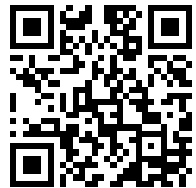
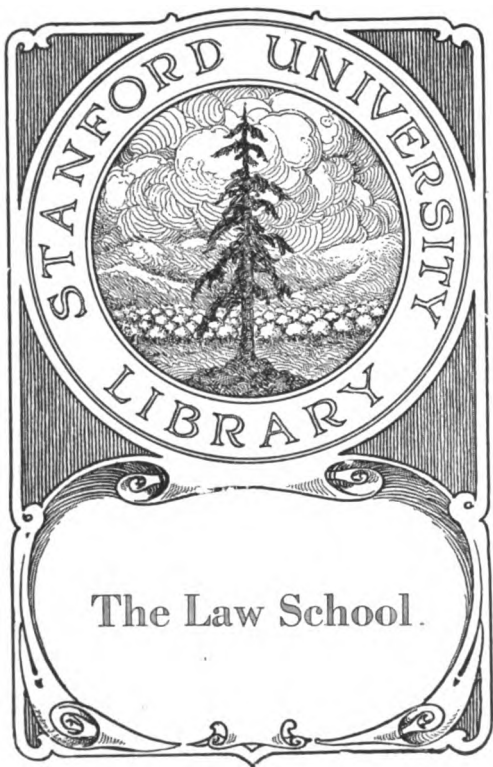

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Ohio Statutes,

Filed Session Laws

Original 1805 with Compiled
Statutes (1957 - 1959)

ACTS OF THE STATE OF OHIO,
PASSED AND REVISED,

FIRST SESSION OF THE THIRD GENERAL ASSEMBLY
BEGUN AND HELD AT THE TOWN OF CHILLI-
COTHE, DECEMBER 3, 1804, AND IN THE
THIRD YEAR OF SAID STATE.
ALSO, THE

CONSTITUTION
OF THE
UNITED STATES,
ORDINANCE,

CONSTITUTION OF THE STATE OF OHIO,
LAWS OF CONGRESS, REPORT OF
AUDITOR, TREASURER, ETC.

VOLUME III

PUBLISHED BY AUTHORITY.

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1805

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1901.

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JUL 18 1933

YASUL GOMATE

Constitutions, Laws, Ordinance, Etc.

Constitution of the United States.

We, the *people* of the United States, in order to form a more *perfect union*, establish *justice*, insure *domestic tranquility*, provide for the *common defense*, promote the *general welfare*, and secure the *blessings of liberty* to ourselves and our *posterity*, do ordain and establish this CONSTITUTION, for the *United States of America*.

ARTICLE I.

Sec. 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

Sec. 2. The house of representatives shall be composed of members chosen every second year, by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United

States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three; Massachusetts eight; Rhode Island and Providence Plantation one; Connecticut five; New York six; New Jersey four; Pennsylvania eight; Delaware one; Maryland six; Virginia ten; North Carolina five; South Carolina five, and Georgia three.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

Sec. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice-president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not ex-

tend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

Sec. 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Sec. 5. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such part as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question, shall, at the

desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sec. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to or returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house, during his continuance in office.

Sec. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to

that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution or vote to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

Sec. 8. The congress shall have power—

To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises, shall be uniform throughout the United States.

To borrow money on the credit of the United States.

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

To provide for the punishment of counterfeiting the securities and current coin of the United States.

To establish postoffices and post roads.

To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.

To constitute tribunals inferior to the supreme court.

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations.

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years.

To provide and maintain a navy.

To make rules for the government and regulation of the land and naval forces.

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions.

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress.

To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may by session of particular states, and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards and other needful buildings: And—

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

Sec. 9. The migration or importation of such persons as any of the states now existing, shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be

imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or *ex post facto* law shall be passed.

No capitation, or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

No tax or duty shall be laid on articles exported from any state. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from one state, be obliged to enter, clear or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of congress, accept of any present, emolument, office or title of any kind whatever, from any king, prince or foreign state.

Sec. 10. No state shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex*

post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress. No state shall without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such eminent danger as will not admit of delay.

ARTICLE II.

Sec. 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall

make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice-president.

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States at the time of the

adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office, who shall not have attained to the age or thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may by law provide for the case of removal, death, resignation or inability, both of the president and vice-president, declaring what officer shall then act as president; and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enters on the execution of his office, he shall take the following oath or affirmation:

“I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect and defend the constitution of the United States.”

Sec. 2. The president shall be commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the prin-

cial officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

Sec. 3. He shall from time to time give to the congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Sec. 4. The president, vice-president and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery or other high crimes and misdemeanors.

ARTICLE III.

Sec. 1. The judicial power of the United States, shall be vested in one supreme court, and in such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior court, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

Sec. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state, claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate

jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

Sec. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

Sec. 1. Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state. And the congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Sec. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice

and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.

Sec. 3. New states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed, as to prejudice any claims of the United States, or of any particular state.

Sec. 4. The United States shall guarantee to every state in this union, a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the appli-

cation of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which in either case, shall be valid to all intents and purposes, as part of this constitution when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress: *Provided*, That no amendments which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

All debts contracted and engagements entered into before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever

be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine states, shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Done in convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America the twelfth. In witness whereof, we have hereunto subscribed our names:

GEORGE WASHINGTON,
President, and Deputy from Virginia.

New Hampshire,	{	John Langdon, Nicholas Gilman.
Massachusetts,	{	Nathaniel Gorham, Rufus King.
Connecticut,	{	Wm. Samuel Johnston, Roger Sherman.
New York,	{	Alexander Hamilton.
New Jersey,	{	William Livingston, David Brearly, William Paterson, Jonathan Dayton.
Pennsylvania,	{	Benjamin Franklin, Thomas Mifflin, Robert Morris, George Clymer, Thomas Fitzsimons, Jared Ingersoll, James Wilson, Gouverneur Morris.

Delaware,	{ George Reed, Gunning Bedford, Jr., John Dickinson, Richard Basset, Jacob Broom.
Maryland,	{ James M'Henry, Dan. of St. Thos. Jenifer, Daniel Carroll.
Virginia,	{ John Blair, James Madison, Jr.
North Carolina,	{ William Blount, Richard Dobbs Spaight, Hugh Williamson.
South Carolina,	{ John Rutledge, Charles C. Pinckney, Charles Pinckney, Pierce Butler.
Georgia,	{ William Few, Abraham Baldwin.

Attest:

WILLIAM JACKSON, Secretary.

CONGRESS OF THE UNITED STATES,

Begun and held at the city of New York, on Wednesday, the fourth of March, one thousand seven hundred and eighty-nine.

The conventions of a number of states, having, at the time of their adopting the constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added; and, as extending the ground of public confidence in the government, will best insure the beneficent ends of its institution,

Resolved, by the senate and house of representa-

tives of the United States of America, in congress assembled, two-thirds of both houses concurring: That the following articles be proposed to the legislatures of the several states, as amendments to the constitution of the United States, all or any of which articles, when ratified by *three-fourths* of the said legislatures, to be valid to all intents and purposes, as part of the said constitution, viz:

Articles in addition to, and amendment of, the constitution of the United States of America, proposed by congress, and ratified by the legislature of the several states, pursuant to the fifth article of the original constitution.

ARTICLE I.

After the first enumeration required by the first article of the constitution, there shall be one representative for every thirty thousand until the number shall amount to one hundred; after which the proportion shall be so regulated by congress, that there shall be not less than one hundred representatives, nor less than one representative for every forty thousand persons, until the number of representatives shall amount to two hundred; after which the proportion shall be so regulated by congress, that there shall be not less than two hundred representatives, nor more than one representative for every fifty thousand persons.

ARTICLE II.

No law varying the compensation for the services of the senators and representatives, shall take effect until an election of representatives shall have intervened.

ARTICLE III.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE IV.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE V.

No soldier shall, in time of peace, be quartered, in any house without the consent of the owner, nor in time of war, but in manner to be prescribed by law.

ARTICLE VI.

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

ARTICLE VII.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public

danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VIII.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE IX.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact, tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ARTICLE X.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE XI.

The enumeration in the constitution of certain

rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE XII.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

FRED. AUGUSTUS MUHLENBERG,
Speaker of the house of representatives.

JOHN ADAMS,
Vice-President of the United States, and
President of the senate.

Attest:

JOHN BECKLEY,
Clerk of the house of representatives.

SAMUEL A. OTIS,
Secretary of the senate.

NOTE—The ten last articles of amendments have been adopted by three-fourths of the legislatures of the several states in the Union, and are become a part of the constitution of the United States. The two first articles have not been adopted.

AN ORDINANCE,

For the Government of the Territory of the United States, northwest of the river Ohio.

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

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

by wills in writing, signed and sealed by him or her, in whom the estate may be (being of full age) and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed and delivered by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts and registers shall be appointed for that purpose; and personal property may be transferred by delivery, saving however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

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

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

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

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

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

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

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

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

also, That a freehold in fifty acres of land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold, and two years residence in the district, shall be necessary to qualify a man as an elector of a representative.

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

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

of service of the members of council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to congress; five of whom congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill or legislative act whatever shall be of any force without his assent. The governor shall have power to convene, prorogue and dissolve the general assembly, when in his opinion it shall be expedient.

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

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions and

governments, which forever hereafter shall be formed in the said territory; to provide also for the establishment of states, and permanent government therein, and for their admission to a share in the federal councils, on an equal footing with the original states, at as early periods as may be consistent with the general interest.

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

ARTICLE I.

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

ARTICLE II.

The inhabitants of the said territory shall always be entitled to the benefits of the writ of *habeas corpus*, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall beailable, unless for capital offenses, where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land; and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular serv-

ices, full compensation shall be made for the same. And in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever interfere with or affect private contracts or engagements, *bona fide*, and without fraud previously formed.

ARTICLE III.

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

ARTICLE IV.

The said territory, and the states which may be formed therein, shall forever remain part of this confederacy of the United States of America, subject to the articles of confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts contracted or to be contracted, and a proportional part of the expenses of government,

to be apportioned on them by congress, according to the same common rule and measure by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district or districts or new states, as in the original states, within the time agreed upon by the United States in congress assembled. The legislatures of those districts or new states, shall never interfere with the primary disposal of the soil by the United States in congress assembled, nor with any regulations congress may find necessary for securing the title in such soil to the *bona fide* purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory, as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost, or duty therefor.

ARTICLE V.

There shall be formed in the said territory, not less than three, nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of cession, and consent to the same shall become fixed and established as follows, to-wit: The western state in the said territory shall be bounded by the Mississippi, the Ohio and Wabash rivers; a direct line drawn from the Wabash and Post Vincents due north to the terri-

torial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle state shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the Great Miami, to the said territorial line, and by the said territorial line. The eastern state shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania and the said territorial line: *Provided however, and it is further understood and declared,* That the boundaries of these three states shall be subject so far to be altered, that if congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said states shall have sixty thousand free inhabitants therein, such state shall be admitted, by its delegates, into the congress of the United States, on an equal footing with the original states, in all respects whatever; and shall be at liberty to form a permanent constitution and state government. *Provided,* The constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than sixty thousand.

ARTICLE VI.

There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in

punishment of crimes, whereof the party shall have been duly convicted: *Provided always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service, as aforesaid,

Be it ordained by the authority aforesaid, That the resolutions of the twenty-third of April, one thousand seven hundred and eighty-four, relative to the subject of this ordinance, be and the same are hereby repealed, and declared null and void.

Done by the United States, in congress assembled, the thirteenth day of July, in the year of our Lord, one thousand seven hundred and eighty-seven, and of their sovereignty and independence the twelfth.

WILLIAM GRAYSON, Chairman.
CHARLES THOMPSON, Secretary.

ACT OF CONGRESS.

An act to enable the people of the eastern division of the territory northwest of the river Ohio to form a constitution and state government, and for the admission of such state into the union, on an equal footing with the original states, and for other purposes.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That the inhabitants of the eastern division of the territory northwest of the river Ohio, be, and they are hereby authorized to form for themselves a constitution and state government, and to assume such name as they shall deem proper, and the said state, when formed, shall be admitted into the union, upon the same footing with the original states, in all respects whatever.

Sec. 2. *And be it further enacted,* That the said state shall consist of all the territory included within the following boundaries, to-wit: bounded on the east by the Pennsylvania line, on the south by the Ohio river, to the mouth of the Great Miami river, on the west by the line drawn due north from the mouth of the Great Miami, aforesaid, and on the north by an east and west line, drawn through the southerly extreme of Lake Michigan, running east after intersecting the due north line aforesaid from the mouth of the Great Miami, until it shall intersect Lake Erie, or the territorial line, and thence with the same through Lake Erie to the Pennsylvania line, aforesaid: *Provided,* That congress shall be at liberty at any time hereafter, either to attach all the territory lying east of the line to be drawn due north from

the mouth of the Miami, aforesaid, to the territorial line, and north of an east and west line drawn through the southerly extreme of Lake Michigan, running east as aforesaid to Lake Erie, to the aforesaid state, or dispose of it otherwise, in conformity to the fifth article of compact between the original states, and the people and states to be formed in the territory northwest of the river Ohio.

Sec. 3. *And be it further enacted*, That all that part of the territory of the United States, northwest of the river Ohio, heretofore included in the eastern division of said territory, and not included within the boundary herein prescribed for the said state, is hereby attached to, and made a part of the Indiana territory, from and after the formation of the said state, subject nevertheless to be hereafter disposed of by congress, according to the right reserved in the fifth article of the ordinance aforesaid, and the inhabitants therein shall be entitled to the same privileges and immunities, and subject to the same rules and regulations, in all respects whatever, with all other citizens residing within the Indiana territory.

Sec. 4. *And be it further enacted*, That all male citizens of the United States, who shall have arrived at full age, and resided within the said territory at least one year previous to the day of election and shall have paid a territorial or county tax, and all persons having in other respects, the legal qualifications to vote for representatives in the general assembly of the territory, be, and they are hereby authorized to choose representatives to form a convention, who shall be apportioned amongst the several counties within the eastern division aforesaid, in a ratio of one representative to every twelve hundred inhabitants of each

county, according to the enumeration taken under the authority of the United States, as near as may be, that is to say, from the county of Trumbull, two representatives; from the county of Jefferson, seven representatives; two of the seven to be elected within what is now known by the county of Belmont, taken from Jefferson and Washington counties; from the county of Washington, four representatives; from the county of Ross, seven representatives, two of the seven to be elected in what is now known by Fairfield county, taken from Ross and Washington counties; from the county of Adams, three representatives; from the county of Hamilton, twelve representatives, two of the twelve to be elected in what is now known by Clermont county, taken entirely from Hamilton county; and the elections for the representatives aforesaid, shall take place on the second Tuesday of October next, the time fixed by a law of the territory, entitled, "An act to ascertain the number of free male inhabitants of the age of twenty-one, in the territory of the United States north-west of the river Ohio, and to regulate the elections of representatives for the same," for electing representatives to the general assembly, and shall be held and conducted in the same manner as is provided by the aforesaid act, except that the qualifications of electors shall be as herein specified.

Sec. 5. *And be it further enacted,* That the members of the convention, thus duly elected, be, and they are hereby authorized to meet at Chillicothe on the first Monday in November next; which convention, when met, shall first determine by a majority of the whole number elected, whether it be or be not expedient at that time to form a constitution and state government for the

people, within the said territory; and if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and state government, or if it be deemed more expedient, the said convention shall provide by ordinance for electing representatives to form a constitution or frame of government; which said representatives shall be chosen in such manner, and in such proportion, and shall meet at such time and place, as shall be prescribed by the said ordinance; and shall form for the people of the said state, a constitution and state government: *Provided*, The same shall be republican, and not repugnant to the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, between the original states and the people and states of the territory northwest of the river Ohio.

Sec. 6. *And be it further enacted*, That until the next general census shall be taken, the said state shall be entitled to one representative in the house of representatives of the United States.

Sec. 7. *And be it further enacted*, That the following propositions be, and the same are hereby offered to the convention of the eastern state of the said territory, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States:

First. That the section, number sixteen, in every township, and where such section has been sold, granted or disposed of, other lands equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such township, for the use of schools.

Second. That the six miles reservation, including the salt springs, commonly called the Scioto

salt springs, the salt springs near the Muskingum river, and in the military tract, with the sections of land which include the same, shall be granted to the said state for the use of the people thereof, the same to be used under such terms and conditions and regulations as the legislature of the said state shall direct: *Provided*, The said legislature shall never sell nor lease the same for a longer period than ten years.

Third. That one-twentieth part of the net proceeds of the lands lying within the said state sold by congress, from and after the thirtieth day of June next, after deducting all expenses incident to the same, shall be applied to the laying out and making public roads, leading from the navigable waters emptying into the Atlantic, to the Ohio, to the said state, and through the same, such roads to be laid out under the authority of congress, with the consent of the several states through which the road shall pass: *Provided always*, That the three foregoing propositions herein offered, are on the conditions that the convention of the said state shall provide, by an ordinance irrevocable, without the consent of the United States, that every and each tract of land sold by congress, from and after the thirtieth day of June next, shall be and remain exempt from any tax laid by order or under authority of the state, whether for state, county, township or any other purpose whatever, for the term of five years from and after the day of sale.

NATHL. MACON,

Speaker of the house of representatives.

ABRAHAM BALDWIN,

President of the senate, *pro tempore*.

Approved, April 30, 1802:

TH. JEFFERSON.

CONSTITUTION

Of the State of Ohio.

We the people of the eastern division of the territory of the United States northwest of the river Ohio, having the right of admission into the general government, as a member of the union, consistent with the constitution of the United States, the ordinance of congress of one thousand seven hundred and eighty-seven, and the law of congress, entitled, "An act to enable the people of the eastern division of the territory of the United States northwest of the river Ohio, to form a constitution and state government, and for the admission of such state into the union on an equal footing with the original states, and for other purposes;" in order to establish justice, promote the welfare and secure the blessings of liberty to ourselves and our posterity, do ordain and establish the following constitution or form of government, and do mutually agree with each other to form ourselves into a free and independent state, by the name of the *State of Ohio*.

ARTICLE I.

Sec. 1. The legislative authority of this state shall be vested in a general assembly, which shall consist of a senate and house of representatives, both to be elected by the people.

Sec. 2. Within one year after the first meeting of the general assembly and within every subsequent term of four years, an enumeration of all

the white male inhabitants above twenty-one years of age, shall be made in such manner as shall be directed by law. The number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature and apportioned among the several counties, according to the number of white male inhabitants above twenty-one years of age in each, and shall never be less than twenty-four nor greater than thirty-six, until the number of white male inhabitants, above twenty-one years of age, shall be twenty-two thousand, and after that event, at such ratio that the whole number of representatives shall never be less than thirty-six, nor exceed seventy-two.

Sec. 3. The representatives shall be chosen annually, by the citizens of each county respectively, on the second Tuesday of October.

Sec. 4. No person shall be a representative who shall not have attained the age of twenty-five years, and be a citizen of the United States and an inhabitant of this state; shall also have resided within the limits of the county in which he shall be chosen, one year next preceding his election, unless he shall have been absent on the public business of the United States or of this state, and shall have paid a state or county tax.

Sec. 5. The senators shall be chosen biennially by the qualified voters for representatives; and on their being convened in consequence of the first election, they shall be divided by lot, from their respective counties or districts, as near as can be into two classes; the seats of the senators of the first class shall be vacated at the expiration of the first year, and of the second class at the expiration

of the second year, so that one-half thereof, as near as possible, may be annually chosen forever thereafter.

Sec. 6. The number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the legislature, and apportioned among the several counties or districts to be established by law according to the number of white male inhabitants of the age of twenty-one years in each, and shall never be less than one-third, nor more than one-half of the number of representatives.

Sec. 7. No person shall be a senator who has not arrived at the age of thirty years and is a citizen of the United States ; shall have resided two years in the county or district immediately preceding the election, unless he shall have been absent on the public business of the United States or of this state, and shall moreover have paid a state or county tax.

Sec. 8. The senate and house of representatives, when assembled, shall each choose a speaker and its other officers, be judges of the qualifications and elections of its members, and sit upon its own adjournments ; two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members.

Sec. 9. Each house shall keep a journal of its proceedings and publish them ; the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journals.

Sec. 10. Any two members of either house

shall have liberty to dissent from and protest against any act or resolution which they may think injurious to the public or any individual, and have the reasons of their dissent entered on the journals.

Sec. 11. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member, but not a second time for the same cause, and shall have all other powers necessary for a branch of the legislature of a free and independent state.

Sec. 12. When vacancies happen in either house, the governor, or the person exercising the power of the governor, shall issue writs of election to fill such vacancies.

Sec. 13. Senators and representatives shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same, and for any speech or debate in either house, they shall not be questioned in any other place.

Sec. 14. Each house may punish by imprisonment during their session, any person not a member, who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in their presence, provided such imprisonment shall not, at any one time, exceed twenty-four hours.

Sec. 15. The doors of each house and of committees of the whole, shall be kept open, except in such cases as in the opinion of the house require secrecy. Neither house shall, without the consent of the other, adjourn for more than two

days, nor to any other place than that in which the two houses shall be sitting.

Sec. 16. Bills may originate in either house, but may be altered, amended or rejected by the other.

Sec. 17. Every bill shall be read on three different days in each house, unless in case of urgency three-fourths of the house where such bill is so depending, shall deem it expedient to dispense with this rule: And every bill having passed both houses, shall be signed by the speakers of their respective houses.

Sec. 18. The style of the laws of this state shall be, "*Be it enacted by the general assembly of the state of Ohio.*"

Sec. 19. The legislature of this state shall not allow the following officers of government greater annual salaries than as follows, until the year one thousand eight hundred and eight, to-wit: The governor not more than one thousand dollars; the judges of the supreme court not more than one thousand dollars each; the presidents of the courts of common pleas not more than eight hundred dollars each; the secretary of state not more than five hundred dollars; the auditor of public accounts not more than seven hundred and fifty dollars; the treasurer not more than four hundred and fifty dollars. No member of the legislature shall receive more than two dollars per day, during his attendance on the legislature, nor more for every twenty-five miles he shall travel in going to and returning from the general assembly.

Sec. 20. No senator or representative shall, during the time for which he shall have been

elected, be appointed to any civil office under this state which shall have been created, or the emoluments of which shall have been increased during such time.

Sec. 21. No money shall be drawn from the treasury, but in consequence of appropriations made by law.

Sec. 22. An accurate statement of the receipts and expenditures of the public money, shall be attached to and published with the laws annually.

Sec. 23. The house of representatives shall have the sole power of impeaching, but a majority of all the members must concur in an impeachment; all impeachments shall be tried by the senate, and when sitting for that purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence; no person shall be convicted without the concurrence of two-thirds of all the senators.

Sec. 24. The governor and all other civil officers under this state, shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, profit or trust, under this state. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

Sec. 25. The first session of the general assembly shall commence on the first Tuesday of March next, and forever after the general assembly shall meet on the first Monday of December, in every year and at no other period, unless di-

rected by law or provided for by this constitution.

