part thereof, he may plead the same in bar.

**S c. 53.** *Be it further enacted,* That in any action of debt on bond which hath a condition or defeasance to make void the same on payment of a less sum, at a day and place certain, if the obligor, his heirs, executors or administrators, have before the action brought paid to the obligee, his executors or administrators, the principal and interest due by the condition or defeasance of such bond, though such payment was not made strictly according to the condition or defeasance, yet it may be pleaded in bar, and shall be as effectual a bar of such action, as if the money had been paid at the day and place according to the condition of defeasance, and had been so pleaded.

**Sec. 54.** *Be it further enacted,* That if at any time pending an action on any bond, bill, note or specialty for the payment of a sum certain, the defendant shall bring into court where the action shall be pending, all the principal money and interest due on such bond, bill, note or specialty; and all such costs as have accrued in any suit or suits in law, or equity upon the said bond, the said money so brought in shall be deemed and taken to be in full payment and satisfaction of such bond, and the court shall give judgment to discharge the defendant from the same accordingly; and if in any other suit pending in either of the courts, the defendant shall at any time bring into court and deposit with the clerk for the use of the plaintiff the amount that he admits to be due to or demanded by the plaintiff together with all cost that has then accrued and the plaintiff shall refuse to accept the same in discharge of his suit and shall not afterwards recover a

larger sum than the sum so brought into court, exclusive of cost, he shall pay all costs that may accrue from and after the time such money was so brought in and deposited as aforesaid.

**Sec. 53.** *Be it further enacted,* That it shall be lawful for the plaintiff in replevin, or for the defendant or tenant in every other action to plead in any court of record, with leave of such court, as many several matters as he shall thing necessary for his defence, but if on demurrer any such matter be adjudged to be insufficient, costs shall thereupon be awarded by the court.

**Sec. 56.** *Be it further enacted,* That it shall be lawful for the defendant in any action to plead the general issue and give any special matter in evidence, which if pleaded would be a bar to such action, giving notice, with the same plea, of the matter or matters so intended to be given in evidence.

**Sec. 57.** *Be it further enacted,* That no plea in abatement other than a plea to the jurisdiction of the court or where the truth of such plea appears of record, shall be admitted or received unless the party offering the same, file an affidavit of the truth thereof; and where a plea, in abatement shall upon argument be judged insufficient, the plaintiff shall recover full costs to the time of overruling such plea.

**Sec. 58.** *Be it further enacted,* That in all cases where a special demurrer shall, on argument, be overruled, costs may be taxed and allowed the apposite party to the time of overruling such demurrer.

**Sec. 59.** *Be it further enacted,* That where several persons shall be made defendants in actions of trespass, assault, false imprisonment, or ejectment, and upon the trial thereof any one or more of them shall be acquitted by verdict, every defendant so acquitted, shall have and recover his costs of suit, in like manner as if verdict had been given against the plaintiff and had acquitted all the defendants; and in all cases where judgment shall be given for the defendant, he

shall recover his costs against the plaintiff and have execution for the same; *Provided*, That nothing herein contained shall be construed to extend to executors or administrators, in such cases whereby usage of law they are not bound for the payment of costs of suit.

Sec. 60. *Be it further enacted*, That in all actions of trespassquare clausum fregit, hereafter to be brought wherein the defendant or defendants shall disclaim in his or their plea to make any title or claim to the land in which the trespass is supposed to be done by the declaration, and the trespass be by negligence or involuntary, the defendant or defendants shall be admitted to plead a disclaimer, and that the trespass was by negligence or involuntary and a tender or offer of sufficient amends for such trespass before the action bro't whereupon the plaintiff or plaintiffs shall be enforced to join issue; and if the said issue be found for the defendant or defendants, the plaintiff or plaintiffs shall be non-suited, and the said plaintiff or plaintiffs shall be clearly barred from the said action or actions and all other suits concerning the same trespass.

Sec. 61. *Be it further enacted*, That no plaintiff shall proceed in ejectment to recover any lands or tenements against a casual ejector without ten days previous notice being given to the tenant in possession (if any there be :) and it shall be lawful for the court on application for that purpose to make the tenant or landlord or both or any other person claiming title to the premises, defendant in lieu of the casual ejector.

Sec. 62. *Be it further enacted*, That the plaintiff on affidavit of the delivery of the declaration in ejectment shall have judgment against the casual ejector, unless the tenant in possession or landlord or other proper person, shall apply to be made defendant, and enter into the common consent rule, within the term to which the said tenant had notice to appear.

Sec. 63. *Be it further enacted*, That in ejectment, where the lessor of the plaintiff is unknown to the de-

pendant, the latter may call for an account of his residence or place of abode from the opposite attorney, and if he refuse to give it or give in a fictitious account of a person who cannot be found, or if the lessor of the plaintiff shall not reside or is not a freeholder within the county where such suit is brought, the court if moved before issue joined, may stay proceedings until security be given for the payment of costs.

Sec. 64. *Be it further enacted*, That in ejectment where the lessor of the plaintiff resides out of this state or is an infant or dead, the court if moved before issue joined, may stay proceedings until a real and substantial person be named, or security be given for the payment of costs.

Sec. 65. *Be it further enacted*, That if any action for mesne profits shall be brought in the name of the nominal plaintiff in ejectment, the court if moved before issue joined may stay proceedings until security be given for the payment of costs.

Sec. 66. *Be it further enacted*, That if an infant be entitled to any action, his guardian or next friend shall be admitted to prosecute for him, and if he be sued a guardian shall be appointed to defend the suit for him, but in no case shall the parol demur or the proceedings be deferred or stayed till the infant arrives at full age neither at common law or in chancery.

Sec. 67. *Be it further enacted*, That every attorney who shall confess judgment in any case shall at the time of making such confession produce his warrant for making the same to the court before whom he makes the confession, if required so to do, and a copy of the said warrant shall then be filed with the clerk of the court in which the judgment shall be entered; and no warrant of attorney for confessing a judgment executed by any person in custody upon mesne process in a civil action to a plaintiff at whose suit he is in custody, shall be of any force, unless some attorney on behalf of such per-

son in custody, and expressly named by him, be present and sign the said warrant of attorney as a witness.

**Sec. 68.** *Be it further enacted,* That if any informer on a penal statute, to whom the penalty or any part thereof if recovered is directed to accrue, shall discontinue his suit or prosecution, or shall be non suited in the same, or if upon trial judgment shall be rendered in favor of the defendant, such informer shall pay all costs accruing on such suit or prosecution, unless such informer be an officer whose duty it is to commence such suit or prosecution.

**Sec. 69.** *Be it further enacted,* That if in any suit or action in the court of common pleas, it shall so happen that there is not a sufficient number of disinterested judges of such court present at any term thereof to sit on the trial of any particular cause then and there pending, it shall be the duty of such court, on the application of either party, to cause the fact to be entered on the minutes of the court and also to order an authenticated copy thereof, with all the proceedings in such suit or action to be forthwith certified to the next supreme court of the county, which supreme court shall thereupon take cognisance thereof in like manner as if it had been originally commenced in that court, and shall proceed to hear and determine the same accordingly.

**Sec. 70.** *Be it further enacted,* That when any suit shall be depending in either of the said courts, and either of the parties shall die before final judgment, the executor or administrator of such deceased party, whether plaintiff or defendant, in case the cause of action doth by law survive, shall have full power to prosecute or defend any such suit or action until final judgment and the defendant or defendants are hereby obliged to answer thereto accordingly; and the court before whom such cause may be depending is hereby empowered and directed to hear and determine the same, and to render judgment for or against the executor or administrator as the case may require; and if such executor

or administrator having been duly served with a scire facias from the office of the clerk of the court where such suit is depending, twenty days previous shall neglect or refuse to become a party to the suit, the court may render judgment against the estate of the deceased party, in the same manner as if the executor or administrator had voluntarily made himself a party to the said suit; and the executor or administrator who shall become a party as aforesaid shall upon motion to the court where the suit is depending be entitled to a continuance of the same until the next term of the said court; and if there be two or more plaintiffs or defendants and one or more of them shall die, if the cause of action shall survive to the surviving plaintiff or plaintiffs or against the surviving defendant or defendants, the writor action shall not be thereby abated but such death being suggested on the record the action shall proceed at the suit of the surviving plaintiff or plaintiffs against the surviving defendant or defendants, and after final judgment the plaintiff may proceed by scire facias to make the representatives of the deceased defendant or defendants, parties to the said judgment; and any judgment or judgments obtained, under the provisions of this section against the executor or executors, administrator or administrators of any deceased person, shall be considered standing in the same situation as any other allowed demand, and shall be paid by the executor or executors, administrator or administrators, at such times and in such proportions as other just demands against said estate, agreeably to the provisions of an act, entitled "An act, for proving and recording wills and codicils, defining the duties of executors and administrators, the appointment of guardians, and the distribution of insolvent estates."

**Sec. 71.** *Be it further enacted,* That when the testimony of any person shall be necessary in any civil cause depending in either the supreme court or courts of common pleas, who shall live out of the county where

such cause is depending or who is about to go out of such county before the time of trial or is ancient or very infirm, the deposition of such person may be taken before any justice or judge of any of the courts of the United States or before any chancellor, justice or judge of a supreme court or superior court, mayor or chief magistrate of a city, or judge of any county court, or court of common pleas, or justice of the peace of any of the United States or of this state, not being of counsel or attorney to either of the parties, or interested in the event of the cause: *Provided*, That a notification by the party wishing to have such deposition taken be first made out and served on the adverse party or his agent or attorney on record as either may be nearest, or left at his or their usual place of abode; in which notification shall be specified the time and place of taking such deposition, so that the opposite party may be present at the taking of the same and put in interrogatories if he think fit, which notice shall be served as aforesaid, so as to allow time for their attendance, after being notified, not less than at the rate of one day, (Sundays exclusive) for every twenty miles travel; and every person deposing as afore-said, shall be carefully examined and cautioned, and sworn or affirmed to testify the whole truth, and shall subscribe the testimony by him or her given, after the same shall be reduced to writing, which shall be done only by the magistrate taking the deposition or by the deponent or some other disinterested person in his presence, and the depositions so taken shall be retained by such magistrate until he deliver the same, with his own hand, into the court for which they are taken, or shall together with the notice, if any given to the adverse party, be by him the said magistrate sealed up and directed to such court and remain under seal until opened in court; and all depositions properly taken in any cause pending in the court of common pleas, may be admitted and read in evidence in the same cause when-

removed into the supreme court and shall be by the clerk of the court of common pleas certified up with the record: *Provided*, That before the depositions of any aged, infirm, absent or going witness shall be admitted the court shall be satisfied that the attendance of such witness could not be procured at the trial: *Provided also*, that nothing herein contained shall be construed to prevent either of the said courts from granting a *dedimus potestatem* to take depositions according to common usage, when it may be necessary, to prevent a failure or delay of justice, which power they shall severally possess, nor to extend to depositions taken in *perpetum rei memoriam*, which if they relate to matters that may be cognizable therein, either of the said courts on application thereto made, as a court of equity may according to the usages in chancery direct to be taken.

**Sec. 73.** *Be it further enacted*, That it shall be lawful for either of said courts from time to time as occasion may require to make rules and orders for their respective courts, directing the taking of rules, the entering and making up judgments by default or other matters in the vacation and otherwise, in a manner, not repugnant to the laws of this state to regulate the practice of the said courts respectively, as shall be fit and necessary for the advancement of justice, and especially for that end to prevent delays in proceedings; and in order that the rules of practice and proceedings of the several courts of common pleas may be uniform, and as near as may be conformable to the rules of the supreme court, the judges of the supreme court shall order the clerk of said court to transmit copies of their rules and regulations to the clerks of the courts of common pleas in every county, that the judges of the said courts may from time to time make rules and regulations agreeably thereto, as near as may be for the practice of their courts respectively.

**Sec. 73.** *Be it further enacted,* That the plaintiff or his attorney if required before plea filed shall deliver to the defendant or his attorney a copy of the account, or bill of the particulars of the demand, or a copy of the bill, bond, deed, bargain, contract, note, instrument or other writing, whereon the declaration is founded.

**Sec. 74.** *Be it further enacted,* That the defendant or his attorney, if required, shall deliver to the plaintiff or his attorney a copy of any deed or instrument of writing of which in his plea he shall make a profer in court, or a copy of any bill, bond, deed, note, receipt, bargain, contract, instrument of writing, or bill of particulars of any account or demand which he intends to offer in evidence at the trial of the cause; and if the plaintiff or defendant shall refuse to furnish the copy or copies required agreeably to the provisions of this section or of the preceding section, the party so refusing shall not be permitted to give in evidence at the trial, the original of which a copy has been so refused as aforesaid.

**Sec. 75.** *Be it further enacted,* That the party, whether plaintiff or defendant, shall take notice of the filing of the declaration or other pleading in the cause, at his peril, without service of a copy and notice of the filing of such declaration or other pleading, except as herein before excepted.

**Sec. 76.** *Be it further enacted,* That the defendant at any time before issue joined may move the court to consolidate unnecessary actions or to strike out superfluous counts in the declaration.

**Sec. 77.** *Be it further enacted,* That if the defendant be returned in custody on a *capias ad respondendum*, or be surrendered and committed by his bail, or be rendered and committed by order of court, if the plaintiff have other cause of action against the said defendant, or if any other person have cause of action against him, the plaintiff or other person may have pro-

cess against such defendant in the same manner as if he were at large, and on such process when served the same proceedings shall be had as in other cases.

**Sec. 78.** *Be it further enacted,* That where there are issues in law and in fact, the issue in law shall be determined before the issue in fact shall be tried.

**Sec. 79.** *Be it further enacted,* That every cause shall be tried at the court next after the issue joined either of law or fact, or on failure thereof judgment shall be awarded for the defendant as in case of non suit; unless the court upon just cause and reasonable terms allow further time for the trial of said cause.

**Sec. 80.** *Be it further enacted,* That where interlocutory judgment in actions shall be entered by default against the defendant, the court shall assess the damages and give final judgment, unless the plaintiff or defendant shall request a writ of inquiry.

**Sec. 81.** *Be it further enacted,* That the party against whom a verdict hath been rendered, may move for a new trial, and if it be denied may then move in arrest of judgment, but he shall not be permitted to move for a new trial after a motion in arrest of judgment.

**Sec. 82.** *Be it further enacted,* That the clerk shall endorse on every writ of execution, before the delivery thereof to the sheriff or other officer, the true amount of the judgment or the balance due thereon, together with the interest and also the cost of suit.

**Sec. 83.** *Be it further enacted,* That every special verdict and demurrer to evidence shall be entered on the minutes of the court, after which either party may move the court to assign a day for argument.

**Sec. 84.** *Be it further enacted.* That if execution be not sued out within five years after the date of any judgment that now is or hereafter may be rendered in any court within this state; or if five years should intervene, after the date of any execution issued on any judgment obtained as aforesaid, without suing out any

either writ of execution thereon, and such judgment still remains unsatisfied, it shall and may be lawful for the plaintiff, his heirs, executors, administrators or assigns, to bring and maintain an action of debt on such dormant judgment against such defendant, his heirs, executor, or administrators; or he or they may at his or their election, sue out of the clerks office of the court, wherein such judgment was obtained and still remains unsatisfied, a writ of scire facias requiring such defendant, his heirs or executors or administrators, as the case may be, to appear at the next term of such court and shew cause, if any he or they hath or have, why the said judgment should not be revived and execution awarded against him or them, to which scire facias the said defendant or his heirs, executors or administrators may plead such matter as he or they hath or have to allege, in order to shew why process of execution should not be awarded.

Sec. 85. *Be it further enacted*, That on the first scire facias returned "scire faci," or on two writs of scire facias returned "nihil," if the defendant, his heirs, executors or administrators do not appear and shew cause as aforesaid, the court shall proceed to render judgment and award execution on such dormant judgment or for such part thereof as still remains unsatisfied.

Sec. 86. *Be it further enacted*, That at least twelve days before every court of common pleas or supreme court, the clerks of the respective courts shall enter, in a particular docket, all such causes (and those only) in which an issue is to be tried, or an inquiry of damages is to be made, or a special verdict, or a case agreed, or demurrer, or other matter of law is to be argued, in the same order as they stand in the course of proceeding, setting, as near as may be, an equal number of causes to each day of the time allowed by law for the setting of such court, if, in his opinion, so many days will be expended trying the causes ready for trial, and issue subpoenas for witnesses to attend on the days on which the

causes stand for trial, and no cause shall be removed from its place on the docket, but all causes in which the intervention of a jury is necessary, shall be tried in the order in which they stand, unless the parties otherwise agree, or be continued until the next term.