Sec. 26. No judge of any court of law or equity, secretary of state, attorney general, register, clerk of any court of record, sheriff or collector, member of either house of congress, or person holding any office under the authority of the United States, or any lucrative office under the authority of this state (provided that appointments in the militia or justices of the peace shall not be considered lucrative offices) shall be eligible as a candidate for, or have a seat in the general assembly.

Sec. 27. No person shall be appointed to any office within any county, who shall not have been a citizen and inhabitant therein, one year next before his appointment, if the county shall have been so long erected, but if the county shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.

Sec. 28. No person who heretofore hath been or hereafter may be, a collector or holder of public moneys, shall have a seat in either house of the general assembly, until such person shall have accounted for and paid into the treasury, all sums for which he may be accountable or liable.

ARTICLE II.

Sec. 1. The supreme executive power of this state shall be vested in a governor.

Sec. 2. The governor shall be chosen by the electors of the members of the general assembly on the second Tuesday of October, at the same places and in the same manner that they shall re-

spectively vote for members thereof. The returns of every election for governor shall be sealed up and transmitted to the seat of government by the returning officers, directed to the speaker of the senate, who shall open and publish them in the presence of a majority of the members of each house of the general assembly; the person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by joint ballot of both houses of the general assembly. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

Sec. 3. The first governor shall hold his office until the first Monday of December, one thousand eight hundred and five, and until another governor shall be elected and qualified to office, and forever after the governor shall hold his office for the term of two years, and until another governor shall be elected and qualified, but he shall not be eligible more than six years in any term of eight years. He shall be at least thirty years of age, and have been a citizen of the United States twelve years and an inhabitant of this state four years next preceding his election.

Sec. 4. He shall, from time to time, give to the general assembly information of the state of the governor, and recommend to their consideration such measures as he shall deem expedient.

Sec. 5. He shall have the power to grant reprieves and pardons after conviction, except in cases of impeachment.

Sec. 6. The governor shall at stated times re-

ceive for his services a compensation which shall neither be increased nor diminished during the term for which he shall have been elected.

Sec. 7. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

Sec. 8. When any officer, the right of whose appointment is by this constitution, 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.

Sec. 9. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to them, when assembled, the purposes for which they shall have been convened.

Sec. 10. He shall be commander in chief of the army and navy of this state, and of the militia except when they shall be called into the service of the United States.

Sec. 11. In case of disagreement between the two houses with respect to the time of adjournment, the governor shall have the power to adjourn the general assembly to such time as he thinks proper, provided it be not a period beyond the annual meeting of the legislature.

Sec. 12. In case of the death, impeachment, resignation or removal of the governor from office, the speaker of the senate shall exercise the office of governor, until he be acquitted or another gov-

ernor shall be duly qualified. In case of the impeachment of the speaker of the senate, or his death, removal from office, resignation or absence from the state, the speaker of the house of representatives shall succeed to the office and exercise the duties thereof, until a governor shall be elected and qualified.

Sec. 13. No member of congress or person holding any office under the United States, or this state, shall execute the office of governor.

Sec. 14. There shall be a seal of this state, which shall be kept by the governor and used by him officially, and shall be called "*The Great Seal of the State of Ohio.*"

Sec. 15. All grants and permissions shall be in the name and by the authority of the state of Ohio, sealed with the seal, signed by the governor, and countersigned by the secretary.

Sec. 16. A secretary of state shall be appointed, by a joint ballot of the senate and house of representatives, who shall continue in office three years, if he shall so long behave himself well; he shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto, before either branch of the legislature, and shall perform such other duties as shall be assigned him by law.

ARTICLE III.

Sec. 1. The judicial power of this state, both as to matters of law and equity, shall be vested in a supreme court, in courts of common pleas for each county, in justices of the peace, and in

such other courts as the legislature may, from time to time, establish.

Sec. 2. The supreme court shall consist of three judges, any two of whom shall be a quorum. They shall have original and appellate jurisdiction, both in common law and chancery, in such cases as shall be directed by law: *Provided*, that nothing herein contained shall prevent the general assembly from adding another judge to the supreme court after the term of five years, in which case the judges may divide the state into two circuits, within which any two of the judges may hold a court.

Sec. 3. The several courts of common pleas shall consist of a president and associate judges. The state shall be divided, by law, into three circuits; there shall be appointed in each circuit a president of the courts, who during his continuance in office, shall reside therein. There shall be appointed in each county, not more than three nor less than two associate judges, who during their continuance in office, shall reside therein. The president and associate judges, in their respective counties, any three of whom shall be a quorum, shall compose the court of common pleas, which court shall have common law and chancery jurisdiction in all such cases as shall be directed by law: *Provided*, that nothing herein contained shall be construed to prevent the legislature from increasing the number of circuits and presidents, after the term of five years.

Sec. 4. The judges of the supreme court and courts of common pleas, shall have complete criminal jurisdiction, in such cases and in such manner as may be pointed out by law.

Sec. 5. The court of common pleas in each

county shall have jurisdiction of all probate and testamentary matters, granting administration, the appointment of guardians, and such other cases as shall be prescribed by law.

Sec. 6. The judges of the court of common pleas, shall, within their respective counties, have the same powers with the judges of the supreme court, to issue writs of *certiorari* to the justices of the peace, and to cause their proceedings to be brought before them, and the like right and justice to be done.

Sec. 7. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the state. The presidents of the court of common pleas shall, by virtue of their offices be conservators of the peace in their respective circuits, and the judges of the court of common pleas shall, by virtue of their offices, be conservators of the peace in their respective counties.

Sec. 8. The judges of the supreme court, the presidents and the associate judges of the courts of common pleas, shall be appointed by a joint ballot of both houses of the general assembly, and shall hold their offices for the term of seven years, if so long they behave well. The judges of the supreme court and the presidents of the courts of common pleas shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office, but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under the authority of this state or the United States.

Sec. 9. Each court shall appoint its own clerk

for the term of seven years, but no person shall be appointed clerk except *pro tempore*, who shall not produce to the court appointing him a certificate from a majority of the judges of the supreme court, that they judge him to be well qualified to execute the duties of the office of clerk to any court of the same dignity with that for which he offers himself. They shall be removable for breach of good behavior, at any time, by the judges of the respective courts.

Sec. 10. The supreme court shall be held once a year in each county, and the courts of common pleas shall be holden in each county at such times and places as shall be prescribed by law.

Sec. 11. A competent number of justices of the peace shall be elected by the qualified electors in each township in the several counties, and shall continue in office three years, whose powers and duties shall, from time to time, be regulated and defined by law.

Sec. 12. The style of all process shall be, "*The State of Ohio.*" All prosecutions shall be carried on in the name and by the authority of the state of Ohio, and all indictments shall conclude against the peace and dignity of the same.

ARTICLE IV.

Sec. 1. In all elections, all white male inhabitants, above the age of twenty-one years, having resided in the state one year next preceding the election, and who have paid or are charged with a state or county tax, shall enjoy the right of an elector, but no person shall be entitled to vote except in the county or district in which he shall actually reside at the time of the election.

Sec. 2. All elections shall be by ballot.

Sec. 3. Electors shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

Sec. 4. The legislature shall have full power to exclude from the privilege of electing or of being elected any person convicted of bribery, perjury or any other infamous crime.

Sec. 5. Nothing contained in this article shall be so construed as to prevent white male persons above the age of twenty-one years, who are compelled to labor on the roads of their respective townships or counties, and who have resided one year in the state, from having the right of an elector.

ARTICLE V.

Sec. 1. Captains and subalterns in the militia shall be elected by those persons in their respective company districts, subject to military duty.

Sec. 2. Majors shall be elected by the captains and subalterns of the battalion.

Sec. 3. Colonels shall be elected by the majors, captains and subalterns of the regiment.

Sec. 4. Brigadiers-general shall be elected by the commissioned officers of their respective brigades.

Sec. 5. Majors-general and quartermasters-general shall be appointed by joint ballot of both houses of the legislature.

Sec. 6. The governor shall appoint the adju-

tant general. The majors-general shall appoint their aids and other division staff officers. The brigadiers-general shall appoint their brigade majors and other brigade staff officers. The commanding officers of regiments shall appoint their adjutants, quartermasters and other regimental staff officers; and the captains and subalterns shall appoint their non-commissioned officers and musicians.

Sec. 7. The captains and subalterns of the artillery and cavalry shall be elected by the persons enrolled in their respective corps, and the majors and colonels shall be appointed in such manner as shall be directed by law. The colonels shall appoint their regimental staff, and the captains and subalterns their non-commissioned officers and musicians.

ARTICLE VI.

Sec. 1. There shall be elected in each county one sheriff and one coroner, by the citizens thereof who are qualified to vote for members of the assembly; they shall be elected at the time and place of holding elections for members of assembly; they shall continue in office two years, if they shall so long behave well, and until successors be chosen and duly qualified: *Provided*, That no person shall be eligible as sheriff for a longer term than four years in any term of six years.

Sec. 2. The state treasurer and auditor shall be triennially appointed by a joint ballot of both houses of the legislature.

Sec. 3. All town and township officers shall be chosen annually, by the inhabitants thereof,

duly qualified to vote for members of the assembly, at such time and place as may be directed by law.

Sec. 4. The appointment of all civil officers, not otherwise directed by this constitution, shall be made in such manner as may be directed by law.

ARTICLE VII.

Sec. 1. Every person who shall be chosen or appointed to any office of trust or profit, under the authority of this state, shall, before the entering on the execution thereof, take an oath or affirmation to support the constitution of the United States and of this state, and also an oath of office.

Sec. 2. Any elector who shall receive any gift or reward for his vote, in meat, drink, money or otherwise, shall suffer such punishment as the laws shall direct; and any person who shall directly or indirectly give, promise or bestow any such reward to be elected, shall thereby be rendered incapable, for two years, to serve in the office for which he was elected, and be subject to such other punishment as shall be directed by law.

Sec. 3. No new county shall be established by the general assembly, which shall reduce the county or counties, or either of them from which it shall be taken, to less contents than four hundred square miles, nor shall any county be laid off of less contents. Every new county, as to the right of suffrage and representation, shall be considered as a part of the county or counties from which it was taken, until entitled by numbers to the right of representation.

Sec. 4. Chillicothe shall be the seat of government until the year one thousand eight hundred and eight. No money shall be raised until the year one thousand eight hundred and nine, by the

legislature of this state, for the purpose of erecting public buildings for the accommodation of the legislature.

Sec. 5. That after the year one thousand eight hundred and six, whenever two-thirds of the general assembly shall think it necessary to amend or change this constitution, they shall recommend to the electors, at the next election for members to the general assembly, to vote for or against a convention; and if it shall appear that a majority of the citizens of the state, voting for representatives, have voted for a convention, the general assembly shall at their next session call a convention, to consist of as many members as there be in the general assembly, to be chosen in the same manner, at the same place and by the same electors that choose the general assembly, who shall meet within three months after the said election, for the purpose of revising, amending or changing the constitution: But no alteration of this constitution shall ever take place so as to introduce slavery or involuntary servitude into this state.

Sec. 6. That the limits and boundaries of this state be ascertained, it is declared, that they are as hereafter mentioned, that is to say—bounded on the east side by the Pennsylvania line; on the south by the Ohio river to the mouth of the Great Miami river; on the west by the line drawn due north from the mouth of the Great Miami aforesaid; and on the north by an east and west line drawn through the southerly extreme of Lake Michigan, running east after intersecting the due north line aforesaid, from the mouth of the Great Miami until it shall intersect Lake Erie or the territorial line, and thence with the same through Lake Erie to the Pennsylvania line afore-

said: *Provided always*, and it is hereby fully understood and declared by this convention, that if the southerly bend or extreme of Lake Michigan should extend so far south that a line drawn due east from it should not intersect Lake Erie, or if it should intersect the said Lake Erie, east of the mouth of the Miami river of the Lake, then and in that case, with the assent of the congress of the United States, the northern boundary of this state shall be established by and extended to a direct line running from the southern extremity of Lake Michigan to the most northerly cape of the Miami Bay, after intersecting the due north line from the mouth of the Great Miami river as aforesaid, thence northeast to the territorial line, and by the said territorial line to the Pennsylvania line.

ARTICLE VIII.

That the general, great and essential principles of liberty and free government may be recognized and forever unalterably established, we declare—

Sec. 1. That all men are born equally free and independent, and have certain natural, inherent and unalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety; and, every free, republican government being founded on their sole authority, and organized for the great purpose of protecting their rights and liberties and securing their independence; to effect these ends, they have at all times a complete power to alter, reform or abolish their government, whenever they may deem it necessary.

Sec. 2. There shall be neither slavery nor

involuntary servitude in this state, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; nor shall any male person, arrived at the age of twenty-one years, or female person arrived at the age of eighteen years, be held to serve any person as a servant, under pretense of indenture or otherwise, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a *bona fide* consideration, received or to be received for their service, except as before excepted. Nor shall any indenture of any negro or mulatto hereafter made and executed out of the state, or if made in the state where the term of service exceeds one year, be of the least validity, except those given in the case of apprenticeships.

Sec. 3. That all men have a natural and inalienable right to worship Almighty God, according to the dictates of conscience; that no human authority can in any case whatever, control or interfere with the rights of conscience; that no man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent, and that no preference shall ever be given, by law, to any religious society or mode of worship, and no religious test shall be required as a qualification to any office of trust or profit. But religion, morality and knowledge being essentially necessary to good government and the happiness of mankind, schools and the means of instruction shall forever be encouraged by legislative provision, not inconsistent with the rights of conscience.

Sec. 4. Private property ought and shall ever be held inviolate, but always subservient to the public welfare, provided a compensation in money be made to the owner.

Sec. 5. That the people shall be secure in their persons, houses, papers and possessions from unwarrantable searches and seizures, and that general warrants, whereby an officer may be commanded to search suspected places, without probable evidence of the fact committed, or to seize any person or persons not named, whose offenses are not particularly described, and without oath or affirmation, are dangerous to liberty and shall not be granted.

Sec. 6. That the printing presses shall be open and free to every citizen who wishes to examine the proceedings of any branch of government, or the conduct of any public officer, and no law shall ever restrain the right thereof. Every citizen has an indisputable right to speak, write or print upon any subject as he thinks proper, being liable for the abuse of that liberty. In prosecutions, for any publication respecting the official conduct of men in a public capacity, or where the matter published is proper for public information, the truth thereof may always be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court as in other cases.

Sec. 7. That all courts shall be open, and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by the due course of law, and right and justice administered without denial or delay.

Sec. 8. That the right of trial by jury shall be inviolate.

Sec. 9. That no power of suspending laws shall be exercised unless by the legislature.

Sec. 10. That no person arrested or confined

in jail shall be treated with unnecessary rigor, or be put to answer any criminal charge, but by presentment, indictment or impeachment.

Sec. 11. That in all criminal prosecutions, the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or presentment a speedy public trial by an impartial jury of the county or district in which the offense shall have been committed, and shall not be compelled to give evidence against himself, nor shall he be twice put in jeopardy for the same offense.

Sec. 12. That all persons shall be bailable by sufficient sureties, unless for capital offenses, where the proof is evident or the presumption great, and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in case of rebellion or invasion, the public safety may require it.

Sec. 13. Excessive bail shall not be required; excessive fines shall not be imposed, nor cruel and unusual punishments inflicted.

Sec. 14. All penalties shall be proportioned to the nature of the offense. No wise legislature will affix the same punishment to the crime of theft, forgery and the like, which they do to those of murder and treason. When the same undistinguished severity is exerted against all offenses, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offenses. For the same reasons a multi-

tude of sanguinary laws are both impolitic and unjust; the true design of all punishments being to reform, not to exterminate mankind.

Sec. 15. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison, after delivering up his estate for the benefit of his creditor or creditors, in such manner as shall be prescribed by law.

Sec. 16. No *ex post facto* law, nor any law impairing the validity of contracts, shall ever be made, and no conviction shall work corruption of blood nor forfeiture of estate.

Sec. 17. That no person shall be liable to be transported out of this state for any offense committed within the state.

Sec. 18. That a frequent recurrence to the fundamental principles of civil government, is absolutely necessary to preserve the blessings of liberty.

Sec. 19. That the people have a right to assemble together, in a peaceable manner, to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances.

Sec. 20. That the people have a right to bear arms for the defense of themselves and the state, and as standing armies in time of peace are dangerous to liberty, they shall not be kept up, and that the military shall be kept under strict subordination to the civil power.

Sec. 21. That no person in this state, except such as are employed in the army or navy of the

United States, or militia in actual service, shall be subject to corporal punishment under the military law.

Sec. 22. That no soldiers in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in the manner prescribed by law.

Sec. 23. That the levying taxes by the poll is grievous and oppressive, therefore, the legislature shall never levy a poll tax for county or state purposes.

Sec. 24. That no hereditary emoluments, privileges or honors, shall ever be granted or conferred by this state.

Sec. 25. That no law shall be passed to prevent the poor in the several counties and townships within this state, from an equal participation in the schools, academies, colleges and universities within this state, which are endowed, in whole or in part, from the revenue arising from donations made by the United States for the support of schools and colleges, and the doors of the said schools, academies and universities, shall be open for the reception of scholars, students and teachers of every grade, without any distinction or preference whatever, contrary to the intent for which said donations were made.

Sec. 26. That laws shall be passed by the legislature, which shall secure to each and every denomination of religious societies in each surveyed township which now is, or may hereafter be, formed in the state, an equal participation, according to their number of adherents, of the

profits arising from the land granted by congress for the support of religion, agreeably to the ordinance or act of congress making the appropriation.

Sec. 27. That every association of persons, when regularly formed within this state, and having given themselves a name, may, on application to the legislature, be entitled to receive letters of incorporation, to enable them to hold estates, real and personal, for the support of their schools, academies, colleges, universities, and for other purposes.

Sec. 28. To guard against the transgressions of the high powers which we have delegated, we declare, that all powers, not hereby delegated, remain with the people.

SCHEDULE.

Sec. 1. That no evils or inconveniences may arise from the change of a territorial government to a permanent state government, it is declared by this convention, that all rights, suits, actions, prosecutions, claims and contracts, both as it respects individuals and bodies corporate, shall continue as if no change had taken place in this government.

Sec. 2. All fines, penalties and forfeitures, due and owing to the territory of the United States northwest of the river Ohio, shall inure to the use of the state. All bonds executed to the governor or any other officer in his official capacity, in the territory, shall pass over to the governor or the other officers of the state and their successors in office, for the use of the state, or by him or them to be respectively assigned over to the use of those concerned, as the case may be.

Sec. 3. The governor, secretary and judges, and all other officers under the territorial government, shall continue in the exercise of the duties of their respective departments, until the said offices are superseded under the authority of this constitution.

Sec. 4. All laws and parts of laws now in force in this territory, not inconsistent with this constitution, shall continue and remain in full effect until repealed by the legislature, except so much of the act, entitled, "An act, regulating the admission and practice of attorneys and counsellors at law;" and of the act made amendatory thereto, as relates to the term of time which the applicant shall have studied law, his residence within the territory and the term of time which he shall have practiced as an attorney at law, before he can be admitted to the degree of a counsellor at law.

Sec. 5. The governor of the state shall make use of his private seal, until a state seal be procured

Sec. 6. The president of the convention shall issue writs of election to the sheriffs of the several counties, requiring them to proceed to the election of a governor, members of the general assembly, sheriffs, and coroners, at the respective election districts in each county, on the second Tuesday of January next, which elections shall be conducted in the manner prescribed by the existing election laws of this territory, and the members of the general assembly, sheriffs and coroners, then elected, shall continue to exercise the duties of their respective offices until the next annual or biennial election thereafter, as prescribed in this constitution, and no longer.

Sec. 7. Until the first enumeration shall be

made as directed in the second section of the first article of this constitution: The county of Hamilton shall be entitled to four senators and eight representatives. The county of Clermont, one senator and two representatives. The county of Adams, one senator and three representatives. The county of Ross, two senators and four representatives. The county of Fairfield, one senator and two representatives. The county of Washington, two senators and three representatives. The county of Belmont, one senator and two representatives. The county of Jefferson, two senators and four representatives; and the county of Trumbull, one senator and two representatives.

Done in convention at Chillicothe, the 29th day of November, in the year of our Lord, one thousand eight hundred and two, and of the independence of the United States of America the twenty-seventh.

In testimony whereof, we have here unto subscribed our names.

EDWARD TIFFIN,
President and representative from the
county of Ross.

Joseph Darlinton,	}	Adams county.
Israel Donalson,		
Thomas Kirker,		
James Caldwell,	}	Belmont county.
Elijah Woods,		
Philip Gatch,	}	Clermont county.
James Sargeant,		
Henry Abrams,	}	Fairfield county.
Emanuel Carpenter,		
John W. Browne,	}	
Charles Willing Byrd,		
Francis Dunlavy,		
William Goforth,		

John Kitchel, Jeremiah Morrow, John Paul, John Reily, John Smith, John Wilson,	}	Hamilton county.
Rudolph Blair, George Humphrey, John Milligan, Nathan Updegraff, Bazaleel Wells,	}	Jefferson county.
Michael Baldwin, James Grubb, Nathaniel Massie, Thomas Worthington,	}	Ross county.
David Abbot, Samuel Huntington,	}	Trumbull county.
Ephriam Cutler, Benjamin Ives Gilman, John McIntire, Rufus Putnam,	}	Washington county.

Attest:

THOMAS SCOTT,
Secretary.

ACT OF CONGRESS.

An act in addition to and in modification of the propositions contained in the act, entitled, "An act to enable the people of the eastern division of the territory northwest of the river Ohio, to form a constitution and state government, and for the admission of such state into the union, on an equal footing with the original states, and for other purposes."

Be it enacted by the senate and house of representatives of the United States of America, in congress assembled, That the following several tracts of land in the state of Ohio, be, and the same are hereby appropriated for the use of schools in that state, and shall, together with all the tracts of land heretofore appropriated for that purpose, be vested in the legislature of that state, in trust for the use aforesaid, and for no other use, intent or purpose whatever, that is to say:

First. The following quarter townships in that tract commonly called the "United States military tract," for the use of schools within the same, viz: The first quarter of the third township in the first range, the first quarter of the first township in the fourth range, the fourth quarter of the first township and the third quarter of the fifth township in the fifth range, the second quarter of the third township in the sixth range, the fourth quarter of the second township in the seventh range, the third quarter of the third township in the eighth range, the first quarter of the first township and the first quarter of the third town-

ship in the ninth range, the third of the first township in the tenth range, the first and fourth quarters of the third township in the eleventh range, the fourth quarter of the fourth township in the twelfth range, the second and third quarters of the fourth township in the fifteenth range, the third quarter of the seventh township in the sixteenth range, and the first quarter of the sixth township and third quarter of the seventh township in the eighteenth range, being the one thirty-sixth part of the estimated whole amount of lands within that tract.

Secondly. The following quarter townships in the same tract for the use of schools, in that tract commonly called the Connecticut reserve, viz: The third quarter of the ninth township and the fourth quarter of the tenth township in the first range, the first and second quarters of the ninth township in the second range, the second and third quarters of the ninth township in the third range, the first quarter of the ninth township and the fourth quarter of the tenth township in the fourth range, the first quarter of the ninth township in the fifth range, the first and fourth quarters of the ninth township in the sixth range, the first and third quarters of the ninth township in the seventh range, and the fourth quarter of the ninth township in the eighth range.

Thirdly. So much of that tract, commonly called the "Virginia military reservation," as will amount to one thirty-sixth part of the whole tract, for the use of schools within the same, and to be selected by the legislature of the state of Ohio, out of the unlocated lands in that tract after the warrants issued from the state of Virginia shall have been satisfied; it being however understood, that the

donation is not to exceed the whole amount of the above mentioned residue of such unlocated lands, even if it shall fall short of one thirty-sixth part of the said tract.

Fourthly. One thirty-sixth part of all the lands of the United States lying in the state of Ohio, to which the Indian title has not been extinguished, which may hereafter be purchased of the Indian tribes by the United States, which thirty-sixth part shall consist of the section No. sixteen, in each township, if the said land shall be surveyed in townships of six miles square, and shall, if the lands be surveyed in a different manner, be designated by lots.

Sec. 2. *And be it further enacted,* That the secretary of the treasury shall, from time to time, and whenever the quarterly accounts of the receivers of public monies of the several land offices shall be settled, pay three per cent. of the net proceeds of the lands of the United States, lying within the state of Ohio, which since the thirtieth day of June last have been, or hereafter may be sold by the United States, after deducting all expenses incidental to the same, to such person or persons as may be authorized by the legislature of the said state to receive the same, which sums thus paid, shall be applied to the laying out, opening and making roads within the said state, and to no other purpose whatever; and an annual account of the application of the same shall be transmitted to the secretary of the treasury, by such officer of the state as the legislature thereof shall direct; and it is hereby declared, that the payments thus to be made, as well as the several appropriations for schools made by the preceding section, are in conformity with, and in consideration of the conditions agreed on by the state of Ohio, by the

ordinance of the convention of the said state, bearing date the twenty-ninth day of November last.

Sec. 3. *And be it further enacted,* That the section of land heretofore promised for the use of schools, in lieu of such of the sections, No. 16, as have been otherwise disposed of, shall be selected by the secretary of the treasury, out of the unappropriated reserved sections in the most contiguous townships.

Sec. 4. *And be it further enacted,* That one complete township in the state of Ohio and district of Cincinnati, or so much of any one complete township within the same, as may then remain unsold, together with as many adjoining sections as shall have been sold in the said township, so as to make in the whole thirty-six sections, to be located under the direction of the legislature of the said state, on or before the first day of October next, with the register of the land office of Cincinnati, be, and the same is hereby vested in the legislature of the state of Ohio, for the purpose of establishing an academy, in lieu of the township already granted for the same purpose, by virtue of the act entitled, "An act authorizing the grant and conveyance of certain lands to John Cleves Symmes, and his associates:" *Provided, however,* That the same shall revert to the United States, if within five years after the passing of this act, a township shall have been secured for the said purpose, within the boundary of the patent granted by virtue of the above mentioned act, to John Cleves Symmes, and his associates.

Sec. 5. *And be it further enacted,* That the attorney general for the time being, be directed and authorized to locate and accept from the said

John Cleves Symmes, and his associates, any one complete township within the boundaries of the said patent, so as to secure the same for the purpose of establishing an academy, in conformity to the provisions of the said patent, and in case of non-compliance, to take, or direct to be taken, such measures as will compel an execution of the trust: *Provided, however,* That John Cleves Symmes and his associates, shall be released from the said trust, and the said township shall vest in them, or any of them, in fee simple, upon payment into the treasury of the United States, of fifteen thousand three hundred and sixty dollars, with interest from the date of the above mentioned patent, to the day of such payment.

NATHL. MACON,
Speaker of the house of representatives.

STEPHEN R. BRADLEY,
President of the senate, *pro tempore*.

March 3, 1803.

Approved:

TH. JEFFERSON.

ACT OF CONGRESS.

An act respecting fugitives from justice, and persons escaping from the service of their masters.

Sec. 1. *Be it enacted by the senate and house of representatives of the United States of America, in congress assembled,* That whenever the executive authority of any state in the union, or of either of the territories northwest or south of the river Ohio, shall demand any person a fugitive from justice, of the executive authority of any such state or territory to which such person shall have fled, and shall moreover produce the copy of an indictment found, or an affidavit made before a magistrate of any state or territory as aforesaid, charging the person so demanded, with having committed treason, felony or other crime, certified as authentic by the governor or chief magistrate of the state or territory from whence the person so charged fled, it shall be the duty of the executive authority of the state or territory to which such person shall have fled, to cause him or her to be arrested and secured, and notice of the arrest to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall appear. But if no such agent shall appear within six months from the time of the arrest, the prisoner may be discharged. And all costs or expenses incurred in the apprehending, securing, and transmitting such fugitive to the state or territory making such demand, shall be paid by such state or territory.

Sec. 2. *And be it further enacted,* That any agent appointed as aforesaid, who shall receive the fugitive into his custody, shall be empowered to transport him or her to the state or territory from which he or she shall have fled. And if any person or persons shall by force set at liberty, or rescue the fugitive from such agent while transporting, as aforesaid, the person or persons so offending shall, on conviction, be fined not exceeding five hundred dollars, and be imprisoned not exceeding one year.

Sec. 3. *And be it further enacted,* That when a person held to labor in any of the United States, or in either of the territories on the northwest or south of the river Ohio, under the laws thereof, shall escape into any other of the said states or territory, the person to whom such labor or service may be due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labor, and to take him or her before any judge of the circuit or district courts of the United States residing or being within the state, or before any magistrate of a county, city or town corporate, wherein such seizure or arrest shall be made, and upon proof to the satisfaction of such judge or magistrate, either by oral testimony or affidavit, taken before and certified by a magistrate of any such state or territory, that the person so seized or arrested, doth, under the laws of the state or territory from which he or she fled, owe service or labor to the person claiming him or her, it shall be the duty of such judge or magistrate, to give a certificate thereof to such claimant, his agent or attorney, which shall be sufficient warrant for removing the said fugitive from labor, to the state or territory from which he or she fled.

Sec. 4. *And be it further enacted,* That any person who shall knowingly and willingly obstruct or hinder such claimant, his agent or attorney in so seizing or arresting such fugitive from labor, or shall rescue such fugitive from such claimant, his agent or attorney when so arrested pursuant to the authority herein given or declared; or shall harbor or conceal such person after notice that he or she was a fugitive from labor, as aforesaid, shall for either of the said offenses, forfeit and pay the sum of five hundred dollars. Which penalty may be recovered by and for the benefit of such claimant, by action of debt, in any court proper to try the same; saving moreover to the person claiming such labor or service, his right of action for or on account of the said injuries or either of them.

JONATHAN TRUMBULL,
Speaker of the house of representatives.

JOHN ADAMS,
Vice-President of the United States and
President of the senate.

Approved, February 12, 1793:

GEORGE WASHINGTON,
President of the United States.

LAWS

Passed at the First Session of the Third General Assembly
of the State of Ohio.

CHAPTER I.

An act, respecting crimes and punishments.

Sec. 1. *Be it enacted by the general assembly of* **Treason**
the state of Ohio, That if any person belonging to,
residing in or protected by, the laws of this state,
shall levy war against the state of Ohio, or shall
knowingly and wilfully aid or assist any enemies
at war against this state, by joining the armies or
fleets of such enemies or by enlisting, persuading
or procuring others to join said fleets or armies, or
by furnishing such enemies with arms, ammuni-
tion, provisions or any other articles for their aid
or comfort, or by carrying on a treasonable and
treacherous correspondence with them, or shall
form or be any way concerned in forming any com-
bination, plot or conspiracy, for betraying the
state of Ohio into the hands or power of any for-
eign enemy, or shall give or attempt to give, or
send any intelligence to any such enemy, for said

purpose, the person or persons so offending, in any of the cases above rehearsed and thereof legally convicted of open deed, by the evidence of two sufficient and lawful witnesses, or their own voluntary confession, shall be deemed guilty of treason and shall suffer death.

Murder.

Sec. 2. *And be it further enacted,* That if any person of sound memory and discretion, shall unlawfully kill any human being and in the public peace, with malice aforethought, either express or implied, and being thereof legally convicted, shall suffer death.

Manlaughter.

Sec. 3. *And be it further enacted,* That if any person shall unlawfully kill another, without malice express or implied, either intentionally, on a sudden quarrel or unintentionally, in the commission of some unlawful act and shall be thereof legally convicted, shall be fined in a sum not exceeding one thousand dollars and imprisoned not exceeding two years, at the discretion of the court, and be perpetually disabled from being a juror or a witness in any court of law within this state.

Rape.

Sec. 4. *And be it further enacted,* That if any man shall carnally know any woman, with force and against her consent, or shall carnally know any woman child, under the age of ten years, with or without her consent, such person shall be deemed guilty of a rape and on conviction thereof, shall suffer death.

Assault with intent to commit a rape.

Sec. 5. *And be it further enacted,* That if any person shall, with force and arms, and actual violence, an assault make on the body of any female, with an intent to commit a rape, he shall, on conviction thereof, be whipped not exceeding thirty-

nine stripes, on his naked back and be imprisoned for a term not exceeding two years, and be fined in a sum not exceeding one thousand dollars, at the discretion of the court.

Sec. 6. *And be it further enacted,* That if any person shall wilfully and maliciously burn or cause to be burnt, or shall wilfully and knowingly aid or assist in burning or causing to be burned, any dwelling house, store house, barn, stable, out-house or other building adjoining thereto, or if any person shall wilfully attempt to burn, by setting fire to any dwelling house, store house, barn, stable, out-house or other building adjoining thereto, if any prejudice or hazard happen to the life of any person thereby, such person so offending, on conviction thereof, shall suffer death.

Arson where prejudice or hazard happen to the life of any person.

How punished.

Sec. 7. *And be it further enacted,* That if any person shall wilfully and maliciously burn or cause to be burned, or shall wilfully and knowingly aid or assist in burning or causing to be burned, or shall wilfully attempt to burn, by setting fire to any dwelling house, store house, barn, stable, out-house or other building, or to any ship or vessel, and no prejudice or hazard happen to the life of any person thereby, such person, on conviction thereof, shall make restitution to the party injured and shall, at the discretion of the court, be fined in a sum not exceeding one thousand dollars, and imprisoned not exceeding two years, and be perpetually disabled from being a juror or witness in any court of law in this state.

Arson, where prejudice or hazard does not happen to the life of any person.

How punished.

Sec. 8. *And be it further enacted,* That if any person, on purpose and of malice aforethought, shall cut out or disable the tongue, or put out an

Maiming, with malice aforethought.

How punished.

eye, or cut off or destroy any of the privy members, or shall cut off or render useless an arm or a leg of any person, on conviction thereof, the person so offending shall suffer death.

Maiming without malice aforethought.

Sec. 9. *And be it further enacted,* That if any person shall, without malice aforethought, express or implied, intentionally cut or disable the tongue or put out an eye, or cut off or destroy any of the privy members, or shall cut off or render useless an arm or a leg, or shall slit the nose, cut or bite off the nose, ear or lip, or cut off or disable any limb or member of another, on conviction thereof, the person so offending shall be fined in a sum not exceeding one thousand dollars and imprisoned not exceeding two years, at the discretion of the court.

How punished.

Perjury

Sec. 10. *And be it further enacted,* That if any person lawfully called upon to give evidence, before any court of record or other authority in this state, qualified to administer oaths and solemn declarations and affirmations, or shall voluntarily go before such authority and having been duly sworn or affirmed, shall wilfully and positively depose, affirm or declare, any matter to be fact, knowing the same to be false, or shall, in like manner, deny any fact, knowing the same to be true, or shall refuse to depose, affirm or declare such fact, knowing the same to be true, the person so offending shall be deemed guilty of perjury and upon conviction thereof, shall be fined in a sum not exceeding one thousand dollars and imprisoned not exceeding twelve months, and be perpetually disabled from giving testimony in any court of record within this state, being a juror and of sustaining any office civil or military in this state, and be

How punished.

ever afterwards disfranchised: *Provided*, That nothing in this section contained shall be so construed as to compel any person to criminate him or herself. Proviso.

Sec. 11. *And be it further enacted*, That if any person, legally called upon to give testimony before any court or other authority in this state authorized to administer oaths and affirmations, shall refuse to take an oath or affirmation, such court or authority shall commit the person so refusing to prison, till 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, shall moreover punish such person for such refusal, by a fine not exceeding one hundred dollars, or by imprisonment not exceeding six months. Persons called on to give testimony, refusing.

Sec. 12. *And be it further enacted*, That if any person shall corruptly procure any other person to commit the crime of perjury as before defined, the person so offending shall, upon conviction thereof, suffer the same punishments and disabilities as in case of actual perjury. How punished.

Sec. 13. *And be it further enacted*, That if any judge or person concerned in the administration of justice, or any person holding any office or appointment under the authority of this state, shall take or receive any undue reward to influence his behavior in his office or appointment, or if any person shall offer or tender any reward with a view to influence the behavior of any judge or other person concerned in the administration of justice, or any person holding any office or appointment as aforesaid, such person so offending shall, on conviction thereof, be fined in a sum not Persons procuring others to commit perjury, how punished.

exceeding one thousand dollars and imprisoned not exceeding twelve months, at the discretion of the court and be perpetually disabled from giving testimony in any court of record, being a juror or holding any office of honor or profit in this state, and shall be forever disfranchised.

Forgery.

Sec. 14. *And be it further enacted,* That if any person shall forge, counterfeit or alter any bills of credit, orders, certificates or securities, issued by the authority of this state or of the United States, or of any of the United States, or any note or obligation, or any other writing of any other person or persons whatever, with an intent to defraud, or shall utter and put off any such forged, altered or counterfeit bill or bills, order or orders, certificate or certificates, security or securities, issued by authority as aforesaid, note or obligation, or other writing, knowing them to be such, or shall counsel or advise, procure or in any way assist in the forging, altering or counterfeiting, or signing any bill, order, certificate, security, note, obligation or other writing, knowing them to be false, or shall engrave any plate or make any instrument to be used for the purpose aforesaid, such person so offending, shall, on conviction thereof, be whipped thirty-nine stripes on his naked back and be fined in double the sum he shall thereby have defrauded or attempted to defraud another, one-half thereof to the party injured or intended to be injured and be imprisoned not exceeding two years, at the discretion of the court, and shall moreover forever after be rendered incapable of giving testimony, being a juror or sustaining any office of trust and shall be forever disfranchised.

How punished.

Counterfeiting.

Sec. 15. *And 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 alter 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, shall, on conviction thereof, be whipped not exceeding thirty-nine stripes on his naked back and be fined in a sum not exceeding one thousand dollars, and imprisoned not exceeding two years, at the discretion of the court and shall forever after be disfranchised.

How punished.

Sec. 16. *And be it further enacted,* That if any person shall, in the night season, break open and enter any mansion house, shop, store, or vessel, in which any person or persons dwell or reside, with a view and intention of stealing and purloining therefrom, the person so offending, shall be deemed guilty of burglary and upon conviction thereof, shall be fined in a sum not exceeding five hundred dollars and imprisoned not exceeding one year, at the discretion of the court.

Burglary.

How punished.

Sec. 17. *And be it further enacted,* That if any person so breaking and entering any mansion house, shop, store or vessel as aforesaid, shall actually steal and purloin therefrom, the person so offending, on conviction thereof, shall moreover be fined in double the value of the articles stolen and purloined, to be paid to the party injured.

Continued

Sec. 18. *And be it further enacted,* That if any person so breaking and entering any mansion house, shop, store or vessel, as foreshaid, shall commit or attempt to commit any personal abuse, force or violence, or shall be so armed with any

Continued.

dangerous weapon as clearly to indicate a violent intention, such person so offending, on conviction thereof, shall be deemed guilty of burglary and punished accordingly.

Persons aiding and assisting, deemed principals.

Sec. 19. *And be it further enacted,* That all persons aiding and assisting in breaking and entering any mansion house, shop, store or vessel, as aforesaid, or in any of the crimes consequent thereon as before pointed out, shall be deemed principals.

Robbery.

Sec. 20. *And be it further enacted,* That if any person by putting in fear or by force, shall unlawfully take from the person of another, in the field or highway, any money, goods or chattels, the person so offending, shall be deemed guilty of robbery and on conviction thereof, shall be whipped not exceeding fifty-nine stripes, on his naked back, and on the second conviction of the like offense, shall be whipped not exceeding one hundred stripes, and in either case shall be fined in a sum not exceeding five hundred dollars, and imprisoned not exceeding one year, at the discretion of the court, and shall be forever after rendered incapable of holding any office of trust, of being a juror or giving testimony in any court of record in this state and shall moreover make restitution to the party injured.

How punished.

Aiders, etc., deemed principals.

Sec. 21. *And be it further enacted,* That all aiders and abettors in any robbery as aforesaid, shall be deemed principals.

Horse stealing, etc.

Sec. 22. *And be it further enacted,* That if any person shall feloniously take, steal or carry away, any horse, mare, gelding, foal, filly, mule or ass, the property of any other person, the person so offending shall, on conviction thereof, for the first

How punished.

offense, be whipped not exceeding fifty-nine stripes on his naked back and on conviction of the second offense, of like nature, shall be whipped not exceeding one hundred stripes, and make restitution to the party injured, and be imprisoned not exceeding one year and fined not exceeding five hundred dollars, at the discretion of the court and be ever after rendered incapable of holding any office of trust, of being a juror or giving testimony in any court of record in this state.

Sec. 23. *And be it further enacted,* That if any person shall receive or buy any horse, mare, gelding, foal, filly, mule or ass, as aforesaid, that shall have been feloniously stolen or taken from any other person, knowing the same to be stolen, and if any person shall harbor or conceal such thief, knowing such person to be so, the person so harboring or concealing, shall be fined not exceeding five hundred dollars and be imprisoned, at the discretion of the court, for any term not exceeding one year; such person shall be deemed a principal and be dealt with accordingly.

Persons
deemed
principals.

How pun-
ished.

Sec. 24. *And be it further enacted,* That if any person shall steal or take and carry away, the personal goods of another, with an intent to steal, such person, so offending, shall be deemed guilty of larceny and upon conviction thereof, shall be whipped not exceeding fifteen stripes on his naked back, and on the second conviction of the like offense, shall be whipped not exceeding thirty-nine stripes, at the discretion of the court, and shall restore to the owner the thing stolen and pay to him the value thereof, or twofold the value thereof, if the thing stolen be not restored, and shall be fined in a sum not exceeding threefold

Larceny.

How pun-
ished.

the value of the property stolen and be imprisoned not exceeding twelve months, at the discretion of the court.

Persons receiving stolen goods, etc., deemed principals.

Sec. 25. *And be it further enacted,* That if any person shall receive any goods as aforesaid, knowing the same to be stolen, such person so offending, shall be deemed guilty of larceny and shall be punished accordingly.

Challenging to fight.

Sec. 26. *And be it further enacted,* That if any person shall challenge another or accept a challenge, to fight at sword, pistol, rapier or other dangerous weapon, the person so challenging or accepting, shall, on conviction thereof, be fined in the sum of two thousand dollars, and find sureties for his good behavior during life, and be forever disabled from holding any office of profit or trust, being a juror, giving testimony in any court of record and be forever disfranchised, and if unable to pay the fine, shall be closely imprisoned ten years.

How punished.

Persons aiding and abetting.

Sec. 27. *And be it further enacted,* That if any person shall wilfully or knowingly carry or deliver any written challenge, or verbally deliver any message purporting to be a challenge, or be present at fighting a duel, as second or aid and give countenance thereto, he shall, on conviction thereof, suffer the aforesaid punishment, saving the finding sureties for good behavior and imprisonment.

How punished.

Riots and unlawful assemblies.

Sec. 28. *And be it further enacted,* That if any three or more persons shall assemble together, with intention to do any unlawful act, with force and violence, against the person or property of another, or to do any other unlawful act against

the peace and terror of the people, or being lawfully assembled, shall agree with each other to do any unlawful act as aforesaid, and shall make any movement or preparation therefor, the persons so offending shall, on conviction thereof, be fined in a sum not exceeding one hundred dollars and find surety for their good behavior, respectively, for twelve months and stand committed till sentence be performed.

Offenders,
how punish-
ed.

Sec. 29. *And be it further enacted,* That whenever three or more persons shall be assembled, as aforesaid, and proceeding to commit any of the offenses aforesaid, it shall be the duty of all judges, justices of the peace and sheriffs, and all ministerial officers, immediately upon actual view or as soon as may be upon information, to make proclamation, in the hearing of such offenders, if silence can be obtained, commanding them in the name of the state of Ohio, to disperse and depart to their several homes or lawful employments, and if upon such proclamation, or when silence cannot be obtained, such persons so assembled, shall not disperse and depart as aforesaid, it shall then be the duty of such judges, justices of the peace and sheriffs, and all other ministerial officers respectively, to call upon all persons near and of abilities, and throughout the county, if necessary, to be aiding and assisting in dispersing and taking into custody all persons assembled as aforesaid, and all military officers and others called upon as aforesaid, are hereby ordered and directed, to render instant and full obedience in this behalf, upon the penalty of ten dollars each, for every neglect or refusal herein, and commitment in case of non-payment.

Judges, jus-
tices, sher-
iffs, etc.,
their duty.

Rioters killed, in what cases not deemed murder.

Sec. 30. *And 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, the said judges, justices of the peace and sheriffs, and other ministerial officers, and others acting by their authority or the authority of any of them, shall be holden guiltless.

Obstructing authority.

Sec. 31. *And be it further enacted,* That if any person or persons, shall forcibly obstruct any of the authority aforesaid, or if any three or more persons shall continue together after proclamation as aforesaid, made or attempted to be made and prevented by such rioters, or in case of 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 fifty dollars, and imprisoned not exceeding six months and find surety for good behavior and the peace, for a time not exceeding one year, at the discretion of the court.

How punished.

Assault and battery,

Sec. 32. *And be it further enacted,* That if any person shall unlawfully assault or threaten another in a menacing manner, or shall strike or wound another, the person so offending shall, on conviction, be fined in a sum not exceeding one hundred dollars, and the court before whom such conviction shall be had, may, at their discretion, cause the offenders to enter into recognizance with surety for the peace and good behavior, for a time not exceeding one year.

Sec. 33. *And be it further enacted,* That if any

person shall abuse any judge, justice of the peace, or resist or abuse any sheriff, constable or other officer, in the execution of his office, he shall be fined in a sum not exceeding one hundred dollars and find sureties for the peace and good behavior, for a term not exceeding one year, and on refusal, shall be committed to the common jail of the county.

Persons abusing a judicial or ministerial officer.

How punished.