Sec. 87. *Be it further enacted*, That the clerk of the court of common pleas, in each county, shall make out a copy of the trial docket by the first day of each term of each court, for the use of the president thereof and his associates; and the clerk of the supreme court, in each county, shall in like manner, make out for the presiding judge of said court, by the first day of each term thereof, a copy of the trial docket herein before mentioned.

Sec. 88. *Be it further enacted*, That the declaration, pleadings and other papers relative to every cause shall be filed together in the office of the clerk of each court, and be by such clerk carefully preserved.

Sec. 89. *Be it further enacted*, That for preventing errors in entering the judgments, orders and decrees of each court, the judges thereof, before every adjournment, shall cause the minutes of their proceedings to be publicly read by the clerk, and corrected where necessary, and then the same shall be signed by the presiding judge then sitting in court, which minutes, so signed, shall be taken in a book and carefully preserved among the records; and no proceedings, orders, judgments or decrees of either of the said courts shall be of force or valid until the same be so read and signed.

Sec. 90. *Be it further enacted*, That the clerk of each court shall enter in a docket book, to be kept by him for that purpose, a list of all executions by him issued, the name of the person to whom delivered, what return is made thereon, in case the same be returned, and the final satisfaction of the judgment, when the same is made; and the clerk shall keep the said docket in court while sitting.

Sec. 91. *Be it further enacted*, That in all cases where a non-suit may be directed by the court of common pleas, by reason of irrelevancy of testimony, or by reason that the testimony adduced does not support the case set forth in the declaration, and also whenever the testimony shall be arrested from the jury, by reason of which the plaintiff becomes non-suit, the plaintiff shall have the same right to appeal as in other cases, and either party shall also have the right to except to the opinion of the court, on a motion to direct a non-suit, to arrest the testimony from the jury and also in all cases of motions for a new trial, by reason of any supposed misdirection of the court to the jury, or by reason that such verdict may be supposed to be against law, so that such case may be removed by writ of error; and when a party to a suit in any court of common pleas within this state, alleges an exception to any order or judgment of such court, it shall be the duty of the judges of such court, concurring in such order or judgment if required by such party during the term, to sign and seal a bill containing such exception or exceptions as heretofore, in order that such bill or exceptions may, if such party desire it, be made a part of the record in such suit, if the same suit should be taken by writ of error to a superior court.

Sec. 92. *Be it further enacted*, That the supreme court and courts of common pleas shall have power in the trial of actions at law, on motion and on ten days notice thereof being given, to require the parties to produce books and writings in their possession or power, which contain evidence pertinent to the issue, in cases and under circumstances where they might be compelled to produce the same by the ordinary rules of proceeding in chancery; and if the plaintiff shall fail to comply with such order to produce books or writings, it shall be lawful for the courts respectively, on motion as aforesaid, to give the like judgment for the defendant as in case of non-suit; and if a defendant shall fail to

comply with such order to produce books or writings, it shall be lawful for the courts respectively, on motion as aforesaid, to give judgment against him or her by default.

**Sec. 93.** *Be it further enacted,* That the supreme court and courts of common pleas shall respectively have power to grant new trials in cases where there has been a trial by jury, for reasons for which new trials have usually been granted in the courts of law: *Provided,* That not more than two new trials be granted to the same party in the same cause; and shall have power to impose and administer all necessary oaths or affirmations, and to punish by fine or imprisonment or both, at the discretion of said courts, all contempts of authority in any cause or hearing before the same.

**Sec. 94.** *Be it further enacted,* That when in the supreme court judgment upon a verdict in a civil action shall be entered, execution may on motion of either party, at the discretion of the court and on such conditions for the security of the adverse party as they may judge proper, be stayed thirty days from the time of entering judgment, to give time to file in the clerk's office of said court, a petition for a new trial; and if such petition be there filed, within said term of thirty days, with a certificate thereon from any two of the judges of such court, that they allow the same to be filed, which certificate they may make or refuse at their discretion, execution shall of course be stayed to the next session of said court, and if a new trial be granted the former judgment shall be thereby rendered void.

**Sec. 95.** *Be it further enacted,* That final decrees and judgments in the court of common pleas may be re-examined and reversed or affirmed, in the supreme court, holden in the same county upon a writ of error, whereto shall be annexed and returned therewith at a day and place therein mentioned, an authenticated

transcript of the record and assignment of error, and prayer for a reversal, with a citation to the adverse party or his attorney, signed by the clerk of the supreme court, the adverse party having at least ten days notice and the clerk before signing such citation, shall take a bond from the applicant to the adverse party with one or more good and sufficient securities, in double the amount of the judgment obtained or decree rendered, conditioned for the payment of the condemnation money and costs, in case the judgment of the common pleas should be affirmed in whole or in part, and writs of error shall not be brought but within five years after rendering or passing the judgment or decree complained of, or in case the person entitled to such writ of error, be an infant, feme covert, non-compos mentis, or imprisoned then within five years as aforesaid, exclusive of the time of such disability.

Sec. 96. *Be it further enacted*, That no summons, writ, declaration, return, process, judgment or other proceedings in civil causes, in either of the said courts shall be abated, arrested, quashed or reversed for any defect or want of form, but the said courts respectively shall proceed and give judgment according to the right of the cause, as the matter in law shall appear unto them, without regarding any imperfection, defect or want of form in such writ, declaration or other pleading, return, process, judgment or course of proceeding whatsoever, except those only in case of demurrer, which the party demurring shall specially set down and express, together with his demurrer, as the cause thereof, and the said courts respectively shall and may, by virtue of this act, from time to time, amend all and every such imperfection, defect and want of form, other than those only which the party demurring shall express as aforesaid and may at any time, before a writ of error be brought, permit either of the parties to amend any defect in process or pleadings upon such con-

ditions as the said courts respectively shall in their discretion and by their rules prescribe.

**Sec. 97.** *Be it further enacted,* That when a judgment or decree shall be reversed in the supreme court, in whole or in part, such court may either proceed to render such judgment or pass such decree as the court of common pleas should have rendered or passed, or remand the cause to the court of common pleas, by writ of procedendo for such judgment or decree; and the supreme court shall not issue execution in causes that are removed before them by writs of error on which they pronounce a judgment or pass a sentence or decree as aforesaid, or on appeals, but shall send a special mandate to the court of common pleas to award execution thereupon, and such court is hereby authorised and required to proceed in such cases in the same manner as if such judgment or decree had been rendered therein; and on motion and good cause shewn they may suspend any execution, made returnable before them by order of the supreme court, in the same manner as if such execution had been issued from their own court: *Provided,* That such power shall not extend further than to stay proceedings till the matter can be further heard by the supreme court.

**Sec. 98.** *Be it further enacted,* That when a judgment or decree is reversed, the plaintiff in error shall recover his costs; when a judgment or decree is affirmed the defendant in error shall recover his costs; when a judgment is arrested, the party prevailing shall recover costs; and when a judgment or decree is reversed in part and affirmed in part, costs shall be equally divided between the parties.

**Sec. 99.** *Be it further enacted,* That in civil cases an appeal shall be allowed of course to the supreme court from any judgment or decree rendered in the court of common pleas, in which the court of common pleas had original jurisdiction, subject to the provisions contained in the second section of this act; and

the party desirous of appealing his cause to the supreme court shall, at the term of the court of common pleas in which judgment or decree was rendered, enter on the records of the court notice of such his intention; and within thirty days after the rising of such court shall enter into bond to the adverse party, with one or more good and sufficient securities, to be approved of by the clerk of such court in double of the amount of the judgment or decree rendered, conditioned for the payment of the full amount of the condemnation money, in the supreme court and costs, in case a judgment or decree should be entered therein in favor of the appellee; and in case notice of appeal is entered as aforesaid, the court may, on motion of the party entering such notice, on laying him under such reasonable restrictions and terms as they may judge necessary for the security of the adverse party, direct execution to be stayed for thirty days; and if, on any trial in the supreme court, the appellant shall not recover a greater sum in debt or damages than was adjudged to him in the common pleas, he shall not recover costs on such appeal.

*Sec. 100. Be it further enacted,* That when an appeal is granted and bond and security given thereon as aforesaid, the judgment or decree rendered in such case in the court of common pleas shall thereby be rendered void; and the clerk of such court shall forthwith make out an authenticated transcript of the records of the said court in such cause, and deliver the same to the appellant or his attorney on demand, and the appellant or his attorney shall deposit such transcript with the clerk of the supreme court of such county, on or before the first day of its next term, after bond and security is given on appeal, as herein provided; and if the appellant or his attorney fail to deliver such transcript on the said first day of the term, the appellee may apply to the clerk of the court of common pleas for an authenticated transcript of the re-

cord in such case, and file the same with the clerk of the supreme court, which transcript being filed by the appellee, the supreme court in such case is hereby authorised and required, on his application, either to enter up a judgment or decree in his favor, similar in every respect to that entered in the court of common pleas, or to have the said appeal tried by a jury, and in either case the appellee shall recover all the costs that may accrue in the supreme court.

*Sec. 101. Be it further enacted,* That the clerk of the supreme court shall, prior to the filing with him the transcript as herein before provided, on the application of either party to an appeal, issue subpoenas for witnesses, returnable to the first day of the next term of said court, on satisfactory proof being made before him that such appeal has been taken.

*Sec. 102. Be it further enacted,* That when any cause is removed by appeal into the supreme court, the appeal shall be tried on the pleadings made up in the court of common pleas, unless, for good cause shewn and on payment of costs, the said court should permit either or both parties to alter their pleadings, in which case such court shall lay the parties under such equitable rules and restrictions as they may conceive necessary to prevent delay.

*Sec. 103. Be it further enacted,* That when judgment shall be rendered by the supreme court, in any case brought before them by writ of error, in which errors in law may have been assigned, or in any case brought before them by appeal, or by any writ issued from said supreme court in which there may have been an issue in law or demurrer to evidence, or in which there may have been a verdict and motion in arrest of judgment, or for a new trial founded on a supposed misdirection of the court to the jury, or on the improper admission of testimony, or the irrelevancy of testimony, or upon any allegation that such verdict is against law, it shall be the duty of the court to reduce

the reasons of their judgment to writing and cause the same to be filed with the other papers of such cause, and if it should so happen that the judges of said court should differ in opinion, then the dissenting judge shall also reduce the reasons of his opinion to writing, and the same shall be filed as aforesaid.

**Sec. 104.** *Be it further enacted,* That where there are in a declaration several counts, some of which are faulty and bad, and others not, and entire damages are given, the verdict shall be good and effectual in law: *Provided,* The plaintiff before the jury retire from the bar apply to the court to instruct the jury to disregard such faulty or bad counts.

**Sec. 105.** *Be it further enacted,* That if in detainue the verdict shall omit price or value, the court may at any time awarded a writ of enquiry to ascertain the same; and if on an issue concerning several things in one count in detainue no verdict be found for part of them, it shall not be error, but the plaintiff shall be barred of his title to the things omitted.

**Sec. 106.** *Be it further enacted.* That in case a quorum of the supreme court, or court of common pleas, shall fail to attend at the time and place appointed for holding their respective courts, the judge attending (or if no judge be present then the sheriff or coroner as the case may be) shall have power to adjourn the court from day to day, until a quorum be convened; or if no quorum shall be present within two days after the first day of the term, then and in such case, all suits, complaints, process and proceeding of whatever nature, commenced or depending in the said court shall stand continued of course to the next term to be holden in said county by the said judges.

**Sec. 107.** *Be it further enacted,* That all cases where the title of land or freehold is in question shall be tried in the county where the land lies, unless it shall appear to the court that a fair and impartial trial cannot be had in the proper county; in which case, and

in all other cases in which it shall be made appear to the court, that a fair and impartial trial cannot be had in the county where the suit is depending, the court may direct the venue to be changed to some adjoining county,

Sec. 108. *And be it further enacted,* That the act entitled "An act to reduce into one the several acts organising the judicial courts, defining their powers and regulating their practice," passed the sixteenth day of February, eighteen hundred and ten, also the act, entitled "An act to amend the act entitled an act reducing into one the several acts organising the judicial courts, defining their powers and regulating their practice," passed the fourth day of February, eighteen hundred and thirteen, be and they are hereby repealed.

The first section of this act shall take effect and be in force, from and after the passage thereof, and the residue of this act shall take effect and be in force, from and after the first day of June next.

MATTHIAS CORWIN,

*Speaker of the House of Representatives.*

PETER HITCHCOCK,

*Speaker of the Senate,*

February 23, 1816.

## CHAPTER CXII.

### *AN ACT relating to juries.*

60 grand and petit jurors to be selected annually,	1	{ to fill the panel,	ib
Time and manner of selection,	ib	{ Duty of clerk to apportion jurors among the several townships,	3
Duty of sheriff in serving the venire facias,	ib	{ Duty of sheriff to distribute the apportionment,	ib
Provision in case of death or removal,	2	{ Constables duty,	ib
Provision in case of sickness or absence,	ib	{ Their compensation,	ib
Talismen to be summoned		{ Proceeding in case of the non-attendance of grand jurors,	4

Qualifications of grand jurors, - - -	5	{ jury to be summoned in certain cases, - -	13
Form of grand jurors oath, - - -	6	{ Court may order a special writ of distringas, &c. to issue in certain cases, -	14
Form continued, - - -	7	{ Expenses how defrayed, -	15
Duty of grand jury, - - -	ib	{ Proviso, - - -	ib
Proviso, - - -	ib	{ A party demanding may have a struck jury, -	16
Further proceeding as to non-attendance of grand jurors, - - -	8	{ Notice and manner of striking a jury, -	17
Qualifications of petit jurors, - - -	9	{ Proviso, - - -	ib
Regulations concerning challenges to a juror, - - -	ib	{ Party applying to pay cost of struck jury, -	18
Challenge to jurors continued, - - -	10	{ Compensation of petit jurors, - - -	19
The whole array may be challenged, - - -	11	{ Proviso, - - -	ib
Coroner to summon a jury when the sheriff is interested, - - -	12	{ Compensation of grand jurors, - - -	20
Court may direct an entire		{ Jurors not compelled to give a general verdict, -	21

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That there shall be sixty grand jurors and forty eight petit jurors, judicious persons having the qualifications of electors annually selected in each county, to serve as a grand and petit jury the ensuing year, and the clerk of the court of common pleas on the first Monday of February annually, shall direct the proportion to be ascertained from the number of persons entered in the returns, to the commissioners of the respective counties of the taxable property, in the respective townships, and the trustees shall meet on the first Monday of March, annually, and shall select the number of grand and petit jurors, of persons having the qualifications aforesaid which shall have been assigned for their respective townships, by the clerk of the court of common pleas, and the respective clerks shall write the names of the persons so selected, upon a separate piece of paper and put them into a box, to be by him provided for that purpose at the expense of the county; those selected as grand jurors into one box, and those

selected as petit jurors into another box ; and the clerk of the court of common pleas at least thirty days before the sitting of said court shall in the presence of the sheriff of said county, draw from the respective boxes by lot, fifteen grand jurors and twelve petit jurors ; and the said clerk shall forthwith issue a venire facias to the sheriff commanding him to summon the persons drawn as aforesaid, to attend as jurors at the seat of justice of said county, on the first day of the court next to be holden thereon at ten o'clock, A. M. and the said clerk shall in like manner, at least thirty days before the sitting of the supreme court, in the presence of the sheriff of the proper county, draw by lot out of the box in which is contained the names of the persons selected for petit jurors as aforesaid, twelve petit jurors, and shall forthwith deposit in the office of the clerk of the supreme court of said county, a list of the names so drawn, and the clerk of the supreme court immediately upon the receipt of the names so to be deposited, shall issue a venire facias to the sheriff, commanding him to summon the persons drawn as aforesaid, to attend as jurors at the seat of justice of said county, on the first day of the supreme court next to be holden therein, and the sheriff in either case receiving such venire facias shall within ten days thereafter summon such persons by reading the same in their presence or leaving at their usual place of abode, a note or memorandum in the words following, to wit : "I am commanded to summon you                      to appear before the court of common pleas (or supreme court, as the case may be) to be holden in                      on the                      day of                      next, to serve as a grand (or petit juror as the case may be) and shall endorse on such venire facias, the names of the jurors and the time when summoned, and return the same to the clerk of said court on the first day of its session.