Sec. 34. *And be it further enacted,* That if any person shall, forcibly and knowingly, rescue or free from any arrest or imprisonment, any person lawfully arrested or imprisoned, the person so offending shall, on conviction thereof, be fined in a sum not exceeding five thousand dollars and imprisoned, not exceeding twelve months, at the discretion of the court.

Rescue.

Sec. 35. *And be it further enacted,* That if any person shall take upon himself, exercise or officiate in any office or place of authority in this state, without being lawfully authorized, the person so offending shall, on conviction thereof, be fined in a sum not exceeding five hundred dollars.

Usurpation.

Sec. 36. *And be it further enacted,* That all fines and forfeitures incurred under this act, not otherwise disposed of, shall be paid into the county treasury, where conviction may be had.

Fines, etc., how disposed of.

Sec. 37. *And 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 of the proper county in which sentence of death shall be lawfully pronounced, by force of this act, or of any other hereafter to be passed, shall be the executioner,

Punishments under this act, how and by whom inflicted.

and shall execute the other corporal punishments incurred under this act.

Repealing
clause.

Sec. 38. *And be it further enacted*, That a law respecting crimes and punishments, published at Marietta on the sixth day of September, one thousand seven hundred and eighty-eight, and also a law, supplementary thereto, passed at Cincinnati the twenty-second day of June, one thousand seven hundred and ninety-one, and all laws and parts of laws, relating to any of the crimes aforesaid, shall be and the same are hereby repealed. This act shall take effect and be in force, from and after the first day of August next.

Commence-
ment of this
act.

MICHAEL BALDWIN,
Speaker of the house of representatives.

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

January 15, 1805.

CHAPTER II.

An act, defining the duties of justices of the peace and constables, in criminal and civil cases.

Justices
jurisdiction
in criminal
cases.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That the jurisdiction of justices of the peace in criminal cases, within this state, shall be coextensive with the counties where they may be respectively chosen and reside, and they shall be conservators of the peace throughout the same; and they are authorized and required, on

view or complaint made on oath, to cause any person charged with a crime or a breach of the laws of this state, to be arrested and brought before him or some other justice of the peace in said county and such person to commit, discharge or let to bail, as the nature of the case may require, and recognize each witness, as the nature of the offense may require, conditioned, that such witness shall attend on the first day of the court next to be holden before whom the offender is to be tried, to give testimony.

Their duty
on view or
complaint.

Sec. 2. *Be it further enacted*, That the following forms shall be pursued and adopted by all the justices of the peace, as nearly as the nature of the case will admit of, in all criminal proceedings, before any of them had (to-wit):

Forms to be
pursued in
criminal
cases.

FORM OF AN AFFIDAVIT, ON WHICH TO ISSUE A
STATE WARRANT.

The State of Ohio, }
_____ County, } ss.

Before me, A B, one of the justices of the peace for _____, personally came C D, who being duly sworn according to law, deposeth and saith, that on _____ at _____ (here describe the crime or offense) was perpetrated on the body (or goods, as the case may be) of E F, of _____, by a certain G H, late of _____, (or thus) and that he verily believes that a certain G H, late of _____, is guilty of the fact, or that he has been aiding and assisting in the commission thereof; and further this deponent saith not.

Sworn and subscribed before me, at _____.

WARRANT FOR AN ASSAULT.

The State of Ohio, }
 _____ County, } ss.

To any of the constables of _____, greeting:

Continued.

(L. S.) Whereas complaint hath been made before me, one of the justices of the peace, in and for the county aforesaid, upon the oath of C D, of _____, that E F, of _____, aforesaid, did, on _____ violently assault and beat him the said C D, at _____ in the county aforesaid: These are therefore, in the name of the state of Ohio, to command you, that you take the said E F, if he be found in your county and him safely keep so that you have his body forthwith before me, at _____ to answer unto the said complaint, and to be further dealt with according to law.

Given under my hand and seal, this _____.

FORM OF A SEARCH WARRANT.

The State of Ohio, }
 _____ County, } ss.

To any constable in the county aforesaid, greeting:

Continued.

(L. S.) Whereas it appears to me, A B, one of the justices of the peace in and for the county aforesaid, that the following goods and chattels, to-wit: (here describe the property or articles) have, within _____ days last past, by some person or persons unknown, been feloniously taken, stolen and carried away, out of the house or from the premises of the said C D, of the county aforesaid, and that the said C D doth, on oath or affirmation, declare, that he verily believes, that the said goods or a part thereof, are concealed in

the dwelling-house or out-house of E F, at —— in said county: These are therefore, in the name of the state of Ohio, to authorize and require you, with the necessary and proper assistance, to enter, in the day time, into the said house of the said E F, at —— aforesaid, and there diligently to search for the said goods and chattels, and if the same or any part thereof be found, upon such search, that you bring the goods so found, and also the body of the said E F, forthwith before me or some other justice of the peace for said county, to be disposed of and dealt with according to law.

Given under my hand and seal, the ——.

FORM OF A WARRANT, FOR THE PEACE OR GOOD **Continued.**
BEHAVIOR.

The State of Ohio, }
—— County, } ss.

To any constable of, etc.:

(L. S.) Whereas A K, of ——, hath this day made oath before me, that he hath been threatened by C D, etc., and is afraid that the said C D will beat or wound him, he being in fear of his life, whereupon he hath prayed surety of the peace against him: These are therefore in the name of the state of Ohio, to command you to apprehend the said C D, and bring him forthwith before me or some other justice of the peace, within and for said county, to find surety for his personal appearance at the next court of common pleas and in the meantime to keep the peace, especially towards the said A K.

Given under my hand and seal, this ——.

FORM OF A RECOGNIZANCE.

Continued, State of Ohio, }
 _____ County, } ss.

(L. S.) Be it remembered, that on the _____, A B, C D and E F, personally came before me, _____, one of the justices of the peace for said county, and severally acknowledged to owe to the state of Ohio _____ dollars each, to be levied on their goods and chattels, lands and tenements, to the use of said state, if default be made in the condition following, to-wit: The condition of this recognizance is such, that if the above bounden A B, shall personally appear at the next court of common pleas, to be holden in and for said county, then and there to answer what, at that time, shall be objected against him, and abide the judgment of the court and not depart without leave, then this recognizance shall be void and of none effect, otherwise to remain in full force and virtue in law.

Taken and acknowledged before me, at _____ (or if the recognizance should be to compel the attendance of witnesses, in behalf of the state) the condition should run thus: The condition of this recognizance is such, that if the aforesaid A B, shall personally appear at the next court of common pleas, to be holden within and for said county (or at the supreme court, as the case may require) on the first day of the term, to give testimony on behalf of the state and the truth to say, on such matters as may be then and there required of him or her, and not depart the court without leave.

Taken and acknowledged, etc.

FORM OF A SUMMONS.

The State of Ohio, }
 _____ County, } ss.

Continued.

To any constable _____:

(L. S.) You are hereby commanded to summon _____ to be and appear before me, at _____ forthwith, and there to give testimony and the truth to say, of and concerning a complaint made on behalf of the state against G H, who is charged with having (here describe the offense) hereof you are in no wise to fail, under the penalty of one hundred dollars, and have you then and there this writ.

FORM OF A MITTIMUS OR COMMITMENT.

Continued.

The State of Ohio, }
 _____ County, } ss.

(L. S.) The State of Ohio, to the keeper of the jail of the county aforesaid, greeting:

Whereas A C, late of _____, in said county, hath been arrested by the constable of _____, in said county (here give such description of the crime or offense as will best suit the nature of the case and agree with the facts) therefore, on behalf of the state of Ohio, I command you, that you receive the said A C into your custody, in the said jail of the county aforesaid, there to remain until he be discharged by due course of law.

Given under my hand and seal, _____.

Sec. 3. *Be it further enacted*, That if any person or persons shall fight or box at fisticuffs, or shall challenge another to fight or box at fisticuffs, or shall endeavor to provoke any other person or

Penalty for
 challenging
 to fight or
 box, etc.

**Cognizable
by justice of
the peace.**

persons to commit an affray, every person, so offending, shall, on conviction thereof, forfeit and pay, for every such offense, a sum not exceeding five dollars nor less than one dollar, and every justice of the peace, of the county where the offense shall have been committed, shall have

Proviso.

cognizance thereof: *Provided, however,* That such prosecution be commenced within four days from the time the offense was committed, and all fines and penalties imposed within fifteen days after the same is collected and paid, by virtue of the provisions of this act, shall be paid into the treasury of the township, in which such fine or penalty shall be imposed, for the use of said township.

**Fines, etc.,
paid into
township
treasury.**

**Constables
ministerial
officers of
the justice's
court.**

Their duty.

Sec. 4. *Be it further enacted,* That constables shall be the ministerial officers of the courts held by justices of the peace, in their respective townships, and it shall be the duty of the constables to apprehend and bring to justice felons and disturbers of the peace, to suppress riots, and give information of such persons as they may know to sell liquors contrary to law, and to keep and preserve the peace in their respective townships, and the limits of constables in the service of process in criminal cases, and subpoenas for witnesses shall be coextensive with the county in which they were elected and reside, and they shall serve such legal process in civil cases as may be, by the justices of the peace, to them directed, and govern themselves therein agreeably to the provisions of this act, and do and perform such other services as may be directed by law; and every constable, within ten days after his election and before he enters on the duties of his office, shall come before the clerk of the township and enter bail, with one or more sureties, resident in the

**To enter
bail with the
clerk of the
township.**

township, such as the trustees thereof shall approve of, for the sum of four hundred dollars, payable to the township treasurer, conditioned for the faithful discharge of the duties of his office, and the township clerk shall make an entry of such bond, and file the same in his office.

Sec. 5. *And be it further enacted,* That the powers of the justices of the peace in this state shall, in civil cases, be coextensive with the township in which they may respectively be elected and reside, and their jurisdiction in such cases shall extend under the restrictions and limitations hereinafter provided, to any sum not exceeding fifty dollars; and it shall be the duty of the constables of the several townships, to serve such process as may, by the authority of this act, be issued by the justices of peace: *Provided,* That any justice of the peace may grant subpoenas for witnesses, for either party concerned in the cause pending, but such party shall not be allowed fees for travel or serving the same, if performed by himself: *Provided,* That the power of justices of the peace to subpoena witnesses shall be coextensive with the county; *Provided also,* That in case any persons voluntarily appear before a justice of the peace and confess judgment, in such case the jurisdiction of a justice of the peace shall extend to one hundred dollars, from which judgment there shall be no appeal.

Jurisdiction
of justices
in civil cases.

Not to ex-
ceed fifty
dollars.

To grant sub-
poenas.

Proviso,
when persons
voluntarily
appear and
confess
judgment.

Sec. 6. *Be it further enacted,* That every justice of the peace shall keep a docket, in which he shall make fair and accurate entries of all actions and suits instituted before him, with his proceedings thereon, and if either of the parties require a copy of the proceedings, the justice shall furnish the same.

Justices to
keep a
docket, etc.

First process to be summons or warrant in nature of a ^a *capias ad respondendum*, etc.

Summons, how to be served.

Constables to endorse the time, etc.

Proviso.

Where the plaintiff is in danger of losing his demand.

Proviso.

Where plaintiff lives out of the township, justice to determine process.

Sec. 7. *Be it further enacted*, That the first process which shall be issued by virtue of this act, shall be a summons or warrant, in nature of a *capias ad respondendum* (as the case may require) and the summons shall be issued in every case under this act, where the defendant is a householder within the township and resides within the same, and the summons to be issued as aforesaid, shall specify a certain time, not less than six nor more than twelve days from the date of such process, and also a certain place, at which the defendant is to appear, and shall be served at least three days before the time of appearance mentioned therein, by reading the same to the defendant or by serving him or her with a copy thereof, if required; but if he or she cannot be found, by leaving a copy at his or her house or place of abode, in presence of some person of the family, of the age of ten years or upwards, who shall be informed of the contents thereof, and the constables serving such summons shall endorse thereupon the time and manner of service, and shall subscribe his name thereto: *Provided*, In every case in which the summons is made the proper process of this act, if it shall be sufficiently proved, on oath of any person, to the satisfaction of the justice, that the plaintiff will be in danger of losing his or her demand, unless the defendant be arrested, it shall be the duty of the justice to issue a warrant in the nature of a *capias*: *Provided also*, Where the plaintiff lives out of the township, and his demand is on bond, promissory note or bill, sent to any justice of the peace for collection, in that case it shall be discretionary with the justice to determine the most proper precept to secure the debt to the plaintiff, anything herein contained to the contrary notwithstanding.

Sec. 8. *Be it further enacted*, That in every case where a warrant is made the proper process under this act, it shall be the duty of the justice to issue the same, directed to a constable of the township in which the defendant shall reside, and the said warrant shall be made returnable forthwith, after the service thereof, and the constable serving or executing the same, shall, according to the command thereof, forthwith convey the defendant before the justice who issued the same, and the said justice shall thereupon, either cause the said defendant to give bail for his, her or their appearing and abiding the event of said suit, or on neglect or refusal to give such bail, shall order the constable to convey him or her to the jail of the county, there to be kept in custody until the time appointed for the trial of the cause, which shall not exceed three days from the day of the return of the warrant, or the justice may direct the constable to hold the defendant in his custody until the plaintiff shall have notice and time to attend and proceed to trial, and the constable who serves such warrant shall endorse thereon the execution thereof, and sign his name thereto.

Justice to issue warrant, etc.

To whom directed.

Returned to justice.

Defendant to give bail.

On neglect or refusal to be committed.

Constable to endorse, etc.

Sec. 9. *Be it further enacted*, That the recognizance of bail to be taken as is above provided, shall be in the following form, to-wit:

Form of recognizance of bail.

—— County, —— township, ss:

Whereas A B, hath been arrested and is in the custody, at the suit of C D, in an action of ——, for the sum of ——, now therefore, you O P, do acknowledge yourself special bail in said action, in the sum of —— dollars, to be levied on your goods and chattels, lands and tenements, and for want thereof, upon your body, if default be made

in the condition of your recognizance, which condition is, that the said A B shall be and appear before ——— and if judgment be given against him or her, that he or she shall pay the costs and condemnation money or render his or her body in execution.

Acknowledged before me ———.

To remain with the justice.

Defendant failing to appear, justice to proceed in his absence.

Parties appearing, justice to proceed to trial, etc.

On good cause shown, trial may be postponed.

Proviso,

Where either party live in another state, etc.

Parties may come before a justice by consent, etc.

Which recognizance shall remain with such justice for the benefit of the plaintiff in the suit, and if the defendant does not appear after such recognizance entered into, at the time and place specified in the said recognizance, and no sufficient reason be assigned to said justice, why he or she does not appear, then the said justice may proceed to hear and determine the cause in the absence of such defendant, and when the parties to any suit, to be instituted by this act, shall appear at the time and place appointed for trial, the said justice shall proceed to hear and examine the allegations and proofs, and shall thereupon give judgment with costs of suit, according to law and equity, unless he shall think it proper, on the application of either party, to adjourn the trial, which adjournment shall not be for a longer time than twenty days: *Provided*, Either party shall live in another state or county, he may, on good cause shown, have the trial of the cause postponed for any term not exceeding four months.

Sec. 10. *Be it further enacted*, That when parties agree to enter without process, before any justice of the peace, any action herein made cognizable before him, such justice shall enter the same on his docket and shall proceed to judgment and execution, in the same manner as though a summons or warrant had been issued, served and returned, and in all other actions instituted by

virtue of the provisions of this act, where the plaintiff does not appear by himself or agent, and it being made to appear, that he was informed of the day of trial, the justice shall enter judgment against him for the costs: *Provided*, That the plaintiff shall not, thereby, be debarred from renewing the action, but if it should be made to appear that his non-attendance was owing to the default of the constable in not giving him notice, the justice shall postpone the trial to a day certain, and the constable shall be liable for the attendance of the defendant and also give notice to the plaintiff or his agent to attend, if he resides within the township.

Plaintiff having notice and failing to appear, justice to enter judgment against him for costs.

Proviso.

Sec. 11. *Be it further enacted*, That if, in any cause instituted as aforesaid, it shall appear, at the trial, that there is a balance due to the defendant from the plaintiff, then the justice shall enter up judgment against the plaintiff in favor of the defendant, for the sum so appearing to be due, with costs of suit, and such defendant shall be entitled to execution in the same manner as though such plaintiff had been the defendant in the cause.

Balance due defendant, justice to render judgment, etc., against plaintiff.

Sec. 12. *Be it further enacted*, That if the defendant does not appear by himself or agent at the time and place appointed for trial, having had lawful notice given and no just cause be shown for his non-attendance, the justice may, at the request of the plaintiff, hear and determine the cause and enter judgment.

Defendant failing to appear, justice to proceed in his absence.

Sec. 13. *Be it further enacted*, That when judgment has been entered against the defendant, in his absence, if he appears before execution is issued and pays the costs and requests the judg-

Justice may open his judgment in certain cases.

ment to be opened, the justice may grant a new trial and appoint a day therefor, of which the defendant shall notify the plaintiff, at least three days prior to the day appointed. *Provided*, That stay of execution shall only be prolonged from the date of the former judgment.

Proviso.

Where no justice lives in the township, etc., how to proceed.

Sec. 14. *Be it further enacted*, That where there is no justice resident in the same township with the defendant, or such justice shall be a father or brother to either the plaintiff or defendant, then the justice who is nearest and most convenient in the adjoining township, who is not interested, or father or brother to either party, shall have full and complete jurisdiction throughout such vacant township, until a justice of the peace is elected and qualified therein, and then shall deliver up to said justice a certified copy of all the business carried before him from such vacant township which remains unfinished; and said justice shall proceed to act thereon, in the same manner as if such business, actions or suits, had been instituted before him.

The parties may submit their cause to arbitration.

How selected.

Sec. 15. *Be it further enacted*, That any time before judgment is entered for any sum, the plaintiff and defendant agreeing thereto, may have the cause submitted to the arbitration of three disinterested men, who shall be chosen by the plaintiff and defendant, and if the arbitrators be present, they shall proceed to hear and determine the cause on oath or affirmation, which shall be administered by the justice; but if the arbitrators chosen be not present, the justice shall issue subpoenas for them to attend on the day, time and place fixed upon, which shall be served by the constable or parties, as they may agree on; and when

the arbitrators are met and qualified, as aforesaid, they shall hear and determine the cause, make out their award, sign the same and make return thereof to the justice, who shall make entry of the same on his docket and thereon render judgment, which shall be final and conclusive to plaintiff and defendant, unless it be made to appear on oath, that the arbitrators misbehaved and that such award was obtained by fraud, corruption or other undue means.

Award entered on justice's docket and judgment.

Sec. 16. *Be it further enacted,* That if any person or persons shall conceive him or themselves injured, by any judgment of any justice of the peace, it shall be lawful for any such person or persons, to appeal to the court of common pleas, at any time within twenty days, next after rendering of such judgment, by entering into recognizance with at least one sufficient surety, in a sum double the amount of said judgment and costs, conditioned to prosecute the said appeal to effect, and to abide the order which the court may make therein: Thereupon the justice, who gave such judgment, shall send a transcript thereof to the clerk of the court of common pleas of the county in which such appeal is made, on or before the first day of the term next following such appeal, and all further proceedings before said justices shall be stayed from the time of entering such appeal, and the person or persons so appealing, shall cause an entry of the appeal to be made with the clerk of the court, and the plaintiff, in the court below, whether appellant or appellee, shall be plaintiff in the court above, and after such entry shall be made, the parties shall proceed, in all respects, in the same manner as though the suit had been originally instituted in said court, and reference

Appeals granted.

Twenty days allowed.

Justice to certify his proceedings.

Persons appealing, to enter the same with clerk common pleas.

Proceedings thereon.

shall be had to the proceedings in the court below, no farther than to include in the judgment to be rendered, the costs taxed in the court below: *Provided*, That if the appellant shall fail or neglect to enter the appeal, as aforesaid, the appellee may have the same entered and the judgment of the court below shall be confirmed and judgment entered against the appellant for the same, with interest and costs: *Provided always*, That whenever any person shall make his choice to arrest the judgment of any justice of the peace on a writ of *certiorari*, the same shall be done within twenty days after rendering such judgment.

Proviso.

When cause removed by certiorari.

Party after judgment entering bail, execution to be stayed, etc.

Over five, etc.

Over twelve, etc.

Over twenty-five, etc.

Party failing.

Sec. 17. *Be it further enacted*, That if any person, against whom judgment is entered for any sum, including costs, exceeding two dollars, shall enter such bail, if bail is required, as shall be deemed sufficient security for double the amount of said judgment, and the same have entered on the docket of the justice, such person shall have stay of execution for one month, if judgment is entered for any sum not exceeding five dollars; and for any sum above five dollars and not exceeding twelve dollars, execution shall be stayed for three months; and for any sum exceeding twelve dollars and not exceeding twenty-five dollars, execution shall be stayed for six months; and for any sum exceeding twenty-five dollars, execution shall be stayed for nine months and no longer; and if the person, against whom judgment was rendered, or his bail, shall fail to pay to the person recovering such judgment or his agent, the full amount of debt, with the interest thereon, together with costs of suit, and a receipt thereof be forwarded to the justice of the peace, on or before the expiration of the time herein limited for the stay of execution, it shall be

the duty of such justice who gave such judgment, on request of the party recovering the judgment, or his agent, to grant execution thereon, returnable to such justice within thirty days thereafter, commanding the constable to levy and make the debt, damages and costs, of the goods and chattels of the party against whom the judgment was rendered, and for want of such property whereon to levy and make the same, to take the body of such party and to convey him or her to the jail of the county, and the sheriff or keeper of such jail is hereby required to receive the person or persons so taken in execution, and him or her, or them, safely to keep, until the sum so recovered and the costs of suit, be fully paid, or he, she or they, be otherwise legally discharged, and in default of such safe keeping, the said sheriff shall be answerable to the party aggrieved, who shall have the same remedy against him as is provided by law in cases of escapes, and all property sold by execution, shall be advertised by the constable, at three of the most public places in the township, at least ten days previous to the day of sale.

Sec. 18. *Be it further enacted*, That in all cases where execution shall issue against any person, on any judgment rendered against such persons, and goods and chattels cannot be found to discharge the same, in case it shall be made known to the justice who issued the execution, that the person is possessed of lands and tenements, the justice shall, on application of the person or his or her agent, that recovered such judgment, to forward a transcript of such judgment to the clerk of the court of common pleas, and the clerk shall file the said transcript in his office, and shall issue a *scire facias* against such person, to appear at the next

Justice on application, to issue execution.

Property sold, how advertised.

When goods and chattels cannot be found,

and party possessed of lands, etc.,

proceedings to be had by justice, etc.

term of the court of common pleas and show cause why execution should not issue; and in case such person neglects to attend or does not show cause, to the satisfaction of the court, why execution should not issue, the court shall direct execution against the lands and tenements of such person, in the same manner as though judgment was obtained in said court.

Constable falling in his duty, how to be proceeded against.