**Sec. 3.** *Be it further enacted,* That if any person selected a juror as aforesaid, shall die or remove put

of the township before the time for drawing for jurymen for any court, where such persons name shall be drawn out, it shall be thrown aside and another name be taken out in lieu thereof; and if by reason of sickness or absence out of the county, before receiving such summons or other sufficient excuse accepted by the court, any juror summoned as aforesaid shall not serve at the court to which he is summoned, his name shall be returned into the box from which it was drawn and shall remain there until drawn out at some subsequent drawing for jurors, when he shall serve, if no disability prevent; and at every annual selection for jurors, if there be any names undrawn and remaining in either box, said trustees shall select so many grand and petit jurors as will make the number to be selected in each township, and in case there should not by reason of challenge or otherwise be a sufficient number of jurors present to make up a panel, the sheriff shall summon a sufficient number of talismen to make up the deficient number, and at the close of any court the names of all such persons as shall have served on the jury at that term shall be taken out of the box and destroyed.

*Sec. 3 Be it further enacted,* That the clerk of the several courts of common pleas shall make out in writing a statement of the number of jurors that he has apportioned to each township, and shall deliver the same to the sheriff, and the sheriff shall on or before the first Monday in March, annually, deliver the same to one of the trustees of the proper township; and the said trustees, shall forthwith after they have selected the number of jurors, agreeably to the statement aforesaid and made out a list of their names, deliver the same to one of the constables of their township, whose duty it shall be to deliver the names of the jurors selected, to the clerk of the court of common pleas of such county, within five days thereafter, and the sheriff and constable shall be paid for their services under this sec-

tion out of the county treasury, such sum as the commissioners of the proper county shall think just.

**Sec. 4. *Be it further enacted,*** That when a sufficient number of grand jurors shall not appear, who shall have been selected and returned agreeably to this act, before either of the courts at their stated term, or if it should so happen that all the grand jurors summoned as aforesaid, shall fail to attend, it shall and may be lawful for the court in either case, to order the sheriff or other officer to summon from among the bystanders or neighboring citizens, so many good and lawful men as are necessary to form or complete the panel of the grand jury.

**Sec. 5. *Be it further enacted,*** That every person who shall be summoned to serve as a grand juror shall have the qualifications herein before specified; and if any person not so qualified shall be summoned to serve as a grand juror it shall be a good cause of challenge to such juror who shall be discharged upon such challenge being verified and substantiated according to law, or on his own allegation and oath or affirmation in support thereof.

**Sec. 6. *Be it further enacted,*** That an oath or affirmation in the following words, shall be administered to the foreman of the grand jury: "Saving yourself and fellow jurors you as foreman of this grand inquest, shall diligently inquire and true presentment make of of all such matters and things as shall be given you in charge or otherwise come to your knowledge, touching the present service; the counsel of the state, your own and your fellows, you shall keep secret, unless called on in a court of justice to make disclosures; you shall present no person through malice, hatred or ill will; nor shall you leave any person unrepresented through fear, favor or affection, or for any reward or hope thereof; but in all your presentments, you shall present the truth, the whole truth and nothing

but the truth, according to the best of your skill and understanding."

**Sec. 7.** *Be it further enacted,* That the following oath or affirmation shall be administered to the other grand jurors: "The same oath which A. B. your foreman hath now taken before you on his part, you and each of you shall well and truly observe and keep on your respective parts;" the said fifteen jurors summoned and sworn or affirmed as aforesaid, shall be a grand jury, who shall enquire of and present all treasons, murders, felonies and other crimes and misdemeanors whatever, committed within the limits of the county in and for which they are empannelled, and sworn or affirmed: *Provided,* That it shall require twelve of the said jurors to agree before any bill of indictment or presentment shall be found.

**Sec. 8.** *Be it further enacted,* That in case of sickness, death or non-attendance of any grand juror or grand jurors, after he or they shall be sworn or affirmed, it shall be lawful for the court at their discretion, to cause another or others to be sworn or affirmed in his or their stead.

**Sec. 9.** *Be it further enacted,* That every petit juror who shall be returned upon the trial of any indictment, presentment or plea of the state, in any court thereof, and every juror who shall be returned upon trials of issues or enquiry of damages in the supreme court or courts of common pleas shall have the qualifications herein before specified, and if any person who is not so qualified, shall be summoned as a juror on the trial of any indictment, presentment or plea of the state, or issue or inquiry of damages, in either of the courts aforesaid, it shall be a good cause of challenge to such juror, who shall be discharged upon such challenge being verified and substantiated according to law, or on his own allegation and oath or affirmation, in support thereof; and any petit juror who shall be returned upon the trial of any of the causes herein before specified, who has been convicted of any crime

which by law renders him disqualified to serve on a jury, or who has been arbitrator on either side, relating to the same controversy, or who has an interest in the cause, or who has an action depending between him and the party, or who has formerly been a juror in the same cause, or who is the party's master, servant, counsellor, steward or attorney, or who is summoned as a witness in the cause, may be challenged for such cause, in either of which cases the same shall be considered as a principal challenge, and the validity thereof be tried by the court; and any petit juror who shall be returned upon the trial of any of the causes herein before specified, against whom no principal cause of challenge can be alledged, may nevertheless be challenged on suspicion of bias or partiality for either party, and the validity of such challenge shall be determined by the court.

Sec. 10. *Be it further enacted*, That if any person prosecuting for the state, shall, in behalf of the state, challenge any juror, he shall immediately assign the cause of such challenge, and the truth thereof shall be inquired into and decided upon in the same manner as the challenges of other persons are by law inquired into and decided.

Sec. 11 *Be it further enacted*, That where a grand or petit jury shall be selected, drawn or summoned contrary to the provisions of this act, or where the sheriff or other officer, in executing the writ of venire facias to him directed, shall not have proceeded as herein before prescribed, then and in either of those cases, the whole array of the jury may be challenged and set aside, and a new venire facias be awarded, returnable forthwith, in the same manner as if the whole number of grand jurors or petit jurors had failed to attend the court, or had been challenged for cause and set aside by the court.

Sec. 12. *Be it further enacted*, That when the sheriff is interested in any cause which now is or hereafter may be pending in either the supreme court or

courts of common pleas, the party in interest, opposed to that of the sheriff may apply to the court, who on such application shall thereupon direct a special venire facias to the coroner of the county, commanding him to summon a jury, having the qualifications herein before pointed out, to try such cause; and where both the sheriff and coroner are interested as aforesaid, or in case of the death, resignation or absence from the county of both the sheriff and coroner, then and in either of those cases the venire facias or other process may be directed to such discreet disinterested person as the court may name.

**Sec. 13.** *Be it further enacted,* That when by reason of any pressure of business, the court shall deem it necessary to have two petit juries, or when by reason of absence, sickness, challenge or otherwise there be none remaining of the petit jurors, selected and summoned as herein before provided, whereon to incorporate a talis, then and in either of those cases the supreme court and courts of common pleas, respectively, may issue their venire facias to the sheriff or other officer to return a jury of by standers or neighboring citizens, having the qualifications aforesaid.

**Sec. 14.** *Be it further enacted,* That it shall be lawful for the supreme court or court of common pleas in which any action is or shall be depending, or where it shall appear to the court to be proper and necessary that the jurors who are to try the issue in the said action should have a view of the messuages, lands or place in question, in order to their better understanding the evidence that may be given on the trial of such issue, to order a special writ of distringas or habeas corpora juratorum to issue, by which the sheriff or other officer, to whom the same shall be directed, shall be commanded to have six or more of the first twelve of the jurors, named in the pannel to such writ annexed at the place in question, who then and there shall have the matters in question shewn to them by two persons in the said writ named,

to be appointed by the court, and the sheriff or other officer, who is to execute the said writ, shall by a special return on the same, certify under his hand, that the view hath been had according to the command of the said writ.

Sec. 15. *Be it further enacted*, That the expenses of taking the said view shall be equally borne by both parties, and that no evidence shall be given on either side at the time of taking thereof: *Provided always*, That in case no view shall be had, or if a view shall be had by any of the said jurors, whether they shall happen to be any of the twelve jurors who shall be first named in the said writ or not, yet the said trial shall proceed; and no objection shall be made on either side for want of a view, or for that it was not had by any particular number of the jurors named in the said writ, or for want of a proper return to the said writ.

Sec. 16. *Be it further enacted*, That it shall and may be lawful for the supreme court and courts of common pleas respectively, on motion on behalf of this state, or of any prosecutor or defendant in any indictment, or of any plaintiff, demandant, avowant, tenant or defendant, in any action or suit depending or to be depending before them, and triable by a jury of twelve men, to order a jury to be struck for the trial thereof; but this provision shall not extend to any indictment for any offence, where the party is entitled to challenge peremptorily or without cause shewn.

Sec. 17. *Be it further enacted*, That whenever a struck jury shall be ordered by the supreme court or court of common pleas, the party applying for such struck jury shall give eight days previous notice to the opposite party and to the clerk of the said court of the time of striking such jury, at which time the clerk of the said court shall attend at his office, and shall, in the presence of such parties, or such of them as shall attend for that purpose, select from the number of persons qualified to serve as jurors within the county, forty such

persons as he shall think most indifferent between the parties, and best qualified to try such cause; and then the party applying, his agent or attorney, shall first strike one of the names, and then the opposite party, his agent or attorney, another, and so alternately until each shall have struck out twelve; but if such opposite party shall not attend such striking, nor any person in his behalf, then the said clerk shall strike for the party not attending; and when each have struck out twelve as aforesaid, the remaining sixteen shall be the jury to be returned to try the said cause, and the clerk of the said court shall thereupon make a fair copy of the names of the said remaining sixteen persons, and certify the same under his hand, to be the list of jurors struck as aforesaid for the trial of such cause or issue, which list shall be delivered to the sheriff or other officer, whose duty it is to summon such jury, together with the venire facias, and such sheriff or other officer shall thereupon annex the same list to such venire, and return the same as the panel of the jury and summon them according to the command of said writ; and upon the trial of the said cause, the jurors so struck shall be called as they stand upon the panel, and the first twelve of them who shall appear and are not challenged, or shall be found duly qualified and indifferent, shall be the jury, and sworn to try the said cause: *Provided always* That if the clerk of such court shall be interested in the cause, or related to either of the parties, or if it shall appear probable to the court that he is not indifferent between them, then and in every such case, the court shall nominate two proper persons, who are indifferent between the parties, to strike the jury, which persons shall do and perform every thing required to be done by such clerk, relating to the striking of such jury, and in all cases the day appointed for striking such jury shall be at least thirty days previous to the sitting of the court

**Sec. 18.** *Be it further enacted.* That the party applying for such struck jury shall pay the fees for strik-

ing the same, and seventy five cents per day for each juror so attending. and shall not have any allowance therefor upon the taxation of costs, unless the court shall be of opinion that the cause required such special jury, in which case the extraordinary expense shall be equally borne by both parties.

Sec. 19. *Be it further enacted*, That each petit juror shall receive fifty cents for each cause in which he shall be empannelled and sworn, which shall be paid by the party prevailing into the hands of the clerk of the court, upon the return of the verdict, or on the jury being discharged from the further consideration of the cause, by the party whose neglect shall be the cause of such discharge: *Provided*, That no verdict shall be received and recorded until the jury fee shall be paid.

Sec. 20. *Be it further enacted*, That each grand juror shall receive seventy-five cents per day during their necessary attendance in court as jurors, and five cents per mile going to and returning from court, to be paid out of the county treasury, on the order of the county commissioners, who are hereby required to issue such order on their receiving a certificate from the court, attested by the clerk thereof, of the amount of compensation to which each juror is entitled.

Sec. 21 *And be it further enacted*, That no jury shall in any case be compelled to give in a general verdict, so that they find a special verdict, and shew the truth of the fact, and require the aid of the court, but if, of their own will, they give a general verdict, the same shall be received.

**MATTHIAS CORWIN,**

*Speaker of the house of representatives.*

**PETER HITCHCOCK,**

*Speaker of the senate.*

February 27, 1816.

## CHAPTER CXIII.

*AN ACT to incorporate the original surveyed townships.*

When 20 electors in any township, they may elect three trustees and one treasurer who shall be a body politic, &c.	1	Trustees' fees, -	ib
Elections how conducted, Trustees and treasurer to take an oath and appoint a clerk, -	2	Section No. 29 in John C. Symmes purchase to be leased, -	11
Clerk to be sworn, his duty	ib	Proviso, -	ib
Term of office, -	3	30 days notice to be given in three places, -	12
Duty of trustees, -	ib	Proviso, -	ib
Vacancies how filled, -	4	Rents to be paid to treasurer, -	13
To divide sections into lots, and lease said lots, -	5	On failure the treasurer authorised to bring suit, -	ib
Notice of the time of leasing, to be given thirty days, -	ib	Lease to be sold if goods, &c. not found, -	ib
Rent to be paid in money or grain, lease not to be longer than fifteen years	ib	Surplus to be paid over to delinquent, -	ib
Not to lease more than one lot to one person, -	6	Each society to appoint an agent and forward certificate before entitled to a dividend, -	14
Trustees to examine the premises before a second lease, -	ib	All books, &c. to be delivered over to successors in office, -	15
Rents how applied, -	7	In all cases where section 16 has been disposed of by congress, how to proceed, -	16
Treasurer to keep a book, Townships may be laid off into districts, -	8	Any lands given by any person for religious purposes or for schools, to be leased in the same manner, -	17
Each district or school entitled to a dividend of profits, -	ib	When there are not twenty electors in a township, how to proceed, -	18
When a county line runs through a township how to proceed, -	9	Repealing clause, -	19
Surveyor's fees, -	10		

*Sec. 1. Be it enacted by the general assembly of the state of Ohio, That so soon as there are twenty elect-*

ors in any original surveyed township of five or six miles square, or fractional township in this state, wherein there are either the reserved section, number sixteen, granted by congress for the use of schools, or section number twenty nine, granted for religious purposes, they are hereby authorised, under the provisions hereafter provided, to elect three trustees and one treasurer, for the purpose of taking into their care the sections above described, who shall be a body politic and corporate, capable of suing and being sued, pleading and being impleaded.

Sec. 2. *Be it further enacted*, That when the inhabitants of any surveyed or fractional township, shall make it appear to the satisfaction of the commissioners of the county, that there are twenty electors inhabiting such township, the commissioners shall cause written notice to be set up in three of the most public places in the township, requiring an election to be held therein, for the purpose of electing three trustees and one treasurer, to perform all the duties pointed out by this act, giving fifteen days notice of the time and place of holding such election, which shall be held as near the centre of the township as circumstances will admit of; and the election shall be conducted conformably to the provisions of the act, entitled "An act for the incorporation of townships;" And the trustees and treasurer shall each of them, take an oath or affirmation before any justice of the peace, to discharge with fidelity the duties of their respective offices; and when thus organised, the trustees shall appoint a clerk, who may or may not be one of their own body; and said clerk shall, after being duly sworn to discharge with fidelity the duties of his office, keep a fair and accurate record of the proceedings of the board in a book provided for that purpose.

Sec. 3. *Be it further enacted*, That the trustees and treasurer shall hold their offices three years, and until their successors are chosen and qualified; and the

trustees of each of the surveyed townships, or fractional townships, at least fifteen days previous to each triennial election, shall notify the electors of their respective townships, of the time and place of holding each succeeding election; but in case the trustees refuse or neglect to give such notice, it shall then become the duty of any elector inhabiting such township, at any time thereafter, to advertise an election therein, for the purposes aforesaid; which notice shall be given in the same manner, and the election conducted under the same regulations, as are pointed out in the preceding section of this act.

*Sec. 4. Be it further enacted,* That when any vacancy shall happen in the office of trustee or treasurer, the trustees shall fill such vacancy, and the person thus chosen, shall continue in office until the next triennial election, and until their successors are chosen and qualified.

*Sec. 5. Be it further enacted,* That the trustees (whenever either of the reserved sections, sixteen or twenty-nine, may require to be divided into lots) shall employ a surveyor to assist them who shall proceed to lay out such section in lots of not less than eighty, nor more than two hundred acres; and the trustees shall proceed to lease out section number sixteen, granted by the congress of the United States for the use of schools, (except all such sections as are or may be provided for by any special act) after giving at least thirty days previous notice by advertisement, set up in four of the most public places in the township, and on the court house door, mentioning the time and place where proposals will be received, and when they will meet to execute the lease, always giving a preference to those who, in their opinion, make the most advantageous proposals; to be paid either in money or grain; no lease shall be granted for a longer time than fifteen years; and the trustees now in office, so soon as their time expires, are hereby required to give over

the books and papers in their possession, to their successors in office, as far as it respects section number sixteen.