Sec. 19. *Be it further enacted*, That in case the constable fails to make return, as is provided by this act, or makes a false return, the said justice shall, on application of the person in whose favor execution issued, or his or her agent, issue a *scire facias* against said constable, directed to any person he may think proper, commanding said constable forthwith to appear before him, to show cause why execution should not issue against him, and if the constable either neglects to appear, within five days, or does not show proper cause why execution should not issue against him, then the justice shall enter judgment against such constable for the amount of said execution, together with costs for which judgment there shall be no stay of execution, and the justice shall forthwith issue execution for the amount of such judgment, and such execution may be directed to any person the justice may think proper, who shall collect the same as constables are by this act bound to do.

Constable levying on property claimed by a third person, proceedings thereon.

Sec. 20. *Be it further enacted*, That when any constable, by virtue of execution to him directed, shall levy on property, claimed by any person other than the person against whom execution issued, such claimant, upon giving three days' notice to the plaintiff, of the time and place of proof, shall prove the property on oath or affirma-

tion, by one or more credible witnesses, on or before the day appointed for the sale of such property, and on such proof being made, before the justice who granted such execution, the justice shall cause the constable to restore the property so levied on, to the person claiming the same, but in case such claimant fails to make such sufficient proof as is provided, the constable shall not be liable to such claimant for such property so taken and sold.

Sec. 21. *Be it further enacted,* That when any person or persons shall rent or lease any lands within this state, and agree to pay the rent out of the grain raised on the land so rented, the lessor shall have the part or portion of grain agreed on by the lessee and lessor, and no execution or attachment shall be levied on said grain, for the payment of the tenant's debts; but in case the lessee contracts to pay the rent in money or other property not herein specified, the lessor shall have no other remedy than any other creditor has for the recovery of debts of like amount.

Rent, contracted to be paid out of grain raised on land, secured to landlord.

Sec. 22. *Be it further enacted,* That when any person or persons shall be lawfully subpoenaed to attend and give testimony in any suit instituted before any justice of the peace, such witness failing to attend at the time and place specified in such subpoena, and no reasonable excuse given for his or her non-attendance, every such witness shall forfeit and pay a sum not exceeding eight dollars, at the discretion of the justice, and moreover be liable to the party injured, for such damages as such person shall sustain for want of such witness, to be recovered before any court having cognizance of the same.

Persons subpoenaed failing to attend.

Penalty.

Fines, etc., to be paid into township treasury.

Sec. 23. *Be it further enacted*, That all forfeitures and fines that are not otherwise disposed of by this act, shall be paid into the township treasury, where such offense has been committed.

Form of recognizance in cases of appeal.

Sec. 24. *Be it further enacted*, That the forms of recognizance shall be as follows, to-wit:

IN CASES OF APPEALS.

In the suit of A B against C D, I, E F, do acknowledge myself bail for —— appellant, for the sum of —— dollars, to be levied on my goods and chattels, lands and tenements, in case said appellant fail to prosecute such appeal to effect.

And the form of a recognizance of bail, for stay of execution, as follows:

In the suit of A B against C D, I, E F, do acknowledge bail for C D, in the sum of —— dollars, to be levied on my goods and chattels, lands and tenements, in case the said C D fails to make payment for the sum for which judgment is entered in said suit.

Form of a scire facias against bail.

Sec. 25. *Be it further enacted*, That the form of *scire facias* against bail, where the money is not paid before the time limited for stay of execution is out, shall be as follows, to-wit:

The State of Ohio, }
 —— County, } ss.

To —— constable of —— township, greeting:
 (L. S.) Whereas A B recovered by judgment against C D, the sum of —— dollars debt, and

— costs, on the — day of — last, as appears of record. And whereas E F on the — day of — became security in behalf of the said C D, for the payment of the debt and costs, to the said A B, as also appears of record, which debt and costs are not yet paid.

You are therefore commanded to summon the said E F forthwith, to appear before me, at — to show cause, if any there be, why execution should not issue against him, for the debt and costs aforesaid, and of this make legal service and due return, within five days.

And the form of *scire facias* against the constable, as above, only changing it, agreeable to the nature of the case.

Sec. 26. *Be it further enacted*, That the following shall be the forms of process in civil cases:

FORM OF A SUMMONS.

State of Ohio, } ss.
 ——— County, }

To ——— constable of ——— township, greeting:

(L. S.) You are hereby required to summon A B, to appear before me ———, a justice of the peace of said township, on ——— day of ——— at ——— o'clock on said day, to answer C D, in (a debt or damage, as the case may be) ——— dollars, and of this writ make legal service and due return.

Form of a
summons.

FORM OF A CAPIAS.

State of Ohio, } ss.
 ——— County, }

To _____ constable of _____ township, greeting.

Form of a
capias.

(L. S.) You are hereby commanded to take the body of A B and him forthwith bring before me _____ a justice of the peace for _____ township, to answer C D, (in debt or damages) of _____ dollars, and of this writ make legal service and due return.

EXECUTION.

The State of Ohio, }
_____ County, } ss.

To _____ constable of _____ township, greeting:

Form of
execution.

(L. S.) Whereas A B obtained judgment against C D, before me _____ justice of said township, for a debt of _____ dollars and _____ costs on the _____ day of _____ last.

You are therefore commanded to levy the said debt and costs, and the costs that may accrue, of the goods and chattels of the said C D, by distress and sale thereof, returning the overplus, if any, to the said C D, but for want of such property, then take the said C D and him convey to the jail of said county, there to be detained until the said debt and costs (and costs that may accrue) shall be paid or be otherwise legally discharged, and of this writ make legal service and due return.

Writs not
quashed for
want of
form.

Sec. 27. *Be it further enacted*, That no suit shall be quashed for want of form of the writ, in case it contains the substance.

Certain
actions not
extended to
by this act.

Sec. 28. *Be it further enacted*, That nothing in this act shall be construed or understood to extend to actions of ejectment brought to obtain possession of lands and tenements, actions of

replevin, actions of detinue, actions of slander, actions on real contract for the sale or conveyance of lands and tenements, or when the title of land is called in question.

Sec. 29. *Be it further enacted*, That if any person or persons shall commence or prosecute any suit, for any debt or demand, by this act made cognizable before a justice of the peace, in any other court than is authorized and directed by this act, and shall obtain a verdict or judgment therein, for debt or damages, which, without costs of suit, shall not amount to fifty dollars or more, not having caused an oath or affirmation to be made before the serving out the *caapias* or summons and filed in the office of the clerk of the court, from whence such process issued, that he, she or they so making oath, did truly believe the debt due or damages sustained, amounted to fifty dollars or more, he, she or they so prosecuting, shall not recover any costs in such suit, any law to the contrary notwithstanding.

Actions commenced in common pleas cognizable before a justice not to carry costs,

unless affidavit be made, etc.

Sec. 30. *And be it further enacted*, That the "Act, regulating the duties of justices of the peace and constables, in criminal and civil cases," passed at the last session of the legislature, and the act, entitled, "An act, for the trial of small causes," and all other acts and parts of acts on that 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.

Repealing clause.

Commencement of this act.

JOHN SLOANE,
Speaker pro tem. of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 12, 1805.

CHAPTER III.

An act, organizing the judicial courts.

The supreme court to consist of three judges.

One commissioned chief judge.

In what cases the supreme court have jurisdiction.

Exclusive cognizance in certain cases.

Times of holding courts of

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That the supreme court shall consist of three judges, to be chosen in the manner directed by the constitution, one of whom shall be commissioned by the governor chief judge of said court, and the other two judges and all future 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.

Sec. 2. *Be it further enacted,* That the supreme court shall have original jurisdiction of all civil cases both in law and equity, where the title of land is in question, or where the sum or matter in dispute exceeds one thousand dollars, and appellate jurisdiction from the court of common pleas, in all cases respecting the title of land, or where the matter in controversy exceeds the value of one hundred dollars, and all cases where the proof or validity of wills or the right of administration shall be in question.

Sec. 3. *Be it further enacted,* That the supreme court shall have exclusive cognizance of all cases of divorce and alimony, and of all criminal causes where the punishment is capital, and cognizance concurrent with the courts of common pleas, of all other crimes and offenses not cognizable by a single justice of the peace.

Sec. 4. *Be it further enacted,* That the courts of common pleas, for the three circuits, shall be

held as follows, to-wit:

FIRST CIRCUIT.

In the county of Hamilton, the first Tuesdays of April, August and December; in the county of Butler, the third Tuesdays of April, August and December; in the county of Montgomery, the fourth Tuesdays of April, August and December; in the county of Champaigne, the first Tuesdays of May, September and January; in the county of Green, the second Tuesdays of May, September and January; in the county of Warren, the third Tuesdays of May, September and January; in the county of Clermont, the fourth Tuesdays of May, September and January.

common
pleas in the
first circuit.

SECOND CIRCUIT.

Commence the last Wednesday in February, in the county of Highland; the succeeding Monday in Adams; the succeeding Monday in Scioto; the succeeding Monday in Gallia; the succeeding Monday in Athens; the succeeding Monday in Fairfield; the succeeding Monday in Franklin; the succeeding Monday in Ross. Commence the second Wednesday after the first Monday in June, in Highland; the succeeding Monday in Adams; the succeeding Monday in Scioto; the succeeding Monday in Gallia; the succeeding Monday in Athens; the succeeding Monday in Fairfield; the succeeding Monday in Franklin; the succeeding Monday in Ross. Commence the second Friday after the first Monday in October, in Highland; the succeeding Tuesday in Adams; the succeeding Monday in Scioto; the succeeding Monday in Gallia; the succeeding Monday in Athens; the succeeding Monday in Fairfield; the succeeding Monday in Franklin; the succeeding Monday in Ross.

In the second
circuit.

THIRD CIRCUIT.

In the third circuit.

In the county of Trumbull, the second Tuesdays of March, June and November; in the county of Columbiana, the third Tuesdays of March, June and November; in the county of Jefferson, the first Tuesdays of April, August and December; in the county of Belmont, the second Tuesdays of April, August and December; in the county of Washington, the third Tuesdays of April, August and December; in the county of Muskingum, the fourth Tuesdays of April, August and December, yearly and every year.

Common pleas have original jurisdiction in certain cases.

Sec. 5. *Be it further enacted*, That the courts of common pleas shall have original jurisdiction in all civil cases both in law and equity, where the matter in dispute exceeds the jurisdiction of a justice of the peace; they shall have power to examine and take the proof of wills, to grant administration on intestate estates, and to hear and determine all causes, suits and controversies of a probate and testamentary nature, to appoint guardians for minors, idiots and lunatics, and to call such guardians to account: *Provided*, That a special court may be holden at the instance and expense of any person requesting the same, for taking the probate of wills, granting letters of administration and appointing guardians.

Proviso, for holding special courts.

Cognizance of crimes where punishment is not capital.

Sec. 6. *Be it further enacted*, That the court of common pleas shall have cognizance of all crimes, offenses 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 courts have.

Sec. 7. *Be it further enacted*, That an appeal shall be allowed of course to the supreme court, from any judgment rendered in the court of common pleas, where the title of land was in question, or the sum or matter in dispute was more than one hundred dollars, or where the validity of a will or right of administration was in question: *Provided*, The appellant give bond with surety (to be approved of by the court or clerk) for prosecuting the appeal to effect.

Appeals allowed.

* Sec. 8. *Be it further enacted*, That when a party is desirous to appeal a cause from the court of common pleas to the supreme court, he shall enter a notice on the record of his intention in term time, whereupon the court shall cause execution to be stayed thirty days, and if good bail is not put in for the prosecution of the appeal within that time, the plaintiff shall be at liberty to take his execution and proceed as in other judgments.

Party desirous to appeal to enter notice, etc.

Sec. 9. *Be it further enacted*, That the judges of the supreme court and presidents of the courts of common pleas, shall have power, in vacation, to allow writs of injunction, *habeas corpus* and *certiorari*, on good cause shown, and writs of error, *supersedeas*, *certiorari* and *habeas corpus cum causa*, being writs of right, shall be issued of course by the clerk of any court having cognizance of the same: *Provided*, The party applying for either of the said writs shall, before the same is issued, put in sufficient bail before some clerk or commissioner (except in those cases where bail is not required by law) that he, she or they, will prosecute the same to effect and abide the judgment of the court thereupon had.

In vacation, writs of injunction, etc., allowed.

Proviso.

Sec. 10. *Be it further enacted*, That the judges

Judges to be sworn. of the supreme court, as also the presidents and associate judges of the court of common pleas, before they proceed to execute the duties of their said offices, shall take the following oath or affirmation: "I, A B, do solemnly swear (or affirm) that I will administer justice, without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me, as judge, president, etc. (as the case may be), according to the best of my abilities and understanding."

Oath.

Associate judges authorized to hold special sessions.

Sec. 11. *Be it further enacted*, That the associate judges of the court of common pleas, shall have power and they are hereby authorized, to hold special sessions of the court at the seat of justice in any county, whenever two of the said judges shall deem it necessary, for the purpose of transacting the ordinary business appertaining to the county of which they have cognizance.

The courts to appoint their clerks.

Sec. 12. *Be it further enacted*, That the supreme courts and courts of common pleas, shall appoint their clerks for their respective courts in each county, agreeable to the provisions in the constitution; and each of the said clerks, before he enters upon the execution of the duties of his office, shall take the following oath or affirmation:

Oath.

"I, A B, being appointed clerk of ———, do solemnly swear or affirm, that I will faithfully and impartially discharge and perform all the duties of my said office, according to the best of my abilities and understanding." And the said clerks shall also severally give bond, with two securities (to be approved of by the court appointing them) to the state of Ohio; the clerks of the

To give bond with security.

supreme court in the sum of two thousand dollars, and the clerks of the courts of common pleas in the sum of fifteen hundred dollars, conditioned for the faithful discharge of the duties of their respective offices.

Sec. 13. *Be it further enacted*, That all clerks of courts and recorders of deeds, shall keep their respective offices at the seat of justice in each county: *Provided*, That the clerks and recorders of new counties shall not be compelled to reside at the seats of justice in less than one year after the seat of justice is permanently established.

Clerks and recorders to keep their offices at the seats of justice.

Sec. 14. *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) 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, plaints, process and proceedings, of whatever nature commenced or pending in the said court, shall stand continued of course to the next term to be holden in said county, by the said judges.

Where a quorum does not attend, the manner of adjourning.

Sec. 15. *Be it further enacted*, That all general issues and issues in fact, shall be tried by a jury, unless where both parties agree otherwise, in which case such issues may be tried by the court before whom they are pending.

Issues to be tried by a jury, unless otherwise agreed.

Sec. 16. *Be it further enacted*, That all criminal cases and cases where the title of land or freehold

Venue to be changed in certain cases.

is in question, shall be tried in the county where the crime was committed or 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 the supreme court may direct the venire to be changed to some adjoining county.

Suits in equity not maintainable, where there is a remedy at law.

Sec. 17. *Be it further enacted,* That suits in equity shall not be sustained in either the supreme court or courts of common pleas, in any cause where plain, adequate and complete remedy may be had at law, and in the trial of causes in equity, oral testimony and examination of witnesses in open court, shall be admitted.

Sixty grand jurors and seventy-two petit jurors, to be annually selected to serve for the ensuing year.

Sec. 18. *Be it further enacted,* That there shall be sixty grand jurors and seventy-two petit jurors, judicious persons, having the qualifications of electors, annually selected in each county, to serve as grand and petit jurors for the ensuing year; and the clerk of the court of common pleas, on the first Monday of February, annually, shall direct the proportion of said number of jurors that are to be selected in each township, such proportion to be ascertained from the number of persons entered in the returns of the lister of taxable property in the respective townships; and the trustees or managers shall meet on the first Monday of March, annually, and shall proceed to select the number of grand and petit jurors, having the qualifications as aforesaid, which shall have been assigned for their respective township, by the clerk of the court of common pleas, and the names of the persons thus selected, shall be transmitted to the clerk of the supreme court and court of common pleas, and the respective clerks shall write the name of each person so selected upon a

The manner which they are to be selected.

separate piece of paper and put it into a box, to be by him provided at the expense of the county, those selected as grand jurors in one box and those selected as petit jurors in another box; and the said clerk of the court of common pleas or clerk of the supreme court (as the case may be) thirty days before the sitting of their respective courts, shall, in the presence of the sheriff and a justice of the peace of the proper county, draw by lot out of the respective boxes, fifteen grand jurors and eighteen petit jurors, and the said clerk shall forthwith issue a venire to the sheriff, commanding him to summons the persons drawn as aforesaid, to attend as jurors, at the seat of justice in said county, on the first day of the court next to be holden as aforesaid; and the sheriff receiving such venire, shall, within twenty-five days thereafter, summons such persons, by reading the same in their presence or leaving an attested copy thereof at the usual places of their abode, and shall endorse on such venire the names of the persons and time when summoned, and return the same to the clerk of the said court, on the first day of its sessions; and if any person selected juror as aforesaid, shall die or remove out of the township, before the time for drawing for jurymen for any court where such person's name shall be drawn out, it shall be thrown aside and another name taken out in lieu thereof; and if by reason of sickness or absence out of the county, before receiving such summon or other sufficient excuse be 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 so drawn, and shall remain there until drawn out at some subsequent

Continued.

drawing for jurors, when he shall serve if no disability prevents, and at every annual selection for jurors, if there be any names undrawn and remaining in either box, said trustees or managers shall select so many grand and petit jurors as make up the number to be selected in said township; and the name of each person who shall be summoned, unreturned as above, to serve on the petit jury, shall be written on a separate piece of paper, and folded and put into a box prepared for that purpose, by the clerk of the court to which said venire is returned, and when any cause is brought on to trial, the clerk or some indifferent person, by direction of the court, shall, in open court, draw out of the said box, twelve of the said papers, one after another, and if any of the said persons so named shall not appear, or be challenged and set aside, then such further number of names shall be drawn until twelve persons of those who appear and who be not set aside, be had to serve on the jury, who after being impanelled and sworn, shall be a jury to try the cause so brought on as aforesaid, and the names so drawn out after the jury is impanelled, shall be returned into the box and shall be intermixed with the other names by shaking the box before another jury be drawn, and in case there should not, by reason of the challenge or otherwise, be a sufficient number of jurors had from the names in the box to make up the panel, then the sheriff shall summons a sufficient number of talesmen to make up the deficient number, and at the close of every court the names of all such jurors as shall have served at that term shall be taken out of the jury box and destroyed, and until the first return of jurors from the township in the several counties and venire issued, as provided in this section, the jurors

Continued.

shall be summoned and impanelled by the sheriff, as heretofore practiced in the several counties.

Sec. 19. *Be it further enacted*, That where a sufficient number of grand jurors shall not appear, who had been selected and summoned, agreeable to the provisions of this act, before any court of record, at their stated term, the court shall order the sheriff or coroner (as the case may be) to summon from among the bystanders or neighboring citizens, so many good and lawful men as are necessary to complete the panel of grand jury.

Grand jurors failing to appear, panel how completed.

Sec. 20. *Be it further enacted*, That all writs and process shall run in the style of "The state of Ohio, ——— county, ss." shall bear test in the name of the presiding judge, be sealed with the seal and signed by the clerk of the proper court and shall be dated the day on which the same may issue.

Style of process.

Sec. 21. *Be it further enacted*, That every person requiring a writ, shall file a precipe with the clerk, who shall make out and deliver such writ or process as directed; and in all cases of mesne process, where the plaintiff doth not reside in the county or possess any land therein, 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.

Any person requiring a writ, to file precipe.

When writ to be endorsed by a freeholder.

Sec. 22. *Be it further enacted*, That the clerks of the supreme courts and courts of common pleas, shall be constituted commissioners of bail.

Clerks, commissioners of bail

Sheriff to
take bail.

Sec. 23. *Be it further enacted*, That the sheriff shall, in all cases where he serves a *capias ad respondendum*, take a bail bond, with one sufficient surety at least, in double the sum which appears to be due by the writ, conditioned for the appearance of the defendant, at the return of the writ, and that he will abide the order of the court and not depart without leave.

In what
cases plain-
tiffs are en-
titled to
special bail.

Sec. 24. *Be it further enacted*, That the plaintiff shall be entitled to special bail, in all actions brought on covenants, bonds, sealed bills, bills of exchange, notes, proven accounts, or where a sum is sworn to be due, as a matter of course, and in all cases where the court, from the particular circumstances of the case may direct, and order bail to be filed.

Causes for
trial, etc., to
be noticed in
the clerk's
office.

Sec. 25. *Be it further enacted*, That all causes, whether in law or equity, at issue, or causes on inquiry of damages, shall be noticed in the clerk's office for trial, ten days before the term, and the clerk shall cause a fair statement of all such actions as are noticed for trial, to be made out and put up in some conspicuous part of his office, where it shall remain until that term of the court is over.

Clerks to
issue rules
and com-
missions in
vacation.

Sec. 26. *Be it further enacted*, That the clerks of the said court are hereby severally authorized and required, to issue rules and commissions, at any time in vacation, for taking depositions, in the same manner as is prescribed by an act, entitled, "An act concerning testimony."

Judges of
common
pleas may
appoint
clerks pro

Sec. 27. *Be it further enacted*, That the judges of the common pleas may and they are hereby authorized, to appoint a clerk *pro tempore*, when-

ever it may be necessary in any county, by reason of the office being vacant.

tempore in certain cases.

Sec. 28. *Be it further enacted*, That whenever a cause shall be removed by error or writ of *certiorari*, bail or bond for prosecuting the same, shall be put in by the second day of the term to which the record is returnable, and the reasons or assignments of errors, shall be filed on the third day of the same term and in all causes removed by a writ of *habeas corpus cum causa*, the record of all proceedings in the cause, shall be removed into the supreme court, and bail, if the suit requires bail, shall be put in on the first day of the term and a trial had the same term, unless one of the parties shall, on cause shown, have leave to declare or plead *de novo*.

Proceedings in cases removed by writ of error, etc.

Sec. 29. *Be it further enacted*, That the court of common pleas shall appoint, in each county, an attorney, to prosecute in behalf of the state, who shall be entitled to receive for his services such fees or compensation as shall be allowed by law.

Court of common pleas to appoint attorney.

Sec. 30. *Be it further enacted*, That no action, plea or plaint, shall be abated or discontinued, by reason of the non-attendance of the judge or judges of any court of record within this state.

Actions, etc., not abated by non-attendance of judges.

Sec. 31. *Be it further enacted*, That in all criminal actions or complaints, every court of record is hereby authorized, to send their sheriff or coroner (as the case may be) to arrest or summons any person in the limits of the state, on suggestion made to the court, that such respondent or witness is not then residing within the county where the cause of action originated, who shall be bound

Power of courts to arrest or summons in criminal cases.

to comply with the process of the court, agreeable to law, and any officer arresting a person or persons by virtue of this section, shall have full power and authority, at all times when necessary, to take to his assistance a sufficient number of persons to be aiding and assisting in arresting, guarding and conveying such person or persons to the jail of the county, where the process issued.

Times of holding the supreme court in the different counties.