**Sec. 6.** *Be it further enacted,* That the trustees shall not lease more than one lot to any one person; and the lessee shall be bound not to waste or destroy the sugar trees or other timber, further than is necessary for improving thereon, and to make such improvements as the trustees may think proper; and the trustees shall examine the premises and see that they are left in good repair, and that the lease has been punctually complied with, and shall then proceed again to give leases, on the plan pointed out by the fifth section of this act, always giving a preference to the original lessee, provided he shall have complied with his former lease.

**Sec. 7.** *Be it further enacted,* That the trustees of each surveyed township, or fractional township aforesaid, shall apply the rents and profits arising from section number sixteen, to the special purpose for which it was intended; which rents, if paid in money, shall be collected by the treasurer, who shall not pay out any money, so received, but upon the order of the trustees; and the treasurer shall keep a book with fair and accurate entries of all monies received, together with a list of imbursements, and carefully file the vouchers relating thereto; which books and papers shall at all times be subject to the inspection of the trustees; but if the rents or profits arising shall be paid in produce, it shall be deposited in such place, or disposed of in such manner by the trustees, as shall in their opinion, be best calculated to promote the interest of the institution.

**Sec. 8.** *Be it further enacted,* That the trustees are hereby authorised so soon as they think it necessary, to lay off their townships into convenient districts, and the same to alter or change, from time to time, as the interest of the citizens may require, for the purpose of establishing schools therein; and each school

thus established in the township, shall be entitled to receive an equitable dividend of the profits arising from their reserved section, according to the number of scholars, and in proportion to the time they have been taught therein.

**Sec. 9.** *Be it further enacted,* That every surveyed township or fractional township aforesaid, in this state, that has a county line running through the same, shall be considered, as it respects sections number sixteen and twenty nine, in the same situation as though no such interference had taken place; and any suit or action that may take place between the trustees in their corporate capacity, and individuals or bodies corporate, such action or suit shall be tried and determined in the county where the reserved section lies; and the officer appointed to serve process in such case, shall have full power to go any where throughout the township, in execution of his official duty, in the same manner as though no such division line had ever existed.

**Sec. 10.** *Be it further enacted,* That the surveyor is entitled to receive one dollar and fifty cents per day; and the trustees shall each receive seventy five cents per day, for each day they may be necessarily employed in the duties of their respective offices; and the treasurer and clerk shall receive such compensation, as the trustees may think proper, to be paid out of the funds of the institution.

**Sec. 11.** *Be it further enacted,* That the trustees shall lease out section or fractional section number twenty nine, granted by the congress of the United States for religious purposes, within the Ohio company's and John Cleves Symmes' purchase, (except all such sections as are or may be provided for by any special act) for the term of ninety nine years, renewable forever, to be valued by three men of good repute, to be chosen by the trustees, previous to their giving leases: *Provided,* None of said lands be valued at less than two dollars per acre, subject to a revaluation every 15 years,

without taking into view the improvements made thereon, except at the first valuation.

**Sec. 12.** *Be it further enacted,* That said trustees shall, after giving thirty days notice, by advertisement set up in three of the most public places in the township, proceed to lease said lands to the best advantage for the citizens: *Provided,* No lot be leased for less than six per cent. per annum on its valuation, nor more than one lot, to any one person.

**Sec. 13.** *Be it further enacted,* That the rent arising from the reserved sections and fractional sections number sixteen and twenty nine, shall be paid by the lessee or lessees to the treasurer, as they may become due; and on failure of the payment, or for non-compliance with the conditions of the lease, the treasurer shall, when so directed by the trustees, bring a suit, in the name of the trustees, before any court having competent jurisdiction; and on final process, if no goods and chattels can be found, whereby distress can be made, or if mesne process cannot be served, upon return of the same, the trustees are thereupon authorised to re-enter upon the land of the delinquent or delinquents, and sell at public vendue, his or their right and title in the said lease or leases, to satisfy such rent, damages and costs; in which case, the trustees shall give twenty days previous notice of the time and place where the said lease or leases will be sold, by advertising the same in three public places in the county, subjecting the purchaser or purchasers to the conditions contained in the lease or leases of the delinquent or delinquents; and in case the said lease or leases shall sell for more than the rent, damages and costs, the surplus shall be paid over to the delinquent or delinquents.

**Sec. 14.** *Be it further enacted,* That each and every denomination of religious societies and their adherents, after giving themselves a name, shall appoint an agent, who shall forward a certificate to the trustees, containing a list of their names and numbers, specify-

ing that they are citizens of said township; and the trustees shall pay over to the agent an equal dividend of the rent (according to their numbers) within three months after it is received, to be appropriated to the support of religion, at the discretion of each society.

Sec. 15. *Be it further enacted*, That the trustees shall give over all books and papers, relating to any of the reserved sections, sixteen or twenty-nine, and the treasurer shall pay over all money remaining in his hands, to their successors in office, and the trustees are required to see that the leases are complied with.

Sec. 16. *Be it further enacted*, That in all cases where section number sixteen, lying within any township or fractional township, has been disposed of by congress, and any section given in lieu thereof, whether within or without such township, the electors residing within the township for which said election is given, are hereby authorised to elect three trustees and one treasurer, agreeable to the provisions of the second section of this act; and the trustees so elected, are hereby authorised and required to lease such section, and apply the avails thereof within the township for which it is given, and to proceed in all respects in conformity to the provisions of this act, for leasing section number sixteen.

Sec. 17. *Be it further enacted*, That any lands, other than those before mentioned in this act, given by any private individual or individuals to any legal or surveyed township, for the use of schools and religious purposes, may be leased under the provisions, regulations and restrictions of this act: *Provided always*, That when any gift or grant is made to any particular society or denomination, it shall be applied and appropriated, according to the intent and meaning of the donor or donors.

Sec. 18. *Be it further enacted*, That whenever sections number sixteen or twenty nine, shall lie in a surveyed township as aforesaid, in which there shall

not be twenty electors, then the trustees of the township in which such surveyed township shall lie, may lease the said sections number sixteen and twenty-nine, and secure the rents arising therefrom, for the use of the inhabitants of said surveyed township, agreeable to the provision of this act.

Sec. 19. *And be it further enacted,* That the act, entitled "An act to incorporate the original surveyed townships," passed January second, eighteen hundred and six, and the act, entitled "An act for leasing section number twenty nine, granted for religious purposes," passed January twenty second, eighteen hundred and six, and the act, entitled "An act supplementary to the act, entitled an act for leasing section number twenty-nine, granted for religious purposes," passed December the twentieth, eighteen hundred and six, are hereby repealed.

This act shall be in force from and after the first day of May next.

EDWARD TIFFIN,  
*Speaker of the House of Representatives.*  
 DUNCAN McARTHUR,  
*Speaker of the senate.*

February 6, 1810.

---

## CHAPTER CXIV.

### *AN ACT supplementary to the last named act.*

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That the trustees appointed under the provisions of the act to which this is supplementary, are hereby authorized and directed, previous to their appropriating the profits arising from section number sixteen, or other section in lieu thereof, (granted by congress for the use of schools) to require a certified list of all the scholars who reside within their town-

ship (whether they go to school within or without the same) to be procured from their respective teachers, stating the time each scholar by him taught hath attended, together with such other evidence as the trustees may think necessary; and the trustees shall thereupon apportion an equal dividend of the profits of their reserved section, to the use of the scholars within their townships, having special regard to the time each scholar hath been taught; and nothing herein contained shall be so construed as to prevent any scholar, who may go to a school out of the township, from an equal participation in the profits of said section in their own proper township, with those actually taught within the same.

Sec 2. *Be it further enacted*, That no person residing on, or holding a lease of any part of section No. sixteen, or other section granted in lieu thereof for the support of schools, shall be eligible to be elected to the office of trustee or treasurer of any original surveyed township in this state.

JOHN POLLOCK,

*Speaker of the house of representatives.*

OTHNIEL LOOKER

*Speaker of the senate.*

February 9, 1814.

## CHAPTER CXV.

*AN ACT* declaring offices vacant in certain cases, and to provide for filling the same.

Commissions of judges to  
be forwarded by the sec-  
retary of state to the  
clerk of the proper co. 1  
Clerk's duty; . . . ib

Each judge to take oath, ib  
In what case an office con-  
sidered vacant, - s  
Judge removing out of a  
district his place to be

vacant,	3	§	qualified their place to	
Sheriff &c. refusing to be			be vacant,	4

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That every commission that may be hereafter issued, by the governor, to any judge of the supreme court, president or associate judge of either of the courts of common pleas, shall be transmitted by the secretary of state, to the clerk of the court of common pleas of the county wherein such judge may reside; and it is hereby made the duty of such clerk to receive and forthwith to transmit the same to the person entitled thereto; whereupon, such person having received such commission, shall take the oath or affirmation required by the constitution and laws of this state, and transmit a certificate thereof to the same clerk, signed by the officer administering such oath or affirmation, within twenty days after he shall have received such commission; and the county commissioners of the county to which such commission may be forwarded, shall make an allowance to the said clerk, for postage and other expenses necessarily incurred in complying with the requisitions of this section, to be paid out of the county treasury, in case the person entitled to receive said commission should refuse to accept the same and pay said expense.

**Sec. 2.** *Be it further enacted,* That in all cases where such certificate may not be transmitted to the clerk, within the said twenty days, as is herein above provided, the person entitled to receive such commission shall be deemed to have refused to accept the office mentioned in such commission, and said office shall be considered vacant; whereupon, said clerk shall, forthwith thereafter, certify the said matter to the governor, who shall proceed according to law to fill the said vacancy.

**Sec. 3.** *Be it further enacted,* That in case any judge of the supreme court should remove his residence out of this state, or any president of the court of com-

mon pleas out of his circuit or any associate judge out of his county. he shall be considered as having resigned and vacated his office; whereupon, such vacancy shall be filled according to law.

Sec. 4. *And be it further enacted,* That every sheriff, coroner, justice of the peace or other officer, of whom bond or security may be by law required, previous to the performance of the duty required of him, who shall neglect or refuse to execute such bond or find such security agreeably to, and within the time prescribed by law, and in all respects to qualify himself for the performance of his official duties, such sheriff, coroner, justice of the peace or other officer shall be deemed to have refused to accept his office, and the same shall be considered vacant; whereupon, such vacancy shall be filled as other vacancies are by law to be filled.

This act to take effect and be in force from and after the first day of June next.

JOHN POLLOCK,

*Speaker of the House of Representatives.*

THOMAS KIRKER,

*Speaker of the Senate.*

January 25, 1818.

## CHAPTER CXVI.

### *AN ACT regulating county levies.*

Objects of taxation,	1	{	ble property,	-	4
Duty of township listers,	2		{	Proviso,	-
Form of return,	ib	{	Provision for persons un-		
Duty of township apprais-			{	able to give a list when	
ers,	3	{	called upon,	-	5
Proviso as to town lots,	ib	{	Penalty on listers and ap-		
Proviso as to taxing hou-			{	praisers for neglect of	
ses in the country,	ib	{	duty,	-	6
Penalty on persons giving		{	County commissioners to		
fraudulent lists of taxa-			{	levy a tax in June annu-	

ally, - - -	7	by 1st January, -	ib
Rates of taxation, -	ib	Minors, &c. allowed time	
Proviso as to stud horses		for redemption, -	15
standing in more than		Proviso, - -	ib
one county, -	ib	Commissioners to appoint	
Commissioners to make		a clerk in June annually	16
out and deliver dupli-		Collector to pay over by	
cates by 1st August an-		1st January, -	17
nually, - -	8	Collectors compensation,	18
Tax may be collected ei-		Lister and appraisers com-	
ther by townships or by		pen-sation, -	19
county. - -	9	Collector allowed for de-	
Collectors to give bond,	ib	linquents, - -	20
Conditions of bond,	ib	Penalty on collectors for	
Proviso, - -	ib	mal-conduct, -	21
Duty of collector on re-		Manner of proceeding a-	
ceiving his duplicate,	10	gainst delinquent col-	
Collector to keep an ac-		lectors, - -	22
count of distress and sale		Proviso, - -	ib
of property for tax,	11	Appeals allowed to com-	
Manner of selling town		missioners, -	23
lots for tax in case of		Appeals allowed from	
non-payment, -	12	judgment commissioners	
Collector to lodge with		to court of com. pleas,	24
county recorder the ad-		Commissioners to fix the	
vertisement of lots for		price of license for fer-	
sale within 10 days,	13	ries, taverns, &c. in	
Recorder's compensation,	ib	June, annually, -	25
Collector to give the pur-		Limitation of merchants	
chaser a certificate of		and pedlars license,	26
sale, - - -	14	Repealing clause, -	27
To transmit a list of sales		Proviso, - -	ib

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio.* That all in and out lots in towns with the improvements thereon, all other houses over the value of one hundred dollars, (except academies, school houses and all public buildings) all stud horses and all other horses, mares, mules, asses and neat cattle, of three years old and upwards, within this state; are hereby declared chargeable for defraying the county expenses, within which they may respectively be found.

**Sec. 2.** *Be it further enacted,* That the listers of the several townships in each county in this state are required between the twenty fifth day of April and the twenty fifth day of May, annually, to take from each person, within their respective townships a list of all property by him or her owned or possessed, subject to taxation as aforesaid, and after writing the same in a book to be by him kept for that purpose, he shall distinctly read the list to the person giving the same, and require him or her to answer whether it is a true list of all his or her property subject to taxation for county purposes, and if the said list shall be correct, the person giving the same shall sign his or her name thereto, and each lister shall make out two accurate alphabetical lists thereof in the form following :

Proprietors Names.									
Houses.									
Value.									
Lots.									
Value.									
Stud Horses.									
Rate.									
Horses, Mules and Asses above three years old.									
Neat cattle above three years old.									
Total amount.									

one of which lists he shall, on or before the first Monday of June annually, deliver to the township clerk, to remain in his office for the inspection of all who may choose to examine the same, and the other list he shall deliver to the commissioners of the county, on or before the first Monday of June annually.

**Sec. 3.** *Be it further enacted,* That it shall be the duty of the appraisers of property in each and every township, forthwith after the listers have completed their lists of taxable property, to proceed to view and appraise all houses which are subject to taxation agreeably to the provisions of this act, all lots in towns, all out lots adjoining thereto, and after having ascertained the value thereof, to make out and sign two fair and alphabetical lists agreeable to the foregoing form, one of which the appraisers shall deliver to the township clerk on or before the first Monday of June annually, to remain in his office for the inspection of all who may choose to examine the same, and the other copy he shall deliver to the commissioners on or before their next annual meeting on the first Monday of June: *Provided,* That all in and out lots in towns, whether improved or unimproved, shall be listed for taxation by their respective number:, and the appraisers in each township before they proceed to the appraisement of any town property, shall procure a plat of all towns in their respective districts, by which they shall be guided in the view and appraisement thereof, and in all sales for the payment of taxes, the town lots shall be sold by their numbers: *Provided also,* That where the other ordinary revenue of any county shall be sufficient to pay the current expenses of such county and discharge any debts heretofore contracted by it for the erection of suitable public buildings, it shall and may be lawful for the commissioners of every such county, to exempt houses in the country therein from taxation, in which case it shall be unnecessary for the several townships within such county, to choose appraisers of houses at their election of township officers.

**Sec. 4** *Be it further enacted,* That if any person shall refuse to give a list of his or her property, when required by the lister agreeably to this act, or shall fraudulently omit to give in any part of his or her property, it shall be the duty of the lister, to take a

list of such persons property thus refused or omitted to be listed from the best information he can obtain; and he shall distinctly note the list taken in either of those cases, and such property shall be taxed fourfold, to be collected and paid over as other taxes: *Provided*, That in case of fraudulent omission as aforesaid the lister shall notify the person or persons thus charged, to attend the board of commissioners at their succeeding meeting, on the first Monday in June; and in case the commissioners shall be satisfied, that such omission was not made with fraudulent intent, they shall tax the property of such person or persons, at the rate of other property of the same description agreeable to this act.

*Sec. 5. Be it further enacted*, That if the owner or occupier of any of the aforesaid objects of taxation, his, her or their overseer agent or attorney, owing to any particular circumstance not previously concerted or designed by him, her or them, have it not in his, her or their power to give in a list when called on at their place of residence, or where such property may be, and such person or persons do forward to the lister a certified list of all their property by him, her or them held at the time the lister called for a list, it shall be lawful for the lister to receive and enter the same and make a note thereof.

*Sec. 6. Be it further enacted*, That if any lister or appraiser shall fail to take in, appraise and return true lists of all the taxable property within his township as herein before directed, such lister or appraisers shall forfeit and pay for every such offence, any sum not exceeding two hundred dollars, to be recovered at the suit of the commissioners in any court having jurisdiction of the same, and by them paid into the county treasury for the use of the county.

*Sec. 7. Be it further enacted*, That the commissioners of each and every county within this state, shall at their annual meeting on the first Monday in June, levy a county tax, agreeable to the following rates of taxa-

tion, viz: on each stud horse not exceeding the rate he stands at the season; on all other horses, mares, mules and asses three years old and upwards, a sum not exceeding thirty cents per head; on all neat cattle of three years old and upwards, a sum not exceeding ten cents per head, and on all other property made subject to taxation by this act, any sum not exceeding one half of one per cent. on the appraised value thereof; and the person at whose stable any stud horse or horses may be kept, shall, and is hereby declared to be bound for the payment of the tax levied on such stud horse or stud horses, as shall be kept on his premises: *Provided*, That if any stud horse be kept any part of his time within one county and a part in another county, then and in that case the owner of such horse or stable, shall only stand bound to pay a sum in each county not exceeding one half of the rate at which such stud horse stands at for the season.

Sec. 8. *Be it further enacted*, That the commissioners shall make out two alphabetical duplicates of the tax thus assessed in each township, conformably to the listers return, one of which they shall deposit with the county treasury for the inspection of those who may wish to examine the same, and deliver the other to the collector of the township, on or before the first Monday of August annually.

Sec. 9. *Be it further enacted*, That the commissioners in each and every county in this state, are hereby authorised to determine at their annual meeting in June, whether the county levy in their respective counties, shall be collected by a county collector, or the lister in each township; and in case they should determine to collect by county, they shall appoint a collector accordingly; and in making out their duplicates they shall be governed thereby; and in all cases they shall deliver to the collector or collectors their proper duplicates, on or before the first Monday of August annually, each collector giving bond to the commy,

sioners in behalf of their county, with such security as said commissioners may approve of, for double the sum contained on the duplicate of such collector, conditioned for the faithful collecting and paying into the county treasury the full amount of the taxes by him to be collected, on or before the first day of January following, from which bond the collector and his securities shall not be released but by paying the amount of tax contained on his duplicates into the county treasury, and producing to the commissioners the treasurer's receipt therefor, from which time the collectors shall respectively proceed to collect: *Provided however*, If it should so happen that one or more of the listers in said county should neglect or refuse to enter on the duties of his or their office, by giving bond and receiving said duplicate, then in that case, said commissioners shall proceed to appoint some other person or persons as collector, in lieu of such lister or listers.

**Sec 10.** *Be it further enacted*, That the collectors shall immediately, after the first Monday of August annually, proceed to collect the county tax in their respective townships or counties, and if the person or persons charged therewith, do not pay the same on or before the first day of November next following, a personal demand having been previously made of the same by the collector, (provided the person or persons so charged live within such collector's collection district) it shall be the duty of the collector forthwith, to levy on the property of such delinquent and sell the same, in the same manner that property is directed to be sold agreeable to the laws of this state, and return the overplus, if any there be, to the owner or occupier of such property.

**Sec. 11.** *Be it further enacted*, That the collector shall keep a fair and accurate statement of the distress made and sale of property for taxes, with their proceedings and costs thereon, and shall lay the same be-

fore the commissioners, on or before the first day of January following, who shall examine the same and see that right and justice be done to those concerned.

**Sec. 12.** *Be it further enacted,* That whenever the tax on any lot or lots is not paid on or before the first day of November annually, and no goods and chattels can be found whereon to levy, the collector may levy on such lot or lots thus charged, and proceed to advertise the same for sale, either by publishing in a newspaper printed in the town where the lot or lots lie, or by posting up four advertisements in the proper township, and one at the door of the court house of his county, in which advertisement shall be described the lot or lots by number, the proprietors names, if known, and the tax due on each; and the time of sale shall be at least thirty days from such advertisement; and if on the day of sale the tax, together with costs which have accrued, is not paid, the collector shall, in the town where such lot or lots shall lie, proceed to sell so much of the lot or lots thus charged as will discharge the taxes and costs.

**Sec. 13.** *Be it further enacted,* That whenever any town lot or lots, or any part thereof, shall be sold at vendue by any collector of taxes, agreeably to the provisions of this act, it shall be the duty of such collector to lodge with the recorder of the county in which such lot or lots may be situated, within ten days after the vendue and sale aforesaid, the notification of such sale posted up by him, the newspaper containing the advertisement of such sale, if any, with a certificate accompanying the same, under oath, setting forth the amount of tax charged on such lot, that such tax remained unpaid, and that such notification was posted up according to law, which notification and certificate shall be recorded by such recorder, a certified copy of such record shall be competent testimony touching those facts, in any suit in which the validity of the collector's deed may be brought in question, and the said newspaper shall be

kept on file by said recorder; and such recorder shall be entitled to receive such fees of said collector for recording, as may be given in other cases for recording.

Sec. 14. *Be it further enacted*, that when any town lot or part thereof shall be sold for taxes due thereon, the collector making such sale shall give to the purchaser a certificate expressing the number of such lot, and the quantity sold, which shall in all cases begin at one side of the lot and extend from the front back to the outline, and at any time thereafter make a deed to the purchaser, which shall vest him with a sufficient title, in case the tax for that year had not been paid previous to the sale; and the said collector shall on or before the first Monday of January following, transmit to the commissioners of his county a list of all lots or parts thereof sold, describing the same as aforesaid, also the purchaser's name, which list the said commissioners shall keep in their office; and any certificate by them given to any person entitled to the right of redemption by this act, shall be deemed good evidence of the sale.

Sec. 15. *Be it further enacted*, That if any lot or lots, or part thereof shall be sold for taxes, the property of a minor, feeble, idiot, or insane person, or persons in captivity, such person or persons shall have his, her or their property restored by complying with the requisitions of the act, entitled "An act directing the mode of redeeming land sold for tax:" *Provided*, That the application required by the said act, to be made to the auditor shall be made to the commissioners of the proper county, and within one year after the disability shall be removed.

Sec. 16. *Be it further enacted*. That the county commissioners shall, at their annual meeting on the first Monday of June, yearly and every year, appoint a clerk to their board, agreeably to the seventh section of the act establishing boards of commissioners, passed January the fifteenth, eighteen hundred and ten.

**Sec. 17.** *Be it further enacted,* That the collectors shall severally pay into the county treasury, the full amount of the tax contained on their duplicates, on or before the first day of January annually. and the treasurer shall, on receiving from any collector any sum of money collected for taxes, give him a receipt therefor.

**Sec. 18.** *Be it further enacted,* That the commissioners shall allow the collectors of county taxes, for collecting the same, any sum not exceeding ten per cent. on the amount by them severally collected and paid into the county treasury, to be audited and paid by the county treasurer on the order of the commissioners.

**Sec. 19.** *Be it further enacted,* That the commissioners in each and every county in this state shall allow the listers and appraisers in their respective counties or townships, a sum not exceeding one dollar and twenty-five cents each per day, for each day they may be employed in listing, appraising and making out duplicates for their respective townships.

**Sec. 20.** *Be it further enacted,* That the board of commissioners, on the final settlement with the collectors, may make reasonable and just allowances to either of them for delinquencies in collecting, which may be owing to any of the persons who are chargeable on their duplicates absconding or becoming insolvent, on the same being made appear by the testimony of one or more disinterested persons.

**Sec. 21.** *Be it further enacted,* That if any collector shall demand or receive from any person, more than his or her proper taxes, or shall in the sale of property for taxes, act contrary to the provisions of this act, he shall for every such offence pay double the amount of damages sustained, to be recovered by the party injured before any court having jurisdiction thereof.

**Sec. 22.** *Be it further enacted,* That if any collector shall fail or neglect to settle his account and pay the full amount of the tax contained on his duplicate, in manner aforesaid, into the county treasury, on or before the

first day of January annually, it shall be the duty of the court having jurisdiction thereof, on motion of the commissioners, (they having given such delinquent collectors and his securities, their executors or administrators, ten days previous notice in writing delivered personally or left at their usual place of abode) to give judgment against such delinquent collector, his sureties, his or their heirs, executors or administrators, for the amount due the county, with twelve per cent. damages thereon: *Provided*, That if any such collector shall produce to the court before whom he is notified to appear, his account duly authenticated, judgment shall not be given for more than the balance, due the county, with interest as aforesaid and costs, in which he shall be taxed any sum the court may deem a reasonable compensation to the commissioners for giving the notice aforesaid.

**Sec. 23.** *Be it further enacted*, That if any person or persons shall conceive him, her or themselves aggrieved by the conduct or decision of the lister, appraisers or collectors, such person or persons may appeal to the commissioners, notifying the lister, appraiser or collector (as the case may be) of his, her or their intention, and the cause of his, her or their grievance at least ten days before the time fixed on for hearing; which notice shall be in writing and delivered personally, or left at his most usual place of abode; and the commissioners shall hear and determine on the same at their next meeting, and see that justice be done to those concerned.

**Sec. 24** *Be it further enacted*, That if any person or persons shall conceive him, her or themselves aggrieved by the decision of the commissioners, in any case such person or persons may appeal to the associate judges of the court of common pleas, notifying the commissioners of such intent, the particular of grievance, and time of meeting at least ten days before the time of trial, which notice shall be in writing, and de-

livered personally to the commissioners, and the associate judges shall at their next meeting hear and determine the same, which decision shall be final.

**Sec. 25.** *Be it further enacted,* That the commissioners of the several counties, be, and they are hereby authorised at their annual meeting in June in each year, to fix the prices of tavern and ferry licences, within their respective counties according to the provisions of the eleventh section of the act entitled, "An act, for granting licenses and regulating ferries and stores," so that the sum to be paid for a tavern license shall not be less than six dollars, nor more than eighteen dollars, and that the sum to be paid for a ferry license, shall not be less than two dollars nor more than twenty four dollars.

**Sec. 26.** *Be it further enacted,* That the tax or price of license, hereafter to be paid by merchants or pedlars for retailing merchandize, shall not be less than ten nor more than twenty dollars per year.

**Sec. 27.** *And be it further enacted,* That the act regulating county levies, passed on the nineteenth day of February, one thousand eight hundred and five, and the act to amend the act, entitled "An act, regulating county levies," passed on the twenty-seventh day of January, one thousand eight hundred and six, and the act to amend the act, entitled "An act regulating county levies," passed on the eleventh day of February, one thousand eight hundred and twelve, and an act, "concerning county commissioners and county levies," passed on the fourth day of February, one thousand eight hundred and fourteen, be, and the same are hereby repealed: *Provided,* That all taxes due, and all forfeitures incurred under those acts, or either of them, be collected and paid over according to the requisitions and provisions of the aforesaid acts; and all suits and prosecutions under the same, shall be conducted to final judgment and execution, in the same manner as though this act had not been passed.

This act to take effect and be in force from and after the twenty-fifth day of April next.

**MATTHEIAS CORWIN,**  
*Speaker of the house of representatives.*

**PETER HITCHCOCK,**  
*Speaker of the senate.*

February 27, 1816.

## CHAPTER CXVII.

*AN ACT to amend the last named act.*

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That where the ordinary revenue of any county, shall be sufficient to pay the current expense of such county, and discharge any debts contracted by such county, for the erection of suitable public buildings, then and in that case, it shall be lawful for the county commissioners of every such county, to exempt improvements on town lots from taxation; in which case, the appraisers of property shall appraise the lots without including the improvements thereon: *Provided however,* That houses in town shall be equally subject to taxation with houses in the country.

**Sec. 2.** *And be it further enacted,* That so much of the act, entitled "An act regulating county levies," as comes within the purview of, and is contrary to this act, be, and the same is hereby repealed.

**JOSEPH RICHARDSON,**  
*Speaker of the house of representatives.*

**ROBERT LUCAS,**  
*Speaker of the Senate.*

January 11, 1819.

## CHAPTER CXVIII.

*AN ACT for the punishment of crimes.*

Treason punished with death, - -	1	ished, - -	22
Murder in the first degree punished with death, -	2	Counterfeiting by engraving how punished, -	23
Murder in the 2d degree 21 years confinement in the penitentiary, -	3	Maiming how punished, -	24
Manslaughter how punished, - -	4	Shooting or stabbing with intent to kill or maim how punished, -	25
Rape how punished, -	5	Duelling &c. how punished, -	26
Persons having carnal connexion with insane women how punished, -	6	Assault with intent to commit murder how punished, - -	27
Poligamy how punished, -	7	Sending or carrying letters containing threats, &c. how punished, -	28
Incest how punished, -	8	Officers suffering criminals to escape how punished, - -	29
Perjury how punished, -	9	Rescuing criminals how punished, - -	30
Subornation of perjury how punished, -	10	Persons aiding prisoners to escape from prison how punished, -	31
Form or substance of indictment for perjury. -	11	Attempt to bribe an officer to suffer his prisoner to escape how punished, -	32
Liberty of judges and justices of the peace how punished, - -	12	Concealers of stolen goods how punished, -	33
Arson how punished, -	13	Horse stealing how punished, -	34
Attempt at arson how punished, - -	14	Burning hay stacks, &c. how punished, -	35
Burglary how punished, -	15	Destroying bridges, killing animals, &c. how punished, - -	36
Entering a house with intent to kill, steal, &c. how punished, -	16	Destroying fruit trees how punished, -	37
Robbery how punished, -	17	Counterfeiting gold or silver coin how punished, -	38
Assault with intent to commit robbery how punished, -	18	Passing counterfeit coins how punished, -	39
Larceny how punished, -	19	Duty of court and jury on trial for murder, -	39
Stealing or destroying bank bills, notes, &c. how punished, -	20		
Withdrawing, destroying or falsifying records, &c. how punished, -	21		
Counterfeiting how punished, -	22		

Aiders and abettors how	ished, - - -	42
punished, - - -	40	
Lands and tenements of	Duty of the court in pro-	
criminals bound for dam-	nouncing sentence on	
ages in certain cases, 41	criminals, - - -	43
Poisoning &c. of persons	Punishment of death how	
who afterwards die in	and by whom inflicted, 44	
another state, how pun-	Repealing clause, -	45

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* that if any person or persons, owing allegiance to this state, shall levy war against it, or shall adhere to its enemies, giving them aid or comfort, within this state or elsewhere, or shall carry on any treasonable or treacherous correspondence with them, or shall be any way concerned in forming any plot or combination or conspiracy for betraying his state into the power of any foreign enemy, or shall give or attempt to give any intelligence to such enemy, for the purpose of betraying this state or any of its forts, garrisons, warlike stores, troops or militia, into the power of any such enemy, every person so offending, and being thereof legally convicted upon the testimony of two credible witnesses, testifying to the same overt act, of which such person shall stand indicted, or upon the voluntary confession of such party made in open court, shall be deemed guilty of treason, and shall suffer death.

**Sec. 2.** *Be it further enacted,* That if any person shall purposely, of deliberate and premeditated malice, or in the perpetration or attempt to perpetrate any rape, arson, robbery or burglary, kill another, every such person, his or her aiders, abettors, counsellors, and procurers, shall be deemed guilty of murder in the first degree, and upon conviction thereof shall suffer death.

**Sec. 3.** *Be it further enacted.* That if any person shall purposely and maliciously, but without deliberate and premeditated malice, kill another, every such person, his or her aiders and abettors, shall be deem

guilty of murder in the second degree, and upon conviction thereof shall be imprisoned in the penitentiary and kept at hard labor for any space of time not more than twenty one years nor less than seven years.

**Sec. 4.** *Be it further enacted,* That if any person shall unlawfully kill another, without malice of any kind, either upon a sudden quarrel, or unintentionally, while the slayer is in the commission of some unlawful act, every such person shall be deemed guilty of manslaughter, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than seven years nor less than one year.

**Sec. 5.** *Be it further enacted,* That if any person shall have carnal knowledge of a woman forcibly and against her will, or shall aid, abet, counsel, hire or procure any person to commit the said offence; or if any person of the age of seventeen years or upwards, shall unlawfully and carnally know and abuse any woman child, under the age of ten years, with or without her consent, every person so offending shall be deemed guilty of a rape, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than twenty one years nor less than seven years.