Sec. 32. *Be it further enacted*, That the supreme court for the several counties, shall be held as follows, viz.: For the county of Trumbull, the sixteenth day of August; Columbiana, the twenty-second of August; Jefferson, the twenty-fifth of August; Belmont, the second of September; Muskingum, the eight of September; Washington, the twelfth of September; Athens, the twenty-third of September; Gallia, the twenty-seventh of September; Scioto, the second of October; Adams, the sixth of October; Highland, the tenth of October; Clermont, the thirteenth of October; Hamilton, the seventeenth of October; Butler, the second of November; Warren, the fifth of November; Montgomery, the eighth of November; Green, the eleventh of November; Champaigne, the fourteenth of November; Franklin, the eighteenth of November; Fairfield, the twenty-second of November; Ross, the twenty-seventh of November; and that if any of the aforesaid days should happen on Sunday, then the court shall be holden on the next day.

In what cases the prosecutor a competent witness.

Sec. 33. *Be it further enacted*, That in all cases where an indictment shall be found on a charge of larceny, burglary or robbery, the prosecutor shall be a competent witness, but that his or her

credibility shall be left to the jury sworn to try the cause.

Sec. 34. *Be it further enacted*, That the act passed the fifteenth day of April, one thousand eight hundred and three, entitled, "An act, organizing the judicial courts;" and also, the act to amend the act, entitled, "An act, organizing the judicial courts," passed the eighteenth day of February, A. D., eighteen hundred and four, be and the same are hereby repealed.

Repealing
clause.

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

Commence-
ment of this
act.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

CHAPTER IV.

An act, regulating the fees of civil officers, in civil and criminal cases.

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

Sheriffs' fees
in common
pleas.

return thereof (subpoenas 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.

Continued. Serving a writ of possession with the aid of the *posse committatus*, 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 subpoena, for each person named therein and actually summoned, ten cents.

Traveling fees upon each writ of subpoena, four cents.

Summoning a jury, to be allowed on each issue tried, including traveling fees, fifty cents.

Summoning a grand jury, to attend the court of

common pleas, including traveling fees, to be paid by the county, two dollars.

Making out a list for striking a special jury and delivering same, fifty cents.

Summoning a special jury, including traveling fees, two dollars.

Traveling fees upon all writs, precepts and subpoenas 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. Continued.

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.

SHERIFF'S FEES IN THE SUPREME COURT.

In the su-
preme 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.

Traveling 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.

In forcible
entry and
detainer.

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.

Where the
state of
Ohio fails in
prosecution,
etc.

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 per-

formed, 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.

And for public and county services.

CLERKS' FEES IN THE SUPREME COURT, IN CIVIL CASES.

For filing ticket, sealing writ and entering the same, twenty-five cents.

Clerk of the supreme court in civil cases.

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 impanelling 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.

Continued.

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 a half cents. Continued.

Filing the record upon an appeal, writ of error, *supersedeas*, *certiorari*, or *habeas corpus*, twelve and a 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 a half cents (suits and officers of the court excepted).

CLERKS' FEES IN THE SUPREME COURT, IN CRIMINAL CASES.

For entering defendant's appearance, eight cents. Clerk of the
supreme
court in
criminal
cases.

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 a half cents.

Taking recognizance 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 a half cents.

CLERKS' FEES IN COMMON PLEAS.

Clerk of
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 panel and swearing the jury, twelve cents.

Swearing each witness, four cents.

Continued.

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 subpœna, 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 a 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 panel 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.

For probate
and testa-
mentary
business.

Administering an oath to executor or administrator and taking bond, forty cents.

Entering the order or orders for appraising the estate, twelve and a half cents.

Copy thereof, twelve and a 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 a half cents. Continued.

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.

CLERKS' FEES IN THE COURT OF COMMON PLEAS,
IN CRIMINAL CASES.

Clerk 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 defendnts' appearance or plea, six cents.

Receiving the panel 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 recognizance 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 commissiners.

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 a half cents. Recorders' fees.

All copies of records, for every sheet of one hundred words, ten cents.

Every search, twelve and a half cents.

CORONERS' FEES.

For the view of a dead body, three dollars. Coroners' fees.

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 juror, upon inquisition of a dead body, fifty cents.

The coroner, constables 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.

Justices' fees in civil cases.

For a summons or *capias*, twelve and a 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 a half cents.

Granting and issuing execution, twenty-five cents.

A certified copy of all proceedings on an appeal of *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 recognizance 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 THE JUSTICES OF THE PEACE, IN CRIMINAL CASES.

For a warrant in criminal cases, twenty-five cents. In criminal cases.

Taking an examination in writing, ten cents for every hundred words.

Swearing each person, four cents.

Taking recognizance, 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

Constables provided for, on each person therein named, ten cents.
in civil cases.

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 a 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.

In criminal For serving a warrant, on each person named cases. 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 empanelled 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. Jurors

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. Grand Jurors.

WITNESSES' FEES.

For going to, attending at and returning from court, under a subpoena, per day, fifty cents. Witnesses.

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. For certain 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.

Attorneys
and counsel-
lors in the su-
preme court.

In the supreme court, attorneys 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.

Common
pleas.

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.

Compen-
sation to
officers for
advertising.

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.

Penalty on
officers neg-
lecting to

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 offense 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, or 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 offense, 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.

publish the
table of
rates.

and for
charging
more than
limited fees.

Sec. 4. *Be it further enacted*, That so much of the act, entitled, "An act to regulate county levies," as authorizes 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

Certain laws
repealed.

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.

Continued.

Commencement 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,
Speaker of the senate.

February 21, 1805.

CHAPTER V.

An act, regulating judgments and executions.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That all lands, tenements and real estate, shall be liable to be levied upon and sold by execution, to be issued on judgments which may hereafter be recovered in any court of record within this state, for the debt, damages and costs, due and owing on such judgments.

All lands, etc., liable to execution.

Sec. 2. *Be it further enacted,* That the lands, tenements and real estate of the defendant, shall be bound and liable to the satisfaction of the judgment from the first day of the term in which said judgment is obtained, and the goods, chattels and personal estate of the defendant, shall be bound by and liable to, the satisfaction of the judgment, from the time of their being taken in execution by the sheriff or other officer, and not before.

Real and personal estate, when bound by judgment.

Sec. 3. *Be it further enacted,* That when two or more executions on judgments shall be issued against the goods, chattels, lands, tenements and real estate, or against the goods and chattels only of the same person, except in the cases hereinafter excepted, the writ of execution that is first delivered to the sheriff shall be first satisfied, and the sheriff shall endorse on every execution by him received, the day of the month, the month and the year, that he received the same.

Property, how disposed of when two or more executions levied.

Sec. 4. *Be it further enacted,* That if two or more executions shall be delivered to the sheriff on the same day, against the same property of

Two or more executions issuing the same day, no

preference given.

the same defendant, no preference shall be given to either writ, but if there be not property found sufficient to satisfy all the executions, the sum of money made shall be divided between the plaintiffs issuing such executions, in proportion to the amount of their several demands.

When two or more executions taken out within or ten days after the term.

Sec. 5. *Be it further enacted*, That if two or more writs of execution be taken out against the lands, tenements and real estate of the same defendant and delivered to the proper officer within the term, or within ten days next after the close of the term in which the judgment is entered, on which such writs are issued, then no preference shall be given to either writ, but the money made, if not sufficient to satisfy all the said writs, shall be divided amongst the said plaintiffs in proportion to their several demands.

Execution to be levied on lands, etc.

Sec. 6. *Be it further enacted*, That any execution to be levied on lands, tenements or real estates, shall command the officer to whom it is directed, that of the goods and chattels of the party against whom it is issued, he cause to be made the monies contained in the said writ, and that for want of goods and chattels, he cause the same to be made of the lands, tenements and real estate of the defendant, and the exact amount of the debt, damages and costs, shall be severally endorsed on the back of the execution.

Sheriff's duty.

Sec. 7. *Be it further enacted*, That the sheriff shall immediately after receiving such writ, levy on the goods and chattels of the defendant, to satisfy the monies contained in the said writ, but if goods and chattels be not found, the sheriff shall endorse on the said writ the words *nulla bona*,

and forthwith levy the said execution on the lands, tenements and real estate of the defendant, of which the said defendant was seized, at or after the first day of the term in which said judgment was obtained: *Provided*, That judgments voluntarily confessed in open court, shall only have a lien on lands, tenements or real estate, from the day on which they are actually signed or entered.

Sec. 8. *Be it further enacted*, That if goods and chattels levied upon as aforesaid, be not sufficient to satisfy the whole of the monies contained in the said writ or writs, the said officer shall endorse on the said writ or writs the amount made of such goods and chattels, and *nulla bona* as to the residue, and forthwith levy for the residue on the lands, tenements and real estate of the said defendant, according to the command of the said writ or writs; and in case goods and chattels be levied upon and returned as remaining in the officer's hands, unsold for the want of buyers, such officer shall return with the writs a true and perfect inventory of the goods and chattels so taken.

Where goods, etc., levied on are not sufficient, to endorse, etc.

Sec. 9. *Be it further enacted*, That the sheriff or other officer who levies upon any goods or chattels, shall, before he proceeds to sell the same, cause public notice to be given of the time and place of sale, either by publishing the same in a gazette, printed within his county, or by advertising the same in four of the most public places within this county, at least twenty days before such sale, two of which advertisements shall be in the township in which such sale is to be made, and no lands, tenements or real estate, shall be exposed

Public notice to be given twenty days prior to sale of goods, etc., and

to sale on any writ of execution, until public notice by advertisement shall have been given of the time and place of such sale in some newspaper printed in the county, or in five public places within the county, two of which shall be in the township in which the said lands, tenements and real estate may lie, at least thirty days before such sale, and if any sale shall be made by the sheriff or other officer in either case, without notice having been given as aforesaid, the officer making such sale, shall be liable to the action of the defendant, and of every other person injured thereby.

thirty days
for real
estate.

Real estate
yielding
probably
sufficient in
seven years
to satisfy
judgment
at request
of defend-
ant, inquest
to be called.

Sec. 10. *Be it further enacted,* That if execution be levied upon real estate that is improved and of a productive nature, and that will probably yield clear annual profits and rents, beyond all reprises, sufficient to satisfy the judgment or judgments, with lawful interest, within seven years, the officer levying such execution, if required by the defendant, his agent or attorney, shall call an inquest of twelve good and lawful men, and the said inquest on oath, shall return to the said officer, under their hands and seals, the clear annual profits of the said lands, tenements and real estate, for seven years then next to ensue, according to the best of their skill and judgment, upon view of the premises and other legal evidence, and if it shall appear by the said return, that the clear profits of such lands, tenements and real estate will, within seven years, satisfy and pay the judgment or judgments, with all legal costs and interest, the said officer forthwith shall assign and deliver possession of the said lands, tenements and real estate, to the plaintiff, for such time as will fully discharge the said judgment or judgments, with interest and costs, at the rate specified in the said

Duty of the
inquest.

Should it ap-
pear suf-
ficient, om-
ficer's duty.

return, but if the plaintiff refuse to receive or accept the possession aforesaid, then it shall be delivered to any other person, who will secure the sum or sums aforesaid, to be paid in yearly installments to the plaintiff, within the time limited; or if it shall appear, by the return of the said inquest, that the said lands, tenements and real estate, will not be sufficient to satisfy the judgment or judgments, with interests and costs, within the space of seven years; or if, before the said extent be out, any other execution be levied on the same lands, tenements and real estate, which, together with what may remain due upon such extent, cannot be satisfied out of the yearly profits of such lands, tenements and real estate so extended, within seven years from the time of such levy, then the said officer, forthwith shall advertise and sell the said lands, tenements and real estate, in the same manner as if no such inquest had been required, and at the next term, to make a true return of all his said proceedings: *Provided*, That the aforesaid jury of inquest shall (if the premises are found insufficient to extend, in manner aforesaid, to satisfy the execution or executions that may have been levied on the same) value the same and make return thereof; and *provided also*, that no lands, tenements or real estate, shall be sold by virtue of any execution, unless such lands, tenements and real estate shall, at public auction, sell for not less than two-thirds of the valuation set on the same, by such inquest.

If not sufficient, officer's duty to sell, etc.

Provided, the premises are insufficient, etc., the inquest to value same, etc.

And provided, that lands, etc., shall not be sold for less than two-thirds of its value.

Sec. 11. *Be it further enacted*, That if execution be levied on lands or real estate, that is not of a productive nature, it shall be the duty of the officer levying such execution, if required by the

Officer levying on lands, etc., unproductive.

defendant, his agent or attorney, to call an inquest of five good and lawful men, as is herein before directed, who shall return, on oath, to the said officer, under their hands and seals, an estimate of the real value of said estate, according to the best of their skill and judgment, upon actual view of the premises, and the officer, on receiving such return of the inquest, forthwith shall advertise and sell such real estate: *Provided*, it shall sell for not less than one-half of the returned value by the inquest.

To call an inquest of five men.

Their duty.

Officer to advertise and sell.

Proviso.

Sheriff's deed as valid as though made by the person against whom the execution issued.

Sec. 12. *Be it further enacted*, That the sheriff or other officer, who, by such writ or writs of execution, shall sell the said lands, tenements or real estate so levied upon, or any part thereof, shall make to the purchaser as good and sufficient a deed of conveyance, for the lands, tenements or real estate so sold, as the person or persons against whom such writ or writs of execution were issued, might or could have made for the same, at or any time after the said lands, tenements or real estate, became liable to the said judgment, which said deed shall vest in the said purchaser, as good and as perfect an estate in the premises therein mentioned, as was vested in the said defendant, at or after the time when the said lands became liable to the satisfaction of the said judgment; and the said deed or conveyance so to be made by the sheriff or other officer, shall recite the writ or writs, and the judgment or judgments, or the substance thereof, by virtue whereof the said lands, tenements and real estate were sold as aforesaid, and shall be acknowledged, proved and recorded as is or may be required by law, to perfect the conveyance of real estates in other cases.

Sec. 13. *Be it further enacted*, That if the sheriff

or other proper officers, who hath made or shall make sale of any lands, tenements or real estate, by virtue of an execution against the same, shall abscond or be rendered unable, by death or otherwise, to make a deed of conveyance for the same, it shall be lawful for any succeeding sheriff or other proper officer, on receiving a certificate from the court from which the execution issued, for the sale of the said lands, tenements or real estate, signed by the clerk or prothonotary, by order of the said court, setting forth, that sufficient proof hath been made to the said court, that such sale was fairly and legally made, and on tender of the purchase money, or if the purchase money or any part thereof be paid, then, on proof of such payment and tender of the balance, if any be, to seal and deliver to the said purchaser or his legal representative, a deed or conveyance of the said lands, tenements or real estate, so sold, which deed shall be as good and as valid and have the same effect, as if the sheriff or other officer, who made the sale, had executed the same in due form of law.

In case of sheriff's death, etc., deed to be executed by his successor.

Sec. 14. *Be it further enacted,* That if, on any sale to be made as aforesaid, there shall remain an overplus of money, in the hands of the sheriff or other officer, after satisfying the writ or writs of execution, with interest and legal costs, then the said sheriff or other officer, shall pay over to the defendant, or his legal representatives, such overplus on demand.

Proceeds of sale exceeding the amount of debt and costs, sheriff to pay overplus to defendant.

Sec. 15. *Be it further enacted,* That the purchaser, his heirs or assigns, shall hold the lands, tenements or real estate, by him or her purchased as aforesaid, free and clear of all other judgments

Purchaser to hold lands, etc., clear of all other judgments.

ments not levied.

and recognizances whatsoever, on or by virtue of which, execution shall not have been taken out and levied on the lands, tenements and real estates so purchased.

Judgment reversed, title of purchaser not affected.

Sec. 16. *Be it further enacted*, That if any judgments, in satisfaction of which any lands, tenements or real estate, belonging to the defendant, hath or shall be sold, shall, at any time thereafter be reversed, such reversal shall not affect or defeat the title of the said purchaser; but in such case, restitution shall be made only of the money for which such lands, tenements or real estate were sold, with lawful interest from the day of sale.

Officer amerced in the amount of the debt and costs on neglect or refusal to execute, sell or pay over to plaintiff on motion.

Sec. 17. *Be it further enacted*, That if any sheriff or coroner, shall refuse or neglect to execute any writ of execution to him directed and which hath or shall come to his hands, or shall neglect or refuse to sell any goods, chattels, lands, tenements or real estate, according to the writs to him directed and delivered for that purpose, or shall neglect to return a just and perfect inventory of all and singular the goods and chattels, by him taken in execution, unless the said sheriff or coroner shall return that he hath levied the value of the debt, damages and costs, or shall neglect or refuse, on demand made for that purpose, to pay over to the plaintiff or his legal agent or attorney, all money by him received, for the use of the said plaintiff, at any time after receiving the same, he shall, on motion in open court, be amerced in the amount of the said debt, damages and costs, to and for the use of the said plaintiff: *Provided*, That three days' notice, in writing, shall be given to the said sheriff or coroner, by the plaintiff or

Provided three days notice be given.

his attorney, before any motion shall be made for such amercement, which amercement shall be entered on the records of the court and shall have the same force and effect as a judgment; whereupon execution, in the name and for the use of the plaintiff, or his legal representative, may, on motion, be awarded against the goods, chattels, lands, tenements and real estate of the said sheriff or coroner. *Provided also*, That nothing herein contained, shall prevent such plaintiff from proceeding against such sheriff or coroner, by attachment, according to law, at his election. Proviso.

Sec. 18. *Be it further enacted*, That the party at whose suit any person may stand charged in execution, for any debt or damages recovered, his, her or their executors or administrators, may, after the death of the person charged and dying in execution, lawfully sue forth and have new execution against the lands and tenements, goods and chattels, or any of them, of the person so deceased, in such manner and form, to all intents and purposes, as he, she or they might have had by the laws of the state, had the person never been taken and charged in execution: *Provided* Proviso. *always*, That nothing in this section shall be construed so as to authorize the party, his, her, or their executors or administrators, at whose suit any person shall be in execution and die, to have execution against the lands or tenements of the person so dying, which shall, at any time after his or her being taken and charged in execution, be, by him or her, sold *bona fide*, for the payment of just debts, and the money which shall be paid for the land so sold, either paid or received, to be paid to his or her creditors. Party dying charged in execution, new execution may issue against lands, goods, etc.

Sec. 19. *Be it further enacted*, That nothing in

Lands sold
by the state
not affected
by this act.

this act contained, shall in anywise extend to or affect the sale of lands by the state, for any debt or taxes due thereto; but all lands in this state, the property of individuals, who may be indebted to the state, or any corporate body, either for taxes or otherwise, shall be sold, without extent or valuation, for the discharge of such debt or taxes, agreeably to the law or laws of this state in such case made and provided, anything in this act to the contrary notwithstanding.

Certain laws
repealed.

Sec. 20. *And be it further enacted,* That the law, subjecting real estate to execution for debt, adopted from the Pennsylvania code and published at Cincinnati, the first day of June, one thousand seven hundred and ninety-five, and an act, passed under the territorial government, the nineteenth day of January, one thousand eight hundred and two, so far as the same may relate to judgments to be entered, after the passage thereof, be and the same is hereby repealed. But for the purpose of satisfying all judgments which have heretofore been entered, the same shall be and remain in force and for no other purpose whatsoever, anything in this act to the contrary notwithstanding.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 16, 1805.

CHAPTER VI.

An act, to amend an act, entitled, "An act, establishing an university in the town of Athens."

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That James Denny, Emanuel Carpenter, Jr., Isaac Dawson, Pelatiah White and Ezekiel Deming, residents of this state, are appointed appraisers of the two college townships numbered eight and nine, in the fourteenth range of townships within the grant of land made to the Ohio company of associates, and the said appraisers or any three of them, on oath or affirmation, are hereby required to appraise the townships aforesaid, within nine months, at the present real value as in its original and uncultivated state, and make report thereof to the board of trustees of the said university; and the said trustees shall lease the same to any persons who have or may apply, agreeable to law, for the term of ninety-nine years, renewable forever, with a fixed annual rent of six per centum on the appraised valuation: *Provided,* That no lands shall be leased at a less valuation than at the rate of one dollar and seventy-five cents per acre.

Appraisers appointed.

Their duty

Proviso, as to leasing.

Sec. 2. *Be it further enacted,* That the commissioners aforesaid shall meet on the first day of April next, at the town of Athens, who shall then proceed to discharge the duties imposed on them by this act, and the act to which this act is an amendment, and the same to have performed within the time mentioned in this act.

Commissioners to meet first of April.

Sec. 3. *Be it further enacted,* That the trustees

Trustees
authorized
to remove
persons neg-
lecting to
take lease,
etc.

of the corporation of the said university lands, are hereby authorized and empowered, to remove, by due course of law, all persons living on said lands, in case such persons refuse or neglect to take leases within six months after the valuation of the lands aforesaid.

Secretary
of state to
give notice
to com-
missioners.

Sec. 4. *Be it further enacted*, That the secretary of this state, shall cause notice to be given as soon as convenience will permit, to each of the commissioners aforesaid, of their appointment under this act; and the commissioners respectively, on receiving the notice aforesaid, shall, within a reasonable time thereafter, forward to the governor of this state, their determination to accept or not to accept the appointment under this act made.

Part of
former act
repealed.

Sec. 5. *And be it further enacted*, That so much of the aforesaid act, passed the eighteenth day of February, one thousand eight hundred and four, as is contrary to this act, be and the same is hereby repealed.

Commence-
ment of this
act.

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

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 21, 1805.

CHAPTER VII.

An act, allowing and regulating writs of attachment.

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 debtor absconds to the injury of his creditors, as he verily believes, and shall file such oath or affirmation with the clerk of the supreme court, or the clerk of the 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, wheresoever 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.

Creditor,
agent or at-
torney mak-
ing oath.

clerk to
issue writ.

Quashed if
issued be-
fore oath,
etc.

Sec. 2. *Be it further enacted,* That the 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 credible 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

Manner of
executing
writ.

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 the property so attached shall be bound from the time of serving such attachment.

Property attached, to remain in the keeping of the officer.

unless bond and security be given for its forthcoming.

Proviso, in case of unavoidable accident.

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 sufficient 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 forthcoming, to answer the judgment of the said court: *Provided*, That in case it shall 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.

Persons having property of defendant in possession.

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 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 cause notice to be given in one of the public newspapers circulating in this state, of such attachment, which notice shall state the names of the parties, the court from which the writ issued and the sum for which it issued, and shall be continued for six weeks at least.

if not come
at to
summon
garnishee.

On refusal
to appear,
court to
proceed by
attach-
ment.

Clerk to give
notice, etc.,
on return of
writ.

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

Plaintiff
making oath
that the
garnishee
hath money,
etc.,

suit to be instituted by *capias ad respondendum* against garnishee.

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 to 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.

If nothing be found due from defendant garnishee to recover costs.

Sec. 6. *Be it further enacted*, That the suits 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 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 custody or possession; or if, in such suit, so instituted against the garnishee, the plaintiff shall be nonsuited or 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 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 the issuing of the writ of attachment, belonging to such de-

Garnishee delivering up moneys, etc., costs to be paid out of proceeds.

fendant, 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.