**Sec. 6.** *Be it further enacted,* That if any person sixteen years of age or upwards, shall have carnal knowledge of any woman other than his wife, such woman being insane, every person so offending, his aids and abettors, counsellors and procurers, shall be deemed guilty of a high misdemeanor and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than twenty one years nor less than two years.

**Sec. 7.** *Be it further enacted,* That if any person being married, or who hereafter shall marry, shall, the former husband or wife being alive, marry any other person, every person so offending shall be deemed

guilty of a high misdemeanor, and on conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not exceeding five years nor less than one year; but nothing in this section contained, shall extend to any person whose husband or wife shall be continually and wilfully remaining without the United States for the space of five years together, next before the time of such marriage; or to any person whose husband or wife shall wilfully absent him or herself, the one from the other, in any parts within this state or the United States, for the space of five years together next before such marriage, the one of them not knowing the other to be living within that time, or to any person whose former marriage shall have been dissolved by due course of law.

*Sec. 8. Be it further enacted,* That if any step father shall have sexual intercourse with his step daughter knowing her to be such; or if any step mother and her step son shall have sexual intercourse together, having knowledge of their relationship; or if any father shall have sexual intercourse with his daughter, knowing her to be such; or if any brother and sister, being of the age of sixteen years or upwards, shall have sexual intercourse together, having knowledge of their consanguinity; every such step father, father, step mother, step son, brother or sister, shall be deemed guilty of a high misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, at hard labor, not more than ten years nor less than three years.

*Sec 9. Be it further enacted,* That if any person upon his or her oath or affirmation, in any action, plea, suit, bill, answer, complaint, indictment, controversy, matter or cause, depending or which may depend in any of the courts of this state, or before any justice of the peace, referees or arbitrators, or in any deposition or affidavit taken or made pursuant to the laws of this state, shall wilfully, corruptly and positively depose,

affirm or declare any matter to be fact, knowing the same to be false; or shall, in like manner, deny any matter to be fact, knowing the same to be true, the person so offending shall be deemed guilty of perjury, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than seven years, nor less than one year; and every such person shall thereafter be incapable of giving testimony, or being a juror in any of the courts of this state, or of holding any office of honor, profit or trust in this state.

Sec. 10. *Be it further enacted*, That every person who shall persuade, procure or suborn any other person to commit wilful and corrupt perjury, shall be deemed guilty of a misdemeanor, and every person so offending upon conviction thereof, shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than seven years, nor less than one year; and such person shall moreover be disqualified from giving evidence, or being a juror in any court of justice, or of holding any office of honor, profit or trust within this state.

Sec. 11. *Be it further enacted*, That in every indictment for perjury, or subornation of perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and before what court or other authority the oath or affirmation was taken, averring such court or other authority to have full power to administer the same, together with the proper averment or averments to falsify the matter or matters wherein the perjury is assigned. without setting forth any part of any record or proceedings, either in law or equity, other than as aforesaid; and without setting forth the commission or authority of the court, or other authority before whom the perjury was committed.

Sec. 12. *Be it further enacted*, That if any person shall, directly or indirectly. in any way or manner, give, promise or contract to give any money or other

valuable thing, with intent to obtain, procure or influence the opinion, judgment, decree or behavior of any judge or judges, justice or justices of this state, in any action, plea, suit, complaint, indictment, controversy, matter or cause depending, or which shall depend before him or them, every such person so giving, promising or contracting to give any money or other valuable thing, as a bribe as aforesaid, and the judge or justice who shall in any wise receive or contract for the same, shall be deemed guilty of a high misdemeanor, and on conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than seven years nor less than one year; and shall also forever be disqualified to hold any office of honor, trust or profit under this state.

**Sec. 13** *Be it further enacted.* That if any person shall wilfully and maliciously burn or cause to be burned, or aid, counsel, procure or consent to the burning of any dwelling house, kitchen, shop, barn, stable, storehouse, ware house, malt-house, still-house, mill, factory or other building of another; or any church, meeting-house, court house, work house, jail or other public building; or any public private or toll bridge; or any ship, boat or other water craft; every person so offending, their aiders, abettors, counsellors or procurers, shall be deemed guilty of arson, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than fifteen years nor less than one year.

**Sec. 14.** *Be it further enacted,* That if any person shall wilfully set fire to, or procure or aid or consent to the setting fire to any of the buildings or other property described in the foregoing section, with intent to burn or destroy the same, although the same shall not thereby be burned and destroyed, every person so offending shall be deemed guilty of a high misdemeanor, and upon conviction thereof shall be imprisoned in the

penitentiary, at hard labor, for any space of time not more than seven years nor less than one year.

Sec. 15 *Be it further enacted*, That if any person shall forcibly and maliciously break and enter any dwelling house, kitchen, shop, store-house, ware house, malt house, still house, mill, factory, water craft, church or meeting house, with intent to kill, rob, steal or commit a rape, or with intent to commit any other deed by this act declared criminal, every such offender, and his or her procurers, aiders, counsellors and abettors, shall be deemed guilty of burglary, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor for any space of time not more than seven years nor less than one year.

Sec. 16 *Be it further enacted*, That if any person shall wilfully, maliciously and designedly enter, either by day or night, without breaking or violence, any dwelling house, kitchen, shop, store-house, ware house, malt house, still house, mill, factory, water craft, church or meeting house, and shall attempt to kill, rob, steal or commit a rape or arson, or to disfigure or maim any person, every person so offending his or her aiders, abettors, counsellors and procurers, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than seven years nor less than one year.

Sec. 17 *Be it further enacted*, That if any person shall forcibly, by violence and putting in fear, take from the person of another any money, or personal goods and chattels, of any value whatever, every person so offending, his or her aiders, abettors and procurers, shall be deemed guilty of robbery, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than twenty one years nor less than seven years.

Sec. 18 *Be it further enacted*, That if any person shall violently assault another, with intent to commit a

robbery upon the person so assaulted, every person so offending, his aiders, abettors and procurers, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than seven years nor less than one year.

Sec. 19. *Be it further enacted*, That if any person shall steal any money, or other personal goods and chattels of another of the value of ten dollars and upwards, every person so offending shall be deemed guilty of larceny, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor for any space of time not more than seven years nor less than one year.

Sec. 20. *Be it further enacted*. That if any person shall steal, or take by robbery, or maliciously destroy any bank bill or note, promissory note, bill of exchange, order, warrant, draft, check or bond; or any letters patent, charter, testament, will or deed; or any lease, articles of agreement, indenture of apprenticeship, letter of attorney; or any release, acquittance, voucher, receipt or account book, knowing the same to be such, every person so offending shall be deemed guilty of a high misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than three years nor less than six months.

Sec. 21. *Be it further enacted*, That if any officer or other person shall steal, embezzle, alter, withdraw, falsify, avoid or destroy any record or parcel of the same belonging to or making part of any of the proceedings of any of the courts of this state; or shall alter or falsify any docket of any justice of the peace, by means whereof any verdict, judgment, sentence or decree shall be falsified or changed to the prejudice of any person whatever, every such offender shall be deemed guilty of a misdemeanor, and on conviction thereof shall be imprisoned in the penitentiary, at hard labor,

for any space of time not more than four years nor less than one year.

**Sec. 22.** *Be it further enacted,* That if any person shall falsely make, alter, forge or counterfeit; or cause, counsel, hire, command or procure to be falsely made, altered, forged or counterfeited; or knowingly aid or assist in the false making, altering, forging or counterfeiting any record or other authentic matter of a public nature, charter, letters patent, deed, lease, writing obligatory, will, testament, annuity, bond, bill, bank bill or note, check, draft, bill of exchange or promissory note for the payment of money; or any acceptance of a bill of exchange; or the number or principal sum of any accountable receipt for any note, bill or other security for the payment of money; or any warrant, order or request for the payment of money or the delivery of goods and chattels of any kind; or any acquittance or receipt, either for money or goods; or any acquittance, release or discharge of any debt, account, action, suit, demand or other thing real or personal; or any transfer or assurance of money, stock, goods, chattels or other property whatsoever; or any letter of attorney or other power to receive money, or to receive or transfer stock or annuities, or to let, lease, sell, dispose of, alien or convey any goods or chattels, lands or tenements, or other estate, real or personal or any bills drawn by the auditor of public accounts, for the payment of money at the treasury, with intent to injure, damage or defraud any person or persons, body politic or corporate; or shall utter or publish as true and genuine, or cause, counsel, hire, command or procure to be uttered or published, as true and genuine, any of the above named false, altered, forged or counterfeited matters as above specified and described, knowing the same to be false, altered, forged or counterfeited, with intent to prejudice, injure, damage or defraud any person or persons, body politic or corporate, every person so of-

fending shall be deemed guilty of a high misdemeanor, and on conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than twenty years nor less than two years.

Sec. 23. *Be it further enacted*, That if any person shall engrave any plate for striking or printing false and counterfeit bank notes; or shall knowingly and purposely have in his or her possession, or secretly keep and conceal any plate which might or could be used for the purpose aforesaid, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than twenty years nor less than five years: *Provided*, That nothing herein contained shall be construed to extend to any person who shall seize upon or keep possession of any such plates for striking or printing counterfeit bank notes, with intent to prevent the same from being used for any such unlawful and fraudulent purpose.

Sec. 24. *Be it further enacted*, That if any person shall voluntarily, unlawfully and on purpose, cut off the ear or ears; or cut out or disable the tongue; put out an eye; slit the nose, lip or ear; cut or bite off the nose, lip or ear; or cut off or disable any limb or member of any person or brand any person with intent in so doing to murder, kill, maim or disfigure such person, in any of the manners before mentioned then, and in every such case, the person so offending, his or her counsellors, aiders and abettors, shall, on conviction thereof, be imprisoned in the penitentiary, at hard labor for any space of time not more than twenty-one years nor less than one year.

Sec. 25. *Be it further enacted*, That if any person shall shoot, stab or shoot at any other person, with intent to kill, wound or maim, every person so offending shall, on conviction thereof, be imprisoned in the peni-

penitentiary, at hard labor, for any space of time not more than five years nor less than one year.

**Sec. 26.** *Be it further enacted,* That if any person shall, by word, message, letter, or any other way, challenge another to fight a duel; or shall accept a challenge to fight a duel, although no duel be fought; or shall knowingly be the bearer of such challenge; or shall abet, prompt, encourage, persuade, seduce or cause any person to fight a duel or to challenge another to fight a duel (if such duel be fought) or to accept a challenge to fight a duel, although no duel be fought, every person so offending, in either case above described, shall be deemed guilty of a high misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than nine years nor less than one year; and if any person shall engage in and fight a duel with another, or shall be a second in such duel, although death does not ensue, then, in such case, every person so offending shall be deemed guilty of a high misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than ten years nor less than three years.

**Sec. 27.** *Be it further enacted,* That if any person shall assault and lay violent hands upon another with intent to commit murder, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than eleven years nor less than three years.

**Sec. 28.** *Be it further enacted,* That if any person shall knowingly send or deliver any letter or writing, with or without a name subscribed thereto, or signed with a fictitious name; letter or letters containing threats of any malicious injury of any kind whatever, for the purpose of extorting money or other valuable thing from any person whatever, every person so offending shall be deemed guilty of a misdemeanor, and

upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than twenty one years nor less than three years.

Sec. 29. *Be it further enacted*, That if any ministerial or other officer whatsoever, having any offender in his custody, charged with or convicted of any crime or misdemeanor by this act declared criminal, and made punishable either by death or imprisonment in the penitentiary, shall voluntarily suffer such offender to escape and go at large, every ministerial or other officer so offending shall be deemed guilty of a high misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time between the respective periods for which the offender so suffered to escape might have been imprisoned under this act, for the offence wherewith he was charged or whereof he was convict; and where any ministerial or other officer shall voluntarily suffer any person to escape, charged with or convict of treason or murder in the first degree, every person so offending shall, upon conviction thereof, be punished as for murder in the second degree.

Sec. 30. *Be it further enacted*, That if any person or persons shall rescue by force any offender, charged with or convicted of any offence by this act declared criminal, and made punishable, either by death or imprisonment in the penitentiary, from any jail or other place of confinement, or from the custody of any officer or other person charged with the safe keeping of such offender, every person so offending, his, her or their aids, abettors and procurer, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time between the respective periods for which the offender so rescued might have been imprisoned under this act, for the offence wherewith he was charged or whereof he was convict; and if the offender so rescued was charged with or convict of treason or

murder in the first degree, such rescuer shall upon conviction, be punished as for murder in the second degree.

**Sec. 81.** *Be it further enacted,* That if any person shall by any means whatsoever, be aiding or assisting to any prisoner confined in any jail, penitentiary or other place of confinement, charged with, indicted for or convicted of any offence against this state or sentenced to imprisonment upon such conviction, to make or attempt to make his or her escape from such jail, penitentiary or other place of confinement, although no escape be actually made, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than three years nor less than six months.

**Sec. 82.** *Be it further enacted,* That if any person shall attempt, by bribery, persuasion, seduction or other arts or means, to prevail upon any ministerial officer or other person, charged with the safe-keeping of any offender accused or convicted of any offence by this act made criminal, to permit such offender to escape from his or her custody, although no escape be actually made, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than five years nor less than six months.

**Sec. 83.** *Be it further enacted,* That if any person or persons shall receive or buy any goods or chattels that shall be stolen or taken by robbery, of the value of ten dollars, and upwards, from any other person, knowing the same to have been so stolen or taken by robbery; or shall receive, harbor or conceal any thief, knowing him or her to be such, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned in the pen-

penitentiary, at hard labor, for any space of time not more than seven years nor less than six months.

**Sec. 84.** *Be it further enacted,* That if any person shall steal any horse, mare or gelding, foal or filly, ass or mule; or if any person shall receive or buy any horse, mare or gelding, foal or filly, ass or mule, that shall be stolen from any other person, knowing the same to be stolen; or if any person shall harbor or conceal any horse thief, knowing him to be such, every person so offending, in any one of the cases above described, shall be deemed guilty of a high misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than fourteen years nor less than three years.

**Sec. 85.** *Be it further enacted,* That if any person shall wilfully and maliciously burn or cause to be burned any barrack or stack of hay; crib of corn, stack of wheat, rye, oats, barley, flax, hemp or any other kind of fodder or grain; or any fences, piles of wood, boards, plank or scantling or square timber, the property of another, of the value of fifteen dollars or more, such person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be confined in the penitentiary, at hard labor, for any term of time not more than seven years nor less than one year; and if any person shall secretly, wilfully and maliciously demolish, cut down or destroy any part of any public or toll bridge; kill or destroy any horse, mare, foal or filly, mule or ass, sheep, bull, cow, ox, steer or heifer of the value of ten dollars or upwards the property of another, such person shall, on conviction thereof, be imprisoned in the penitentiary, at hard labor, for any time not more than five years nor less than one year: *Provided always,* That nothing in this section contained shall be so construed as to extend to any person who shall kill any of the before mentioned animals trespassing within his own enclosures, and shall not afterwards attempt to conceal the fact.

**Sec. 36.** *Be it further enacted,* That if any person of the age of sixteen years or upwards, shall wilfully and maliciously cut down, saw, bark or otherwise injure or destroy any fruit trees growing in any nursery, garden, yard or orchard, the property of another, to the value of ten dollars or upwards, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than three years nor less than six months,

**Sec. 37.** *Be it further enacted,* That if any person shall stamp or otherwise counterfeit any of the coin of gold, silver or copper currently passing in this state; or shall utter and put off any such counterfeit coins, knowing them to be base and counterfeit; or shall make any instrument for counterfeiting any of the coins aforesaid, or shall aid or assist therein, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor for any space of time not more than ten years nor less than six months.

**Sec 38** *Be it further enacted,* That if any person shall attempt to pass any base and counterfeit coins, knowing them to be such; or shall attempt to pass any false, forged or counterfeited bank notes, knowing them to be such. every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than six years nor less than six months.

**Sec. 39.** *Be it further enacted,* That in all trials for murder, the jury before whom such trial is had, if they find the prisoner guilty thereof, shall ascertain in their verdict whether it be murder in the first or second degree; and if such prisoner be convicted by confession in open court, the court shall proceed by examination of witnesses, to determine the degree of the crime, and shall pronounce sentence accordingly.

**Sec. 40.** *Be it further enacted,* That if any person shall aid, assist, abet or procure any other person to commit any one of the offences by this act declared criminal & punishable by death or imprisonment in the penitentiary, every person so offending shall be deemed guilty of a misdemeanor, and shall be imprisoned in the penitentiary at hard labor, for any space of time between the respective periods for which the principal offender could be imprisoned for the principal offence; or if the principal offender would, upon conviction, be punished with death, then such aider, assister, abettor or procurer, upon conviction, shall in like manner suffer death; and if in any case the principal offender cannot be taken so as to be prosecuted and convicted of any such offence, yet nevertheless it shall and may be lawful to prosecute and punish every such person aiding, assisting, abetting or procuring the commission of any of the offences aforesaid, although the principal offender be not convicted thereof; but if such principal offender shall afterwards be taken and convicted, such aiders, abettors, assisters or procurers so convicted and punished as aforesaid, shall not be liable to a prosecution as accessories.

**Sec. 41.** *Be it further enacted,* That if any person shall be convicted of any one of the offences specified in the thirteenth, fourteenth, thirty fifth and thirty-sixth sections of this act, all the estate, right, title or interest, either in law or equity, which such person might have had in and to any lands or tenements within this state, at the time of the commencement of the prosecution upon which such conviction was had, shall be bound, charged and liable for the payment of the damages which the person may have sustained, upon whose property the injury or offence for which the offender may stand convicted, was done and committed; and as against the party so injured every gift, grant, sale, alienation or conveyance of any estate, right, title or interest, in and to any lands or tenements within this state, made or ex-

executed by the offender so convicted, after the commencement of the prosecution upon which such conviction shall be had, shall be taken, held and considered as utterly void and of no effect.

Sec. 42. *Be it further enacted*, That where any person shall give any mortal blow, or administer any poison to another in any county within this state, and the party so stricken or poisoned shall thereof afterwards die in any other county or state, the person giving such mortal blow or administering such poison may be tried and convicted of murder or manslaughter as the case may be, in the county where such mortal blow was given or poison administered.

Sec. 43. *Be it further enacted*, That in all cases where any person shall be convicted of any offence, by this act declared criminal, the court shall declare in their sentence, for what period of time, within the respective periods prescribed by law, such convict shall be imprisoned at hard labor in the penitentiary; and shall moreover determine and declare, in their sentence, whether any and for what period of time such convict shall be kept in solitary confinement in the cells of the penitentiary.

Sec. 44. *Be it further enacted*, That the mode of inflicting the punishment of death in all cases under this act, shall be by hanging by the neck, until the person so to be punished shall be dead; and the sheriff or the coroner, in case of the death, inability or absence of the sheriff of the proper county, in which sentence of death shall be pronounced by force of this act, shall be the executioner.

Sec. 45. *Be it further enacted*, That all acts and parts of acts now in force, in any way relating to any of the offences by this act declared criminal and punishable by imprisonment in the penitentiary, shall be, and the same are hereby repealed: *Provided nevertheless*, That all offences committed prior to the taking

effect of this act, shall be prosecuted and punished in the same manner as if this act had never been passed.

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

**JOHN POLLOCK,**

*Speaker of the House of Representatives.*

**THOMAS KIRKER,**

*Speaker of the Senate.*

January 27, 1815.

## CHAPTER CXIX.

*AN ACT supplementary to the last named act.*

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That any person or persons being charged with any of the crimes specified in the act to which this is a supplement, (except treason and murder) may be let to bail; and in all cases where a recognisance is forfeited in consequence of the person or persons accused of any such crime, having not complied with the condition of his, her or their recognisance, the court to whom such recognisance may be returned, shall cause the amount of the penalty of such recognisance to be collected and paid over to the treasurer of the county wherein the offence charged may have been committed for the use of such county.

Sec. 2. *And be it further enacted,* That if any person or persons, who may be charged with the commission of a crime or offence, made punishable by the laws of this state, shall abscond or remove from the county in which such crime or offence be charged to have been committed, it shall be lawful for any sheriff, constable or other person, to apprehend the person or persons so charged, and forthwith remove him, her or them to the county in which the alleged crime may be said to have been committed, and deliver such per-

son or persons to any judge or justice of the peace in said county, who shall cause the person or persons so delivered, to be dealt with as the law may direct; and it shall be the duty of the commissioners of the county to which such removal is made, to allow to the officer or other person, causing such removal, all necessary disbursements and expenses, together with a reasonable compensation for his time and trouble, and the amount so allowed shall be paid on their order out of the county treasury.

This act shall take effect and be in force from and after the first day of May next.

**MATTHIAS CORWIN,**

*Speaker of the house of representatives.*

**PETER HITCHCOCK,**

*Speaker of the senate.*

February 26, 1816

---

## CHAPTER CXX.

### *AN ACT to amend the last named act.*

**Sec 1.** *Be it enacted by the general assembly of the state of Ohio.* That no person convicted of any one of the offences specified in the twentieth section of the act for the punishment of crimes, shall be punished by imprisonment in the penitentiary according to the provisions of said section, unless the article stolen or maliciously destroyed, shall be of the value of ten dollars or upwards; and in all cases where the article stolen or maliciously destroyed, shall be under the value of ten dollars, the person convicted of the offence, shall be punished agreeably to the provisions of the act for the punishment of certain offences therein specified.

**Sec. 2.** *Be it further enacted,* That if any person shall enter any place specified in the sixteenth section

of the act to which this act is an amendment, in the manner in said section specified, with intent to steal only, such person shall not be punished as is by said section prescribed; but instead thereof shall be punished by fine not exceeding two hundred dollars, and imprisonment in the county jail not exceeding six months.

*Sec. 3. And be it further enacted,* That so much of the act to which this act is an amendment, as comes within the purview of this act, shall be and the same is hereby repealed: *Provided,* That all offences committed before the taking effect of this act, shall be proceeded against and punished as though this act had not been passed.

DUNCAN McARTHUR,  
*Speaker of the House of Representatives.*  
 ABRAHAM SHEPHERD,  
*Speaker of the senate.*

January 30, 1818.

---

## CHAPTER CXXI.

*AN ACT further to amend said acts.*

*Sec. 1. Be it enacted by the general assembly of the state of Ohio,* That if any person shall attempt to pass any base or corrupted coin or coins, knowing them to be such, or shall pass or attempt to pass, or put in circulation, any false, forged, or counterfeit bank note or notes, bill or bills, knowing the same to be false, forged or counterfeited; or if any person shall make, utter, publish, pass or put in circulation, any note or notes, bill or bills, purporting to be the note or notes, bill or bills of a bank, company or association, which never did in fact exist, and which is fabricated for imposition, such person knowing at the time of publishing, passing or putting in circulation, any such note or

notes, bill or bills, that the bank, company or association, purporting to have issued the same, never did exist; every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, at hard labor, for any space of time, not more than six years, nor less than six months.

**Sec. 2.** *Be it further enacted,* That no person convicted of any one of the offences specified in the twentieth section of the act for the punishment of crimes, shall be punished by imprisonment in the penitentiary, according to the provisions of said section, unless the article stolen or maliciously destroyed, shall be of the value of ten dollars or upwards; and in all cases when the article stolen or maliciously destroyed, shall be under the value of ten dollars, the person convicted of the offence, shall be punished agreeably to the provisions contained in the third section of the act, for the punishment of certain offences therein specified.

**Sec. 3.** *Be it further enacted,* That if any person shall sell, barter or in any manner dispose of any false, forged or counterfeited bank note or notes; or shall sell, barter or in any manner dispose of any counterfeit bank note or notes, the same not being filled up, or the signatures thereto forged or affixed, whether by the single bill, or by sheets, or if any person shall be detected with such blank counterfeit bank notes in his possession, for the purpose of selling the same, every such person shall be deemed guilty of a misdemeanor, and shall be confined in the penitentiary, at hard labor, for any space of time not more than ten years, nor less than one year.

**Sec. 4.** *And be it further enacted,* That so much of the act to which this is an amendment, and so much of the act, entitled "An act to amend the act for the punishment of crimes," as comes within the purview of this act, be, and the same is hereby repealed: *Provided nevertheless,* That all offences committed prior

to the taking effect of this act, shall be prosecuted and punished in the same manner, as if this act had never been passed

This act to take effect and be in force from and after the first day of May next.

JOSEPH RICHARDSON,  
*Speaker of the house of representatives.*

ROBERT LUCAZ,  
*Speaker of the senate.*

February 8, 1819.

## CHAPTER CXXII.

### *AN ACT for the punishment of certain offences therein specified.*

House breaking in the night with attempt to commit any violence or abuse how punished,	1	guiltless, -	6
Housebreaking in the daytime with attempt to commit any abuse or violence how punished,	2	Persons abusing judges, justices &c. how punished, -	7
Stealing money or goods how punished, -	3	Assault and battery how punished, -	8
Three or more persons having met with intent to do an unlawful act how punished and how proceeded against, -	4	Judges, justices, &c. how punished for receiving extra fees, -	9
Duty of judges, justice, &c. to make proclamation, ib		Defrauding how punished, -	10
Penalty on persons failing to assist officers, -	ib	Assumption of office or oppression under color of office how punished, -	11
Penalty on persons obstructing the authority or continuing a riot after proclamation, -	5	Officers encouraging lawsuits, quarrels, &c. how punished, -	12
Persons maiming or killing rioters to be holden		Oppression in a sheriff, coroner, &c. how punished, -	13
		Removing land marks how punished, -	14
		Boxing at flaticuffs how punished, -	15
		Breaking or destroying tomb-stones how punished, -	16

Altering marks or brands how punished, -	17	§ how punished, -	29
Selling spiritous liquors to Indians how punished, -	18	§ Attempt to corrupt a juror how punished, -	30
Persons refusing to assist civil officers how pun- ished, - -	19	§ Corruption in a juror how punished, -	31
False prosecutors how punished, -	20	§ Indictment for offences to be found in 1 year, -	32
Forgery in writing how punished, -	21	§ Offences under this act punishable by indict- ment only, -	33
Adultery how punished, -	22	§ Persons refusing to give testimony how punished	34
Continued, -	23	§ Fines to be paid into the county treasury, -	35
Publishing libels how pun- ished, - -	24	§ Fines under this act how collected, -	36
Fornication how punished, -	25	§ Commissioners may re- lease offenders imprison- ed for fine and costs, -	37
Cutting timber on public lands how punished, -	26	§ Repealing clause, -	38
Officers suffering prison- ers to escape how pun- ished, - -	27	§ Proviso as to crimes com- mitted under former laws, - -	39
Rescuing prisoners how punished, - -	28		
Marrying contrary to law			

**Sec. 1.** *Be it enacted by the general assembly of the state of Ohio,* That if any person or persons shall, in the night season, unlawfully break open and enter any mansion house, shop, store, ship, boat or other water-craft, in which any person or persons shall dwell or reside, and shall commit or attempt to commit any personal violence or abuse, or shall be so armed with any dangerous weapon as to indicate a violent intention, the person or persons so offending shall, upon conviction thereof, be fined in a sum not exceeding three hundred dollars, and be imprisoned not more than six months.

**Sec. 2.** *Be it further enacted,* That if any person or persons shall in the day-time, unlawfully break open and enter any mansion-house, shop, store, ship, boat or other water-craft, in which any person or persons shall or may dwell or reside, and shall commit or attempt to commit any personal abuse, force or violence, he, she

for they, so offending shall, upon conviction thereof, be fined in a sum not exceeding one hundred dollars and be imprisoned not more than three months.

Sec. 3. *Be it further enacted*, That if any person shall steal any money or other personal goods and chattels of another, of less value than ten dollars, every person so offending, upon conviction thereof, shall be fined in a sum not exceeding fifty dollars and be imprisoned not more than six months.

Sec. 4. *Be it further enacted*, That if three or more persons shall assemble together, with intent to do any unlawful act with force and violence, against the person or property of another, or to do any unlawful act against the peace, or being lawfully assembled shall agree with each other to do any unlawful act as aforesaid, and shall make any movement or preparation therefor, the persons so offending shall each, on conviction thereof, be fined in a sum not exceeding two hundred dollars, and be imprisoned not more than six months; and whenever three or more persons shall be assembled as aforesaid, and proceed to commit any of the offences aforesaid, it shall be the duty of all judges, justices of the peace and sheriffs, and all ministerial officers, immediately upon actual view, or as soon as may be, on information, to make proclamation in the hearing of such offenders, commanding them in the name of the state of Ohio, to disperse and depart to their several homes or lawful employments; and if upon such proclamation such persons shall not disperse and depart as aforesaid, it shall be the duty of such judges, justices of the peace and sheriffs, and all other ministerial officers respectively, to call upon all persons near, and if necessary throughout the county, to be aiding and assisting in dispersing and taking into custody all persons assembled as aforesaid; and all military officers and other persons called on as aforesaid, and refusing to render immediate assistance, shall each, upon conviction thereof, be fined in a sum not exceeding twenty-five dollars.

**Sec. 5.** *Be it further enacted,* That if any person or persons shall forcibly obstruct any of the authorities aforesaid, or if any three or more persons shall continue together after proclamation made as aforesaid, or attempted to be made and prevented by such rioters; or in case of no proclamation, any three or more persons, being assembled as aforesaid, shall commit any unlawful act as aforesaid, every such offender, upon conviction thereof, shall be fined in a sum not exceeding five hundred dollars, and imprisoned not more than six months, and shall moreover find security for good behavior and the peace, for a time not exceeding one year.

**Sec. 6** *Be it further enacted,* That if any of the persons so unlawfully assembled, shall be killed, maimed or otherwise injured, in consequence of resisting the judges, or others in dispersing and apprehending, or in attempting to disperse and apprehend them, said judges, justices of the peace, sheriffs and other ministerial officers, and others acting by their authority, or the authority of either of them, shall be holden guiltless: *Provided,* Such killing, maiming or injury shall take place, in consequence of the use of necessary and proper means, to disperse or apprehend any such person or persons so unlawfully assembled.

**Sec 7.** *Be it further enacted,* That if any person or persons shall abuse any judge or justice of the peace, resist or abuse any sheriff, constable or other officer, in the execution of his office, the person or persons so offending shall, upon conviction thereof, be fined in a sum not exceeding two hundred dollars, or imprisoned not exceeding six months, or both, at the discretion of the court.

**Sec. 8.** *Be it further enacted,* That if any person shall unlawfully assault or threaten another, in a menacing manner, or shall unlawfully strike or wound another, the person so offending shall, upon conviction thereof, be fined in a sum not exceeding one hundred

and fifty dollars, or imprisoned not more than six months, or both, at the discretion of the court, and shall moreover be liable to the suit of the party injured.

**Sec. 9.** *Be it further enacted,* That if any judge, justice, coroner, constable, jailor or other officer of this state, either judicial or ministerial, shall knowingly, ask, demand or receive any fee or reward to execute and do his duty, other than is or shall be allowed by the laws of this state, every person so offending shall, upon conviction thereof, be fined in a sum not exceeding two hundred dollars, or imprisoned not exceeding six months, or both, at the discretion of the court.

**Sec. 10.** *Be it further enacted,* That if any person or persons, by any false pretence or pretences, shall obtain from any other person or persons, any money, goods, merchandize or effects whatever, with intent to cheat and defraud such person or persons of the same, or shall fraudulently make and transfer any bond, bill, deed of sale, gifts, grants or other conveyances, to defeat creditors of their just demands, such person or persons so offending shall, upon conviction thereof, be fined in a sum not exceeding five hundred dollars, or be imprisoned not more than six months, or both, at the discretion of the court.

**Sec. 11.** *Be it further enacted,* That if any person shall take upon himself to exercise or officiate in any office or place of authority in this state, without being lawfully authorised; or if any person, by color of his office shall wilfully and corruptly oppress any person or persons, under pretence of acting in his official capacity, the person so offending shall upon conviction thereof, be fined in a sum not exceeding two hundred and fifty dollars, or imprisoned not more than six months, or both, at the discretion of the court.

**Sec. 12.** *Be it further enacted,* That if any judge, justice of the peace, clerk of any court, sheriff, constable, attorney or counsellor at law, shall encourage, excite and stir up any suit, quarrel or controversy between two or more citizens of this state, whereby any

citizen shall be defrauded and injured in said suit, quarrel or controversy, such judge, justice of the peace, clerk of any court, sheriff, constable, attorney or counsellor at law, shall upon conviction thereof, be fined in a sum not exceeding five hundred dollars, or be imprisoned any space of time not exceeding six months, or both, at the discretion of the court.