On refusing to confess, to 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 enquire 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 in 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 the inquisition, 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 lie in the said defendant, then such costs shall be paid by such claimant.

Property attached claimed by another officer to summon jury.

Sec. 8. *Be it further enacted*, That the court, at the return of such writ of attachment, shall ap-

Court to appoint auditors.

point three discreet persons to audit and adjust the accounts and the 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 term 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 have made default, and those defaults shall have been entered by the clerk: *Provided also*, That if the said defendant in attachment, shall appear at either of the said terms, before judgment shall be entered as aforesaid, and shall enter into special bail, then the said attachment and all proceedings thereon shall be stayed as to the suit in which such bail shall be given, and if special bail shall be given to the suit of the plaintiff in such attachment, then all costs that may have accrued on such attachment shall abide the event of such suit, and all further proceedings on the attachment shall cease.

Judgment on report. Proviso.

Defendant's default entered.

Proviso. if defendant enters special bail.

Proceedings thereon stayed.

Auditors to issue warrant to summon witnesses.

To examine them on oath.

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 authorized 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 the said auditors, or any two of them, to issue their warrant, under their hands and seals, directed to the sheriff or any constable within the 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 defendant's, in his custody or possession, every person so offending, shall be deemed guilty of a contempt of the

Punishment
for refusing
to obey.

Auditors
authorized
to issue
warrant to
seize property.

Penalty on
refusing to
deliver.

court by whom the said auditors were appointed, and shall be fined in any 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.

**Judgment
by default,
scire facias
to issue.**

Sec. 10. *Be it further enacted*, That when, on the report of the auditors, judgment shall be entered, by default, 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 show 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

**Plaintiff ac-
cepting a
tender from
garnishee,
defendant
to pay costs.**

**Judgment
against
garnishee in
certain
cases.**

custody and thereupon judgment shall be entered against the said garnishee, for the amount so found, with costs; and if the said garnishee shall 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 hath or had 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 the jury find for the garnishee, he shall recover cost against the plaintiff and have execution for the same.

Plaintiff to pay costs in certain cases.

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 demand of the plaintiff and of the other creditors who may have applied, as is hereinbefore directed, together with the 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

On judgment by default, the auditors to direct the sale of lands.

Provided notice of sale be given.

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 until 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, credits and choses in action, which may be sold by virtue of this act, shall be transferred or indorsed by the said auditors, or any two of them, to the purchaser, which indorsement shall transfer the right and property thereof to the said indorsee, so as to enable him to sue for and recover the same in his own name and for his own use: *Provided also*, That if any lands taken in attachment, will rent for the amount of the debts proved against such defendant in seven years, as in other cases, such lands shall not be sold as goods and chattels.

Lands not to be sold in less than twelve months from return of writ.

Perishable goods when sold.

Notice of sale to be given.

Proviso, if lands will rent.

Notice of sale of lands, etc., to specify time and place.

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 con-

tinued by adjournment, if necessary, the said auditors, or any two of them, shall distribute among the said plaintiffs and creditors, equally and in a ratable 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 sale 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.

Auditors to make equal distribution of proceeds among the creditors.

and make return to the clerk.

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.

All sales, etc., made by auditors to be binding.

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 rebating of legal

Debts not due to be admitted on application.

interest for what he shall receive on such debt, to be computed from the actual payment thereof to the time such debt would have become due.

Lands, etc., of nonresidents liable to attachment.

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 hereinbefore 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 the 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.

Provided, the applicant makes oath that the defendant is not a resident.

No judgment to be entered until after three months' notice.

Where two or more are jointly bound the writ may issue jointly or separately.

Sec. 16. *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 ad-

ministrators, and the estate so attached, whether it be joint or separate, shall be liable to be sold and assigned in manner aforesaid.

Sec. 17. *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 the 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.

By death of nonresident debtor, writ may issue against heirs, etc. If defendant die after issue, writ not to abate.

Sec. 18. *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.

Nonresident creditor entitled to certain benefits, giving bond.

Sec. 19. *Be it further enacted*, That the auditors shall be allowed a reasonable compensation for their services, which shall be taxed by the court and paid out of the defendant's estate.

Compensation to auditors.

Justices of the peace required to issue attachment under certain restrictions.

On proof of debt to give judgment and execution.

Effects not sold under three months unless perishable.

Provided, no judgment to be entered within thirty days.

Duty of plaintiff.

Attachment from supreme court and supersedeas.

Sec. 20. *Be it further enacted*, That any justice of the peace within this state, on application and affidavit 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 defendant's 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, to the end that the debtor or his agent may redeem them, and the property so attached shall be inventoried in such manner as the justice may direct; and if the plaintiff shall fail in proving a demand against the defendant, or in proving the effects in the hands of the garnishee, he shall pay cost. *Provided*, That no judgment shall be entered by such justice within thirty days from the time of suing out such attachment, and it shall be the duty of such plaintiff forthwith after the issuing of the attachment, to advertise in three of the most public places within the county, that an attachment hath been taken out from such justice against such absconding debtor; and any attachment issued from the supreme court or from any court of common pleas of the same county, shall be a supersedeas to all

attachments issued by a justice of the peace against the same defendant, and which may be undetermined at the time of serving the said writ; and it shall and may be lawful for the officer executing such writ, to take into his possession all goods and chattels attached by the constable, and the plaintiffs in such attachment so superseded, shall be entitled to their costs and also to their several debts, in proportion with the other creditors, as in this act before mentioned: *Provided also*, That where the demand preferred to the justice of the peace by any of the creditors, exceeds the sum of fifty dollars, the justice shall forthwith make out a transcript of his proceedings and certify the same to the court of common pleas. *And provided also*, That if on the return of an attachment issued against the goods, chattels, rights, credits, monies and effects of an 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.

Officer to take possession of goods attached by constable.

Proviso, where the demand exceeds fifty dollars, to certify to common pleas, etc.

Proviso, where goods, etc., cannot be found,

to issue against lands.

Justice to certify to common pleas.

Certain laws repealed.

Sec. 21 *Be it further enacted*, That the act, entitled, "A law, allowing domestic attachments," published at Cincinnati, the first day of June, one thousand seven hundred and ninety-five; and also

the act, entitled, "A law, regulating domestic attachments," published at Cincinnati, the first day of June, one thousand seven hundred and ninety-five; and also a law, entitled, "A law, allowing foreign attachments," published at Cincinnati, the fifteenth day of July, one thousand seven hundred and ninety-five, and also the act, entitled, "An act, allowing and regulating writs of attachment," passed the eighteenth day of January, one thousand eight hundred and two, be and the same are hereby repealed: *Provided*, That nothing herein contained, shall affect the proceedings or any attachment now pending and undetermined.

When to
take effect.

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 21, 1805.

CHAPTER VIII.

An act, for granting license and regulating ferries, taverns and stores.

Ferry
keepers to
obtain
license,

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That no person shall be authorized to keep a ferry on or across any of the waters, running through or bounding this state, unless he shall have first obtained a license therefor, from

the associate judges of the proper county, whilst in session, or a permit from the clerk thereof, in case of the recess of the court. All applications for a new ferry shall be by petition, of twelve householders of the township and in the neighborhood where such ferry is proposed to be kept, and the applicant shall advertise his intention to make application to the associate judges, in three of the most public places within the township, at least thirty days before the sitting of the court to which he applies, and keep an advertisement of the same on the court-house door, during the first two days of said term.

from associate judges.

How to make application and give notice.

Sec. 2. *Be it further enacted,* That every person obtaining license to keep a ferry, shall provide and keep, in complete repair, a good and sufficient boat, for the safe conveyance of persons and property, and (when the river or creek over which the ferry is kept is passable) shall, with a sufficient number of hands to work and manage the boat, give due attendance, from day-light in the morning until dark in the evening, and shall moreover, at any hour of the night or day (that the creek or river is passable) when called upon, convey the mail or other public express across said ferry, and if any person obtaining a license aforesaid, shall fail or neglect to perform the duties herein enjoined or any of them, the person so offending shall forfeit and pay, for every such offense, a sum not exceeding five dollars, to be recovered and adjudged of by any court having jurisdiction of the same, at the suit of any person prosecuting and making proof of the same. And if any keeper of a ferry as aforesaid, shall demand and receive a higher rate or sum for ferriages, than shall be allowed by the commissioners of the

To keep good and sufficient boats and hands.

Ferries to be kept from daylight until dark.

When in the night, etc.

Penalty for neglect of duty.

or taking more ferriage than allowed by commissioners.

county where such ferry is kept, the person so offending shall pay for the first offense, a fine not exceeding two dollars, and for every succeeding offense four dollars, recoverable in any court having jurisdiction of the same, by any person making due proof thereof.

Tavern
keepers, etc.

Sec. 3. *Be it further enacted*, That no person shall be permitted to keep a tavern, or sell, barter or deliver for money or other article of value, any wine, rum, brandy, whiskey or other spirits or strong drink, by less quantity than one quart, any cider, beer or ale, by less quantity than one gallon, unless the person shall have first obtained a license from the associate judges of the proper county, or a permit from the clerk thereof, in the recess of the court, which license or permit shall be granted by application to the associate judges or clerk, as directed by the first section of this act; but where the same person or persons applies for license, either for a tavern or ferry, in the same house or at the same place, for which the person has formerly had license, it shall not be necessary for him or them to advertise nor apply by petition, unless objections are made to such tavern or ferry, by at least twelve freeholders in the township.

How to
make appli-
cation and
by whom
licensed.

Penalty for
neglecting
to furnish
good enter-
tainment.

Sec. 4. *Be it further enacted*, That every person obtaining license for a tavern, shall provide and furnish good, suitable entertainment and accommodation for man and horse, and for failure therein, shall be liable to the suit of the party aggrieved for damages and costs, to any amount not exceeding ten dollars, recoverable in any court having jurisdiction thereof, on proof of the facts: *Provided*, That nothing in this section shall be construed, so as to compel any tavern-keeper, to

Proviso.

entertain any person, being in the neighborhood, whose situation is not such as reasonably to require entertainment.

Sec. 5. *Be it further enacted*, That if any person licensed to keep a tavern, or any retailer of wine, spirituous liquors or strong drink, shall knowingly permit or allow of any sporting or rioting in such house, or on the premises, on the sabbath, or at any time knowingly allow or permit any kind of betting or gaming for money or any other article of value, either at cards, dice, billiards, bowles, shovel-board, fives, or any other game of hazard or chance, to be played or carried on within their house, out-house, shed, arbor or other place in their occupancy, or shall suffer any disorders, revellings or drunkenness therein, every such tavern-keeper or retailer, on being thereof legally convicted before any court having cognizance thereof, shall, for every such offense, be fined in any sum not exceeding twenty dollars, at the discretion of the court, with costs, at the suit of any person making proof of the same, and the license of such person shall thereupon become void, and the offender incapable of being again licensed for one year thereafter.

Suffering
games, bet-
ting, etc.,
how
punished.

Sec. 6. *Be it further enacted*, That no person shall be permitted to retail any merchandise other than the growth or manufacture of the United States, within this state, or on any of the waters running through or bounding the same, unless the person shall first have obtained a license from the associate judges, whilst in session, of the proper county, or a permit from the clerk thereof, in case of the recess of the court.

Persons re-
tailing merchan-
dise, to
obtain
license.

Sec. 7. *Be it further enacted*, That all applica-

Licenses under this act, how applied for and obtained.

tions for license or licenses made necessary by this act, shall be made to the associate judges of the proper county, whilst in session, except as before excepted, and on the judges agreeing to grant the same, the clerk shall by them be directed, to give to the applicant a certificate thereof, mentioning therein the price of the license, which the applicant shall deliver to the county treasurer, and pay him the sum therein specified and take his receipt therefor, and shall deliver the same to the clerk of the court, who shall thereupon give him a license, for which he shall pay the clerk fifty cents.

Penalty for retailing merchandise, liquor or keeping a ferry without license.

Sec. 8. *Be it further enacted*, That if any person shall retail any merchandise, not the growth of the United States, or shall retail any liquor or strong drink, or shall keep any ferry without having first obtained a license or permit therefor, the person so offending, shall forfeit and pay, for every such offense, a sum not exceeding thirty dollars, to be recovered as other fines under this act are recoverable.

License granted for one year.

Sec. 9. *Be it further enacted*, That all licenses granted under this act, shall be dated on the day granted, and shall be good for one year and no longer; but any person, whose license expires in the recess of the court, may apply to the clerk, who shall grant a permit until the next court, on the applicant's having paid the amount of the price thereof, to the county treasury, and producing his receipt therefor and the clerk shall keep a record of licenses and permits granted as aforesaid.

Expiring in recess, how to apply.

Sec. 10. *Be it further enacted*, That the price

of license for retailing merchandise, shall be ten dollars per year: *Provided nevertheless*, That where any travelling merchant or peddler, shall apply for a license or permit, in any county of this state, to retail goods as aforesaid, for a shorter period than one year, the court or the clerk as aforesaid, shall grant such person a license or permit, for any term not less than three months, on such merchant or peddler paying into the county treasury a sum proportioned to the time he shall make application for, at the same rate per annum, that is paid by settled merchants.

License for retailing merchandise, ten dollars.

Proviso in favor of peddlers.

Sec. 11. *Be it further enacted*, That the commissioners shall, at their annual meeting in June, fix the price of tavern license in every city, borough, town, village and township within the county, which shall not be less than four dollars nor more than twelve dollars, having special respect to the situation and circumstance of the place, the probable advantage that may arise to the person licensed and the utility to the public, but no discrimination shall be made in the price of license in the same city, borough, town or village, on the same road through any township, and shall, at the same time, determine and fix the price of license for every ferry kept within the county or on the waters bounding the same, which shall not be less than one dollar nor more than eighteen dollars having special respect to the value, situation and income of the ferry, and they shall, in like manner, fix the rates of ferriage, which the ferry-keeper may demand and receive, for the transportation of persons or property, which shall not exceed ten cents for each foot person; twenty cents for man and horse; one hundred cents for loaded wagon and team; seventy-five cents for any

Commissioners at their annual meeting to fix the price of license for ferries and taverns.

Ferry license not less than one nor more than eighteen dollars.

Rates of ferriage, not to be exceeded.

Commissioners duty.

other four wheeled carriage or empty wagon and team; fifty cents for a loaded cart and team; thirty-seven and a half cents for empty cart and team, sled or sleigh and team; ten cents for every horse, mare, mule, ass or head of neat cattle; three cents for every sheep or hog. It shall be the duty of the commissioners to furnish every person taking out a license to keep a ferry, with a list of the rates of ferriage, which list the ferry-keeper shall have posted upon the door of his ferry-house, and it shall be the further duty of the commissioners, immediately after their annual meeting in June, to furnish the clerk of the court with a list of the price of tavern license for each township, in their respective counties, and also with a list of the price of license to be paid by each keeper of a ferry.

Duties of clerk

Sec. 12. *Be it further enacted*, That the clerks of the courts of common pleas, of each county in this state, shall, on the first day of each term of the court, deliver to the grand jury an accurate list of all persons holding license under the authority of this act, and it shall be the duty of the grand jury to make inquiry and give information of any violations of this act, and on sufficient proof of the offense, to find a bill of indictment against the offender.

and grand jury.

Suits under this act to be in the name of the state of Ohio.

Persons failing in prosecution, to pay costs.

Sec. 13. *Be it further enacted*, That all actions or suits brought under the authority of this act, shall be in the name of the state of Ohio, and if the person bringing the suit fails to prosecute the same and make good the charge to final conviction, the person so failing shall pay the costs; and all fines and forfeitures incurred under this act, which may be recovered, shall be paid to the

sheriff or constable (as the case may be) who serves the process, and the court taking cognizance thereof, shall keep a record of the same, and the sheriffs and constables shall pay all fines by them received, by virtue of this act, into the county treasury within forty days after receiving the same, taking the treasurer's receipt therefor, a true copy of which they shall deliver to the commissioners before their next annual meeting, and the justices of the peace and the clerks of the court before whom any fine is recovered, shall make out an accurate list thereof, and forward the same to the commissioners at their annual meeting in June, and the clerks of the courts of common pleas shall, at the same time, make out and forward, in like manner, an accurate list of all licenses by them issued during the last year, with the prices thereof.

Fines, how disposed of.

Clerk to furnish commissioners with a list of licenses, etc.

Sec. 14. *Be it further enacted*, That if any justice of the peace, clerk of the court of common pleas, sheriff or constable, shall neglect or fail to comply with the requisitions of this act, the person so offending, shall forfeit and pay for every such offense, a sum not exceeding fifty dollars, at the discretion of the court having jurisdiction thereof, to be recovered on suit of the commissioners, for the use of the county.

Penalty on persons failing to comply with this act.

Sec. 15. *Be it further enacted*, That any person feeling aggrieved by the commissioners, in fixing the price of licenses or rates of ferriage, may have an appeal to the judges of the court of common pleas, by notifying the commissioners of their intention, the ground of their complaint, the time and place of trial, at least ten days before the time fixed upon, and the judges of the court of common pleas shall, at their next meeting, hear and deter-

Appeals allowed

mine in the case, and see that right and justice be done.

Repealing
clause.

Sec. 16. *And be it further enacted*, That all laws and parts of laws, relating to the subject of this act, are hereby repealed.

Commence-
ment.

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 1, 1805.

CHAPTER IX.

An act, regulating county levies.

Objects of
taxation to
defray
county
expenses.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That all lots and out-lots, in towns, all stud horses, and all other horses, mares, mules, asses and neat cattle, of three years old and upwards, and all houses which shall be valued at one hundred dollars or upwards, within this state, are hereby declared chargeable for defraying the county expenses, in which they may respectively be found.

Township
listers to
take list of
taxable
property.

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 next, to demand and receive from each person in the town-

ship, having property chargeable as aforesaid, a written list thereof, signed by the person owning or holding the same, or his, her or their agent; and each lister shall make out two accurate alphabetical lists thereof, in form following:

Proprietors' names.	Houses.	Value.	Lots.	Value.	Stud horses.	Rate.	Horses, mules and asses above three years old.	Rate.	Neat cattle above three years old.	Rate.	Total am't.
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Form thereof.

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 second Monday of June, annually.

Copies, how disposed of.

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 of the value of one hundred dollars and upwards, all lots in towns, all out-lots adjoining thereto, and after having ascertained the value thereof, to make out and sign two fair and accurate 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 next, 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 second Monday of June: *Provided*, That all in and out-lots in town, whether

Appraisers of property, their duty.

Proviso.

Lots listed and sold by their numbers.

improved or unimproved, shall be listed for taxation by their respective numbers, 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.

Persons refusing to give lists of their property, etc.

Sec. 4. *Be it further enacted,* That if any owner, occupier or possessor of any of the aforesaid objects of taxation, his, her or their overseer, agent or attorney, shall refuse or neglect to give in a true list thereof to the lister, when by him required, any other person may give in a list of the property, and if no other person does, the lister may take a list thereof, distinctly noting the list taken in either of these ways, and the commissioners shall tax such property fourfold, the one-half to the use of the county, and the other half to the lister or person giving in said property, to be paid by the collector when collected, on order of the commissioners: *Provided,* That all lists given in agreeable to the provision of this section, shall be on oath or affirmation of the person giving in the same.

To be taken by lister and taxed fourfold.

Proviso.

Lists given on oath.

Persons unable to give in list when required.

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 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, on oath, of all the 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 their respective townships, as herein before directed, such lister or appraisers shall forfeit and pay, for every such offense, any sum not exceeding two hundred dollars, at the discretion of the commissioners, to be recovered at their suit, in any court having jurisdiction of the same, and by them paid into the county treasury, for the use of the county.

Lister and appraiser, penalty for neglect of duty.

Sec. 7. *Be it further enacted*, That the commissioners of each and every county in this state, shall, at their annual meeting on the second Monday of June, levy a county tax, agreeable to the following rate of taxation, viz: On each stud horse, a sum not exceeding the rate he stands at the season; on all other horses, mares, mules and asses, a sum not exceeding thirty cents per head; on all neat cattle, 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 per cent. on the appraised value thereof.

Commissioners at annual meeting to levy county tax.

Rate of taxation to be served.

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 lister's return, one of which they shall deposit with the county treasurer, for the inspection of those who may wish to examine the

Commissioners to make out two alphabetical duplicates.

How disposed of. same, and deliver the other to the collector of the township, on or before the twentieth of September annually.

Lister to be collector, Sec. 9. *Be it further enacted,* That the lister of each township shall be the collector of the county taxes within the same; and the collectors aforesaid, shall severally, on or before the first day of September, annually, give bond to the commissioners in behalf of the county, in such surety as the 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, and the collector and his securities shall not be released from such bond, but by paying the full amount of the tax contained on his duplicate, into the county treasury, and producing the treasurer's receipt therefor, to the commissioners: *Provided,* That when any collector of any township, shall fail to give bond as aforesaid, the commissioners shall appoint a collector in and for said township, who shall, on notice of his appointment, give bond as aforesaid.

and give bond.

Proviso.

County taxes, when and how to be collected. Sec. 10. *Be it further enacted,* That the collector shall immediately after the twentieth day of September, annually, proceed to collect the county tax in their respective townships, and if the person or persons charged therewith, do not pay the same, on or before the first day of November next following (a person demand having been previously made of the same by the collector) 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 collectors 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 before 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.

Collectors duty.

Sec. 12. *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.

To pay into county treasury first day of January annually.

Sec. 13. *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.

Collectors, how compensated.

Sec. 14. *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 deficiencies 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 to appear by the testimony of one or more disinterested persons.

Commissioners on final settlement to make allowance to collectors.

Penalty for demanding more taxes than due.

Sec. 15. *Be it further enacted*, That if any collector shall demand or receive from any person more than their proper taxes, or shall in the sale of property for taxes, act contrary to the provisions of this act, he shall, for every such offense, pay double the amount of damages sustained, to be recovered by the party injured, before any court having jurisdiction thereof.

Collector failing to make settlement, how proceeded against.

Sec. 16. *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 collector and their 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, to which he is notified, 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 shall be taxed any sum the court may deem a reasonable compensation to the commissioners, for giving the notice aforesaid.

Proviso

Persons aggrieved by lister, etc., appeal to commissioners allowed.

Sec. 17. *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 intention and the cause of his grievance, at least ten days before the time fixed on for a 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. 18. *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 intention, the particular point of grievance and time of meeting, at least ten days before the time of trial, which notice shall be in writing and delivered personally to the commissioners, and the associate judges shall, at their next meeting, hear and determine the same, which decision shall be final.

Appeal from commissioners to associate judges allowed.

Sec. 19. *And be it further enacted*, That "An act, to regulate county levies," passed at Cincinnati on the nineteenth day of December, one thousand seven hundred and ninety-nine, and all acts and laws or parts thereof, which are therein repealed; also all acts, laws or parts of laws, amendatory thereto, are hereby declared to be repealed: *Provided*, That all taxes, laid under the authority of those laws aforesaid, or either of them, and which are or shall be unpaid, at the taking effect of this law, shall be collected under the authority of said laws, in the same manner and under the same regulations as though this law had never been made.