**Sec. 13.** *Be it further enacted,* That if any sheriff, coroner, recorder, jailor, clerk or constable, by color of his office, shall designedly, wilfully or corruptly attempt to injure, defraud or oppress any person or persons; or if any sheriff, coroner, recorder, jailor, clerk or constable, shall designedly, wilfully or corruptly injure defraud or oppress any person or persons, in the execution of his office, such sheriff, coroner, recorder, jailor, clerk or constable shall, on conviction thereof, be fined in a sum not exceeding two hundred dollars, or be imprisoned any space of time not exceeding six months, or both, at the discretion of the court.

**Sec. 14.** *Be it further enacted,* That if any person or persons shall, knowingly, wilfully and maliciously cut, fell, deface, alter or remove any land mark, corner or bearing tree, properly established, the person or persons so offending shall, on conviction thereof, be fined in a sum not exceeding one hundred dollars, or imprisoned not exceeding two months, or both, at the discretion of the court.

**Sec. 15.** *Be it further enacted,* That if any two persons shall agree and wilfully fight or box at fisticuffs, the persons so offending shall be deemed guilty of an affray, and upon conviction thereof, shall be fined each in a sum not exceeding fifty dollars, or be imprisoned not exceeding two months, or both, at the discretion of the court.

**Sec. 16.** *Be it further enacted,* That if any person shall, wilfully and maliciously alter, deface, break down or destroy any monument or tomb stone, erected or set up to perpetuate the memory of any deceased

person, every person so offending shall, upon conviction thereof, be fined in a sum not exceeding fifty dollars.

**Sec. 17.** *Be it further enacted,* That if any person shall, wilfully and maliciously, alter or deface any artificial ear-mark or brand upon any horse, cattle, sheep or swine of another person, every person so offending shall, upon conviction thereof, be fined in a sum not exceeding fifty dollars.

**Sec. 18.** *Be it further enacted,* That if any person or persons shall sell or barter any spiritous or other liquors, of intoxicating quality, to any Indian or Indians, within this state, or convey or attempt to convey, or be instrumental in conveying any of the aforesaid liquor or liquors out of the state, with intent to dispose of the same to any Indian or Indians, unless authorised by the proper authority, every person so offending shall, upon conviction thereof, be fined in a sum not exceeding one hundred dollars.

**Sec. 19.** *Be it further enacted,* That if any person or persons, having been called upon by the sheriff or other ministerial officer in any county in the state, to assist such sheriff or other officer in apprehending any person charged with or convicted of any offence against any of the laws of the state, or in securing such offender, when apprehended, or in conveying such offender to the jail of the county, shall neglect or refuse to render such assistance, every person so offending shall, upon conviction thereof, be fined in a sum not exceeding fifty dollars.

**Sec. 20.** *Be it further enacted,* That if any two or more persons shall agree together, falsely and maliciously, to accuse or prosecute any person, or cause any person or persons to be accused or prosecuted of, or for any offence, by the law of this state made punishable with death or imprisonment, and shall, in pursuance of such agreement, procure or cause any person or persons to be falsely and maliciously prosecuted for

any offence, by the laws of this state made punishable with death or imprisonment, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not exceeding five hundred dollars, and imprisoned not more than six months, or either or both, at the discretion of the court before whom such offender shall be found guilty.

**Sec. 21.** *Be it further enacted,* 'That if any person shall maliciously write any letter, or other writing, and subscribe thereto the name of any other person, and in any way cause such letter or other writing to be made public, for the purpose of subjecting the person whose name shall be falsely affixed to such letter or other writing, to an accusation of, or prosecution for any offence, by the laws of this state punished by death or imprisonment, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not exceeding five hundred dollars, and imprisoned not more than six months.

**Sec. 22.** *Be it further enacted,* 'That every married woman who shall have sexual intercourse with other person than her husband, every unmarried man who shall have sexual intercourse with a married woman, and every married man who shall have sexual intercourse with other woman than his wife, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned not exceeding six months, at the discretion of the court: *Provided,* 'That the testimony of one of the parties to the crime shall in no case be received as evidence against the other party.

**Sec. 23.** *Be it further enacted,* 'That if any married woman shall hereafter desert her husband, and live and cohabit with another man, in a state of adultery, upon conviction thereof, she shall be imprisoned any term of time not exceeding six months; and if any married man shall hereafter desert his wife, and live and cohabit with any other woman, in a state of adultery; or if any married man living with his wife, shall keep any

other woman, and notoriously cohabit with her, in a state of adultery; or if any unmarried man shall live and cohabit with a married woman, in a state of adultery, every person so offending, upon conviction thereof, shall be fined in any sum not exceeding two hundred dollars, or imprisoned not more than six months or both, at the discretion of the court.

*Sec. 24. Be it further enacted,* That if any person shall write, print and publish any false and malicious libel, of or concerning any other person, or shall cause or procure any such libel to be written, printed and published, every person so offending shall, upon conviction thereof, be fined not exceeding five hundred dollars.

*Sec. 25. Be it further enacted,* That if any unmarried persons shall live and cohabit together, in a state of fornication, such persons so offending shall, on conviction thereof, be fined in any sum not exceeding one hundred dollars and be imprisoned not more than six months.

*Sec. 26. Be it further enacted,* That if any person shall cut, fell, box, bore or destroy any living tree, standing or growing on any of the public school or ministerial lands in this state, not having first obtained license from the proper authority so to do, every person so offending shall upon conviction thereof, be fined in a sum not exceeding thirty dollars.

*Sec. 27. Be it further enacted,* That if any ministerial or other officer whatsoever, having any offender in his custody charged with, or convicted of any offence, by this act made punishable by imprisonment, shall voluntarily suffer such offender to escape and go at large, every ministerial officer so offending shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars, or be imprisoned not exceeding six months, or both, at the discretion of the court.

*Sec. 28. Be it further enacted,* That if any person or persons shall rescue by force, any offender charged with or convicted of any offence, by this act made pun-

ishable by imprisonment, from any jail or other place of confinement, or from the custody of any officer or other person charged with the safe keeping of such offender, every person so offending, his, her or their aiders, abettors and procurers, shall upon conviction thereof, be fined in a sum not exceeding five hundred dollars, and imprisoned not more than six months.

**Sec. 29.** *Be it further enacted,* That if any justice of the peace, or any ordained minister of any religious society, shall solemnize marriage contrary to the provisions of the laws which are or may be in force regulating marriages, the person so offending on conviction thereof, shall be fined in any sum not exceeding five hundred dollars.

**Sec. 30.** *Be it further enacted,* That if any person or persons shall attempt to corrupt or influence any juror, legally summoned to attend any court, either by promise, threats, letters, money or other undue means, either directly or indirectly, every person so offending shall, upon conviction thereof, be fined in a sum not exceeding five hundred dollars, and imprisoned not more than six months.

**Sec. 31.** *Be it further enacted,* That if any juror shall corruptly take or receive any money, goods, chattels or other reward either directly or indirectly, from any plaintiff or defendant, in any action or suit instituted before any court having jurisdiction thereof, such juror so offending shall, upon conviction thereof, be fined in a sum not exceeding five hundred dollars, and imprisoned not more than six months.

**Sec. 32.** *Be it further enacted,* That no person shall be indicted or prosecuted for any offence against the provisions of this act, unless such indictment shall be found or prosecution commenced within one year from the time such offence was committed.

**Sec. 33.** *Be it further enacted,* That all prosecutions under the foregoing sections of this act, shall be by indictment before the court of common pleas, in the

county where the offence shall have been committed; and all persons imprisoned under the provisions of this act, shall be imprisoned in the jail of the proper county.

**Sec. 34.** *Be it further enacted,* That if any person legally called upon to give testimony before any court or other authority in this state, authorised to administer oaths and affirmations, shall refuse to take an oath or affirmation, such court or authority may commit the person so refusing to prison, until he or she shall consent to take such oath or affirmation; and after the person committed to prison as aforesaid, shall have taken the oath or affirmation required, the court or authority aforesaid, may, moreover, punish such person for such refusal by a fine not exceeding twenty dollars.

**Sec. 35.** *Be it further enacted,* That all fines and forfeitures incurred under this act shall be paid into the county treasury where the conviction shall have been had.

**Sec. 36.** *Be it further enacted,* That in all cases where a fine shall be inflicted, agreeably to the provisions of this act, it shall be the duty of the court before whom the offender is or shall be tried, to issue an execution against the body, goods, chattels, lands and tenements of such offender, for the amount of such fine and the costs of prosecution, which execution may either be levied on the goods and chattels, lands and tenements, or body of the offender: *Provided always,* That where such execution is levied on goods, chattels, lands and tenements, the officer levying the same shall proceed to sell such property, whether real or personal, in the same manner that personal property is directed to be sold by the provisions of an act, entitled "An act regulating judgments and executions;" and the officer levying such execution, shall be liable to the same rules and regulations as in civil cases, except as herein before provided.

**Sec. 37.** *Be it further enacted,* That when any person shall be confined in jail for the payment of any

fine and costs that may be inflicted agreeably to the provisions of this act, the county commissioners may, if it be made to appear to their satisfaction that the person so confined cannot pay such fine and costs, order the sheriff or jailor of such county to discharge such person from imprisonment; and the sheriff or jailor, upon receiving such order in writing, shall discharge such person accordingly: *Provided*, That the commissioners may, at any time thereafter, order and cause to be issued an execution against the body, lands, goods or chattels of the person so discharged from imprisonment, for the amount of such fine and costs.

Sec. 38. *And be it further enacted*, That the act, entitled "An act respecting crimes and punishments," passed the twentieth of February, one thousand eight hundred and nine; and an act supplementary thereto, passed the twenty-second day of January, one thousand eight hundred and eleven; "An act to prevent the selling of spiritous liquors to the Indians," passed the eleventh day of February, one thousand eight hundred and nine, together with all other laws and parts of laws coming within the purview and meaning of this act, be, and the same are hereby repealed: *Provided nevertheless*, That all crimes committed, or prosecutions pending, for any criminal offence, before the taking effect of this act, shall be prosecuted to final judgment and execution, in the same manner as if this act had never been passed.

This act to take effect and be in force from and after the first day of August next.

JOHN POLLOCK,  
*Speaker of the house of Representatives.*  
THOMAS KIRKER,  
*Speaker of the senate.*

February 11, 1815.

N n n



# INDEX.



An Act to enable the holders of land, within this state to perpetuate testimony relative to their lands,	4
An act for the incorporation of religious societies,	6
An act to provide for the safe keeping of persons that may be reprieved by the governor,	9
An act levying a tax upon sales at auction in certain cases,	10
An act dispensing with proof in certain cases,	13
An act to provide for the incorporation of towns,	14
An act defining the duties of persons taking up estray animals, and securing to the owners boats and other water crafts found going adrift,	23
An act supplementary to the act defining the duties of persons taking up estray animals,	31
An act pointing out the mode of trying criminals,	33
An act supplementary to the act, entitled An act pointing out the mode of trying criminals,	39
An act to amend the act providing for the incorporation of towns,	42
An act for the prevention of certain immoral practices,	43
An act establishing the salaries of certain officers therein named,	46
An act for appointing notaries public,	48
An act to prevent injury by dogs,	50
An act concerning non resident graziers,	51
An act concerning the three per cent. fund,	53
An act for the prevention of gaming,	54
An act allowing and regulating writs of replevin,	61
An act for the better security of toll bridges within this state,	64
An act to prevent destroying timber,	66

An act to perpetuate evidence of the original field notes of the Miami purchase,	67
An act declaring the law in certain cases of actions upon covenants real, and for other purposes	70
An act for the appointment of certain officers therein named,	72
An act for the proving and recording wills and codicils, defining the duties of executors and administrators, the appointment of guardians and the distribution of insolvent estates,	75
An act to amend the last named act,	100
An act regulating the course of descents and distribution of personal estate,	<i>ibid.</i>
An act allowing and regulating writs of attachment before justices of the peace,	164
An act directing the mode of redeeming lands sold for taxes,	113
An act to provide for commissioning certain officers,	117
An act providing for the vacating town plats, and for other purposes,	118
An act authorising aliens to hold lands in this state, by purchase or otherwise,	119
An act to regulate black and mulatto persons,	120
An act to amend the last named act,	123
An act relating to dower,	125
An act for the assignment of bail bonds,	129
An act fixing the rate of interest, and for preventing usury,	131
An act fixing the rate of toll for grinding,	132
An act regulating prison bounds,	134
An act allowing and regulating writs of attachment,	135
An act to amend the act, entitled An act allowing and regulating writs of attachment,	151
An act for the maintenance and support of illegitimate children,	154

An act defining the duties of sheriffs and coroners in certain cases,	158
An act to amend the last named act,	163
An act to regulate the admission and practice of attornies and counsellors at law,	165
An act to amend the last named act,	168
An act establishing boards of commissioners,	169
An act to amend the last named act,	176
An act further to amend said act,	177
An act to levy and collect a tax from all banks and individuals, and companies, and associations of individuals, that may transact banking business in this state, without being authorised to do so by the laws thereof,	179
An act to prevent the sale of town lots for taxes in certain cases,	187
An act to provide for leasing certain school lands therein named,	189
An act to amend the last named act,	201
An act defining the duties of the auditor and treasurer of state,	203
An act for the relief of the poor,	208
An act to raise a revenue from banks and to prohibit the unauthorised issuing and circulating bank paper,	214
An act to prohibit the issuing and circulating of unauthorised bank paper,	218
An act to authorise the establishment of poor houses	223
An act concerning the admission of testimony in certain cases,	229
An act directing the mode of proceeding in chancery	<i>ibid.</i>
An act supplementary to the last named act,	249
An act regulating the fees of civil officers, in civil and criminal cases,	251
An act authorising the governor to fill vacancies in certain cases,	266
An act defining and regulating the duties of the secretary of state,	<i>ibid.</i>

An act for the confinement of prisoners under the authority of the United States. in the jails of this state,	269
An act concerning bills of exchange,	270
An act for the more speedy distribution of the laws and journals, and for other purposes,	271
An act prescribing the manner of contesting elections for governor.	274
An act to continue in force the act, entitled an act for the incorporation of manufacturing companies,	276
An act to provide for the regulation of turnpike companies,	277
An act to provide for the incorporation of schools and library companies,	289
An act regulating the mode of taking the enumeration of the white male inhabitants above the age of twenty one years,	293
An act regulating marriages,	295
An act pointing out the manner in which suits may be prosecuted on the bonds of executors, administrators and officers,	298
An act declaring offices vacant in certain cases, and to provide for filling the same,	300
An act concerning divorce and alimony,	302
An act securing certain persons from arrest in certain cases,	304
An act to prevent destroying publications,	307
An act to prevent firing woods and prairies,	308
An act to provide for the recording of town plats,	309
An act defining seals to be affixed to instruments of writing,	311
An act for the relief of insolvent debtors,	312
An act for ascertaining the boundaries of counties,	316
An act defining a lawful fence, and providing against trespassing animals,	318
An act authorising and regulating arbitrations,	320

An act providing that the repealing of an act shall not revive a former act,	323
An act to restrict the entailment of real estate,	324
An act to prevent stoned horses from running at large,	<i>ibid.</i>
An act concerning apprentices and servants,	326
An act to prevent private lotteries,	328
An act regulating enclosures,	330
An act requiring owners and occupiers of salt works and wells to enclose the same,	332
An act providing for the relief and support of women who may be abandoned by their husbands and for other purposes,	333
An act for regulating measures,	336
An act securing the benefits of the writ of Habeas Corpus,	337
An act providing for the election of sheriffs and coroners, in certain cases,	343
An act for the prevention of frauds and perjuries,	344
An act to encourage the killing of wolves,	346
An act providing the mode of perpetuating testimony in certain cases,	348
An act allowing docket fees in certain cases,	349
An act to restrain suttlers,	350
An act for the limitation of actions,	352
An act providing for the erection of public buildings	354
An act in addition to the last named act,	356
An act providing for the execution of real contracts in certain cases,	357
An act providing for the recovery of money secured by mortgage,	360
An act for the incorporation of manufacturing companies,	363
An act to provide for holding special elections in certain cases,	368
An act to punish kidnapping,	370
An act allowing mutual debts and demands to be set off, and concerning tenders,	372

An act to organise the judicial courts and regulate their practice,	374
An act relating to juries,	415
An act to incorporate the original surveyed townships,	426
An act supplementary to the last named act,	433
An act declaring offices vacant in certain cases, and to provide for filling the same,	444
An act regulating county levies,	436
An act to amend the last named act,	448
An act for the punishment of crimes,	449
An act supplementary to the last named act,	466
An act to amend the last named act,	467
An act further to amend said acts,	468
An act for the punishment of certain offences therein specified,	470







Widener Library



3 2044 100 153 444

**HD**