Certain laws repealed.

Commence-ment. This act shall commence and be in force, from and after the first day of March next.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 19, 1805.

CHAPTER X.

An act, relating to dower.

Widow to be endowed of one equal third part of the real property. 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.

Until dower is assigned, to remain in the mansion-house.

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.

When and in what cases right of dower shall be barred.

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 shown, 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.

The widow to make her election within six months, if willed lands, etc.

Proviso.

When a division, etc., can be agreed to, return same to the court of common pleas.

Sec. 4. *Be it further enacted*, That no contract of the husband or recovery against him of any lands, tenements or hereditaments, being the inheritance or freehold of his wife during the coverture between them, shall in anywise deprive the wife, after the death of her husband, of any

When the contract of the husband shall not deprive the wife after his death, of her right, etc.

right which she had or might have, to such lands, tenements or hereditaments, or her heirs or any person who shall have right, title or interest to the same, by the death of such wife or widow.

Conveyance
in lieu of
dower
failing
to be a bar.

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 intention to bar her dower, shall thereupon cease and determine.

Widow
evicted
from her
jointure,
how en-
dowed.

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 dowable, as the same lands, tenements or hereditaments, from which she was evicted, shall amount to.

A wife leav-
ing her hus-
band, for-
feits her
right of
dower, etc.

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.

When lands,
etc. are
lost by fraud,
etc., the
widow en-
titled to her
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 tene-

ments, 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.

When the widow is awarded her dower in prejudice to the heir,

to be proceeded against as in other cases.

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.

Heir to set off dower in three months after demand, otherwise the widow may sue for it.

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,

On judgment had, a writ of seisin to issue.

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.

When estates entire, how the widow shall take her thirds.

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 as aforesaid.

Widow not to commit waste.

Sec. 13. *Be it further enacted,* That no woman shall be endowed of any 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.

Certain laws repealed.

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.

Commencement.

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 XI.

*An act, for the inspection of certain articles therein
enumerated.*

Sec. 1. *Be it enacted by the general assembly of
the state of Ohio,* That the judges of the court of
common pleas of the several counties in this
state, shall, at their first or any subsequent ses-
sion next after the first day of June next, appoint
an inspector, resident in the county, who shall
have power and authority to appoint as many
deputies or packers, to pack and inspect under
him, as the nature of the case may require, for
whose conduct he shall be accountable, and
before any inspector, deputy inspector or packer,
shall enter upon the duties of his office, he shall
take an oath or affirmation, faithfully and impar-
tially to execute the duties annexed to his office,
and the inspector shall moreover enter into bond,
with sufficient freehold security, payable to the
treasurer of that county in which he shall have
been appointed, and his successor in office, in the
sum of five hundred dollars, conditioned for the
faithful discharge of his duty, which bond, so
made, shall stand a security for the payment of all
fines, penalties and forfeitures that shall be
incurred by such inspector or any of his deputies,
in the discharge of the several duties pointed out
by this act.

Court of
common
pleas to
appoint
inspectors,

who may ap-
point depu-
ties.

To take
oath and

give bond
and security
in five
hundred
dollars.

Sec. 2. *Be it further enacted,* That if any in-

Penalty on
breach of
duty.

inspector, deputy inspector or packer, shall fail or neglect to do the duties annexed to his office, or shall be charged and convicted of partiality, or having acted contrary to the directions of this act, he shall forfeit and pay, for every such offense, a sum not exceeding fifteen dollars, with costs of suit, to be recovered before any court having jurisdiction thereof, one-half for the use of the informer and the other half for the use of the county, and shall moreover be liable to the action of the party injured, for damages.

Duty of in-
spector and
packer.

Sec. 3. *Be it further enacted*, That it shall be the duty of each inspector, deputy inspector or packer, within his or their county respectively, to inspect or pack (as the case may be) all wheat or rye flour, Indian corn or buckwheat meal, biscuit, butter, hogs, lard, pork and beef, on application to him or them for that purpose, and shall stamp the same with a branding iron, to be provided by the inspector and paid for out of the county treasury, to be and continue the property of the said county, for the use of the inspector and his successor in office, expressive of that county where the same shall be inspected, expressive also of the kind and quality of the article to be inspected, which marking or branding iron shall be made or lettered as may be directed by the court of common pleas, in that county in which the article or articles shall be exhibited for inspection, and every inspector shall, in a book to be provided by him for that purpose, make fair and distinct entries of all articles inspected by him or his deputy or deputies, with the names of the person or persons for whom he or they shall inspect the same.

Sec. 4. *Be it further enacted*, That the inspectors

shall be appointed as aforesaid, shall be entitled to and receive the following fees for their services, viz: For each and every barrel of wheat or rye flour, three cents; for each barrel of corn or buckwheat meal, two cents; for every barrel of biscuit, twelve and a half cents; for every firkin or keg of butter, or hog's lard, three cents; for packing and inspecting every barrel of pork or beef, twenty-five cents, and for every mile's travel to and from any place to which he may be called to inspect any of the articles aforesaid, three cents; all of which fees shall be paid by the owner of the articles inspected as aforesaid, and no more; and if any inspector, deputy inspector or packer, shall receive any greater sum than is herein provided, or shall, directly or indirectly, purchase any article or thing by him or them condemned as unfit for exportation, he or they, so offending, shall forfeit and pay, for every such offense, a sum not exceeding fifty dollars, to be recovered with costs, before any court having jurisdiction thereof, one-half to the use of the informer and the other half to the use of the county.

Fees of inspectors.

Penalty on receiving greater sum than stated or purchasing any article condemned.

Sec. 5. *Be it further enacted*, That all wheat and rye flour, corn or buckwheat meal, when offered for inspection, shall be well packed in good, sound casks, to be twenty-seven inches in length and not more than seventeen inches in the head, made of sound, seasoned materials, tightly bound with ten good smart hoops or four flat hoops, at least two inches broad, nailed with four nails in each chine hoop and three nails in each outward bilge hoop, and shall contain one hundred and ninety-six pounds weight of flour, which weight and quality of flour or meal, shall be branded on the head of the cask by the miller,

Flour, corn or meal, how packed and branded.

with a branding iron prepared by him for that purpose, and the tare of the cask marked on the head thereof, and when the same shall be exhibited to the inspector of the county or his deputy, he shall try and search the same with a proper instrument, so as to discover whether it be well packed, and of the goodness in kind and quality marked by the miller, and if he judge it good and merchantable, he shall plug up the hole and cause the same to be branded in the manner provided by the third section of this act, but if the inspector or his deputy, on examining the flour or meal exhibited for inspection, shall find the same not to be good and merchantable, or of the quality specified by the miller, then and in that case, he shall erase the miller's brand and insert in lieu thereof a brand, expressive of the true quality thereof, or if the same is not fit for exportation, he shall erase the miller's brand and condemn the same.

Pork and
beef, how
packed and
branded.

Sec. 6. *Be it further enacted,* That the pork and beef barrels shall be made of good, sound seasoned, white oak timber, clear of sap, tightly bound with fourteen sufficient smart hoops or ten flat hoops, at least two inches broad, secured in all cases with four nails, at least, in each chine hoop, and four wooden pins or pegs in each outward bilge hoop, and shall be packed with good, sound meat, with not less than two hundred nor more than two hundred and twenty-five pounds weight of meat in each barrel, with not more than three legs or shins, with a due proportion of the best as well as the poorest of the beef, in each barrel of beef, and not more than three half heads and six legs, with a due proportion of the best as well as the poorest part of each hog, in each barrel

of pork; and the inspector or his deputy in each county, when notified, shall inspect, pack, head up, mark and brand all beef and pork barrels, fit for exportation, with the tare and net weight and species of meat, in manner provided in the third section of this act.

Sec. 7. *Be it further enacted,* That all butter and hog's lard shall be packed in tight, well-seasoned firkins or kegs, and the kegs or firkins marked with a marking iron, the tare of the firkin or keg, net weight of the butter or lard therein contained, and the inspector or his deputy, shall bore each firkin or keg of butter, or lard, and by examining diagonally from one head to the other, with a hollow instrument or searcher, so as to be able to discover the quality of the whole, that it be clear of mould, free from rancid or musty taste, in which case he shall brand the same, as is provided in the third section of this act.

Butter and lard, how packed and branded.

Sec. 8. *Be it further enacted,* That all casks, wherein biscuit shall be packed for exportation, shall be of the same size and quality of those specified for flour, in the fifth section of this act, the tare and net weight marked thereon with marking irons, a true invoice of which shall be delivered by the owner to the inspector or his deputy, when called on to inspect the same. The inspector or his deputy, shall thereupon proceed to unhead each cask and inspect the same, and if he shall adjudge the same to be good and merchantable, he shall brand the same as directed by the third section of this act.

Biscuit how packed and marked.

Sec. 9. *Be it further enacted,* That if on view, the inspector or deputy, who shall be called upon

Inspector and deputy's duty

for that purpose, shall find, that any of the barrels, firkins or kegs heretofore mentioned, shall not be sufficient and made in conformity to the provisions of this act, such inspector or deputy shall desist from any further inspection of the contents, and judge the same unmerchantable, and thereupon condemn and brand the said barrel or other cask accordingly: *Provided*, That nothing in this section contained shall be so construed as to prevent a repacking of such articles in proper and sufficient barrels and casks, and which, when done, may be inspected and passed, if found good and merchantable, as in other cases under this act.

Proviso.

Possessor of article of exportation aggrieved, justice to grant relief on review.

Sec. 10. *Be it further enacted*, That if any owner or possessor of the articles of exportation specified in this act, shall conceive him or herself aggrieved by the inspector or deputy condemning the same, he, she or they, may apply to any justice of the peace in the township, who shall issue his warrant to three disinterested freeholders of the township, one of them to be nominated by the owner or possessor, one by the inspector or his deputy, and the other by the justice of the peace, directing them to examine such articles of exportation and make report thereof to him, and if they shall concur with the judgment of the inspector or deputy, they shall certify whatever the deficiency is, in which case the owner or possessor shall pay all costs arising on the review, but if they shall adjudge the article of exportation to be good and in all respects fit for exportation, then the inspector or deputy shall brand the same, as directed by the third section of this act, and pay all the costs arising on the review.

Sec. 11. *Be it further enacted*, That if any per-

son or persons whatsoever, shall export to any other state or country from any county or place within this state, any wheat or rye flour, corn or buckwheat meal, biscuit, butter or hog's lard, pork or beef, before the same shall have been inspected, marked and branded so herein before directed, he, she or they, so offending, shall forfeit and pay, for every such offense, a sum not exceeding five hundred dollars, to be recovered before any court having jurisdiction thereof, one-half to the use of the prosecutor or informer and the other half to the use of the county: *Provided always*, That nothing herein contained shall be construed so as to prevent the exportation of any article or articles from any county in this state, previous to the appointment of an inspector therein.

Penalty on exporting without inspection.

Proviso.

Sec. 12. *Be it further enacted*, That the courts of common pleas of the respective counties aforesaid, shall have full power and authority, on complaint and sufficient cause shown, to remove from office any inspector appointed under this act, and to fill any vacancy that shall or may occur by death, removal or otherwise, and if any person or persons shall counterfeit the aforesaid brands or marks, or either of them, or impress the same on any barrel, cask, firkin or keg, containing articles subject to inspection by this act, he she or they, so offending and being legally convicted thereof, shall be deemed guilty of forgery and dealt with accordingly.

Court of common pleas power to remove inspectors on sufficient cause shown.

Penalty for counterfeiting brand or mark.

Sec. 13. *And be it further enacted*, That an act, entitled, "An act, providing for the inspection of certain articles of exportation therein enumerated," be and the same is hereby repealed.

Repealing clause.

When to
take effect.

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 XII.

An act, defining the duties of persons taking up estray animals, and securing to the owners boats and other watercrafts, found going adrift.

Persons
authorized
to take up
estrays.

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 a lease for one or more years, and be 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.

Proceedings
to be had.

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 right to such estray within twenty days

after such advertisement, the taker up shall apply to a justice of the peace within the township, for an order to be issued by such justice to two reputable freeholders or householders, to be named in such order, commanding then forthwith to view and appraise such estray or estrays, and to return to him, upon oath or affirmation, their appraisalment, with a 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 appraisalment 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 to transmit such appraisalment, 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 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 appraisalment aforesaid, for his services under this act: *Provided*, That if two or more estrays of the same species are taken up by one person at the same time, they shall be included in one entry, and in such case, the justice and the clerk aforesaid, shall receive no more than for one of such species; and the said clerk shall cause a list of all estrays, with the description thereof given as aforesaid, to be affixed at the door of the court house, on the first day of the court holden after such returns have been made to his office.

Duty of the justice.

Fees to justice and clerk, how paid.

Proviso, where two or more of the same species taken up.

Duty of the clerk.

Persons taking up an estray without the settlement, how to proceed.

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 not altered the brands or marks thereof; and if the taker up be a freeholder 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 may 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.

If not a freeholder or householder to give security, etc.

Security not given, justice how to proceed.

Owner making proof, entitled to estray on paying reward, etc., to taker up.

Sec. 4. *Be it further enacted,* That the owners of any estray or estrays, taken up as aforesaid, on making satisfactory proof of his 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, having first paid as a reward to the taker up. for each horse kind, the sum of one and a half dollar; for

every head of neat cattle, fifty cents; for every sheep, goat or hog, 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 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.

When they disagree on the sum to apply to justice.

His duty.

Fees, etc., not paid, estray delivered to constable.

His duty.

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 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 deliver up such estray or estrays to a constable

When no owner appears within one year, how to proceed.

of the township and take his receipt therefor and transmit the same to the township treasurer; and said constable shall, after giving ten days notice, in writing, to be affixed at three of the most public places in the township, mentioning the time and place of sale, proceed to sell such estray or estrays to the highest bidder, agreeably to the notice given; and the constable shall, after paying the fees that have accrued and the expenses for keeping such estray or estrays (which expenses shall be ascertained in the manner directed by the fourth section of this act) and reserving one dollar for his fee, pay the remainder of the money arising from such sale, into the township treasury, and take the treasurer's receipt therefor, but if the owner shall, at any time thereafter, make satisfactory proof, before a justice of the peace, that any estray, sold as aforesaid, was his or her property, such justice shall give him an order on the township treasurer for the amount so paid, and the treasurer is hereby directed to pay the same.

Owner making proof, etc., to get an order on township treasury.

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, or take such estray out of the township, more than two days at any one time, or shall, by his or her neglect, suffer such estray to escape, 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.

Penalty on persons selling, abusing or taking away estrays.

Sec. 7. *Be it further enacted,* That it shall be

lawful for any person, finding any boat or other watercraft 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 certificate 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.

Persons taking up boats, etc.. how to proceed.

Duty of the justice.

Compensation to justice and clerk, paid by taker up.

Taker up not a freeholder or householder, to give security.

On refusal, duty of justice.

Owner of boat, etc., making proof in limited time and paying reward, etc., entitled to same.

Sec. 8. *Be it further enacted*, That the owner of any such boat or craft, on proving his right thereto, within the time hereafter limited, and paying to the taker up, for each perogue, flat or keel boat, the sum of two dollars; for each Kentucky or Orlean boat, the sum of five dollars, and for each skift 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.

Right of property vested in taker up, in certain cases.

Sec. 9. *And 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 stray 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 stray animals.

Where property does not vest, duty of taker up.

Penalty on persons acting contrary to this act.

Sec. 10. *Be it further enacted*, That if any person shall neglect to perform the duties required by this act, or shall do anything 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, the one-half to be paid into the county treasury and the other half to the person suing for the same, and shall moreover be liable to the action of the party injured.

Sec. 11. *Be it further enacted*, That the act, entitled, "An act, regulating estrays," together with all other acts and parts of acts on the subject of this act, be and the same are hereby repealed.

Repealing
clause.

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

Commence-
ment.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 19, 1805.

CHAPTER XIII.

An act, for the assignment of bail bonds.

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 within 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

Officer tak-
ing bond
from person
arrested.

To assign it to plaintiff.

Bond forfeited, plaintiff may bring suit.

Court by rule, etc., may grant relief.

Bail bond not valid unless conditioned for appearance of defendant.

Repealing clause.

When to take effect.

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 assign 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 bail bonds," 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, 1805.

CHAPTER XIV.

An act, concerning testimony.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That when any civil cause shall be pending in any court or before any justice of the peace in this state, and the writ or original summons shall have been served on the defendant, or be pending before referees or arbitrators, and if either of the parties in the cause, shall think it necessary to have the testimony therein of any person resident within the county, who shall be about to go out of the state and not to return in time for the trial, or shall be so sick, infirm or aged as not to be able to travel and attend the trial, then the deposition of such person may be taken before any judge of the supreme court, president or associate judge of the court of common pleas, or justice of the peace in said county, not being of kindred within the third degree, or of counsel or attorney to either party, or interested in the event of the cause: *Provided,* That ten days previous notice, in writing, be given to the opposite party, or to his or her attorney, if to be found in the said county, stating the person's name whose deposition is to be taken, the time and place of taking the same, also the

Authorizing depositions to be taken in cases depending, when witnesses are about removing or otherwise disabled.

Ten days notice to be given the opposite party or attorney.

Requisites
as to the
notice.

Proviso.

name of the judge or justice before whom to be made, and if the opposite party to such action or suit cannot be found in the said county, and he or she hath no agent or attorney therein, on whom to make service, then a copy of such notice shall be left, at least ten days before the day of taking such deposition, at the last and usual place of abode of such party. *Provided always,* That nothing in this section contained shall be so construed as to authorize the court, justice or referees, before whom such action or suit shall be pending, to admit such deposition, so taken as aforesaid, to be read in evidence on the trial of the said cause, unless it shall be made fully to appear to the said court, justice or referees, that the person making such deposition is, at the time of the trial, actually out of the county or unable to attend upon the trial from some one of the causes aforesaid, nor to prevent any and all legal exceptions being taken and made to the caption of such deposition, the want of notice or any other defect in law.

Courts
authorized
to grant
com-
missions,
etc., to
foreign
county,
state or
country.

Lay, by rule,
the persons
under
certain re-
strictions.

Sec. 2. *Be it further enacted,* That it shall be lawful for all courts of record within this state, on motion of any plaintiff or defendant, to grant their commission to any justice of the peace of any other county, state or country, to take depositions, to be read in evidence on the trial of any suit or action depending before the said court, and the said court, granting such commission, shall, by rule of the said court, lay the parties under such restrictions, as to giving and accepting notice of taking such depositions, as the court shall deem proper and expedient, for the furtherance of justice, which said rules, so to be made, shall be binding upon the parties to such action or suit.

Sec. 3. *Be it further enacted*, That all courts of record shall have power in any action depending before them, on motion and sufficient cause shown by affidavit, and due notice thereof having been given to the adverse party, by the party praying for such order, to make an order, requiring the parties or either of them to produce books or writings in their possessions or their power, which contain evidence pertinent to the issue, and on failure thereof (if no sufficient cause shall be assigned, to the satisfaction of the court) the party praying such rule shall be permitted to give parol or other evidence of the contents of such books, papers or documents, any law or usage to the contrary notwithstanding.

May require parties to produce books, etc.

On failure, party permitted to give parol evidence, etc.

Sec. 4. *Be it further enacted*, That any two associate judges of the court of common pleas in their respective counties, may take the deposition, in writing, of any person resident 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 judge shall administer an oath and certify the caption, and the same deposition shall,

Two associate judges empowered to take depositions,

and to give notice.

Depositions taken, to be recorded and used as evidence.

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 estates, and if the same respects personal estates, 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 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:

Proviso.

Provided, That nothing in this section 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 trials at law or in equity, in which the same may be introduced as evidence.

Sec. 5. *And be it further enacted*, That the act entitled, "An act, concerning testimony," passed the thirteenth day of January, one thousand eight hundred and two, 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.

JOHN SLOANE,
Speaker pro tem. of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 11, 1805.

CHAPTER XV.

An act, providing for the execution of real contracts, in certain cases.

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 who hereafter may 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 survivor 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, authorizing 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 con-

Court of common pleas empowered to complete certain contracts, on petition and proof.

vey, 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.

Requisites
required in
the petition.

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.

Party to
contract
dying, leav-
ing heir
under
twenty-one
years, execu-
tor on filing
petition, etc.,
to be vested
with power
to complete
contracts.

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, and the executor or executors, administrator or administrators, or other legal representatives of such person or persons so deceased, or who may hereafter die, may or shall be desirous of completing such contract or contracts, for and on behalf of such minor children and heirs, such executor or administrator, or other legal representative, may petition the court of common pleas of that county in which the land or other 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, authorizing and appointing the executor or executors, administrator or administrators, or other legal representatives of such deceased person, or such other person 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 authorized by the said court of common pleas as aforesaid, shall pursue the same rules in making a conveyance as are provided in the case of a survivor or survivors, and such conveyance, when made according to the provisions of this act, shall be binding upon the 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 lifetime.

Conveyance made by order of court to be binding.

Sec. 4. *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.

Court to secure to parties their just proportion.

Compensation to clerk.

**Repealing
clause.**

Sec. 5. *And be it further enacted*, That an act, entitled, "An act, providing for the execution of real contracts, in certain cases," be and the same is hereby repealed.

**Commence-
ment.**

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 19, 1805.

CHAPTER XVI.

An act, authorizing and regulating arbitrations.

**Persons may
submit con-
troversies
to arbitra-
tion,**

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.

**and make the
submission a
rule of court.**

**Parties to
enter in ar-
bitration
bonds, con-
ditioned, etc.**

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 the 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.

Bonds to specify time, place, etc.

Proviso.

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 issued, and shall be subject to the same penalties and forfeitures, as are provided for disobeying writs of subpcena in other cases; and the costs of

Parties entitled to legal process to compel the attendance of witnesses.

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 authorized to administer.

The award
to be in
writing.

Copies
thereof to be
delivered to
the parties.

Award, how
enforced.

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 his state, to be entered on record and filed in his office.

Corruption,
etc. to set
aside award.

When an
award shall
be made a
rule of court.

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.

Compensation to the
umpire, etc.

Sec. 7. *And be it further enacted*, That a law, entitled, "An act, authorizing and regulating arbitrations," passed November the fifteenth, one thousand seven hundred and ninety-nine, be and the same is hereby repealed.

Repealing
clause.

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

Commence-
ment.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 14, 1805

CHAPTER XVII.

An act, against forcible entry and detainer.

Two justices may enquire by jury and order restitution of lands, &c., unlawfully detained.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That two justices of the peace shall have authority to enquire, by jury, in the manner hereinafter directed, as well against those who make unlawful and forcible entry into lands or tenements, and with a strong hand detain the same, as against those who having a lawful and peaceable entry into lands or tenements, unlawfully and by force hold the same, and if it be found, upon such enquiry, that an unlawful and forcible entry hath been made, and that the same lands or tenements are held and detained with force and strong hand, or that the same, after a lawful entry, are held unlawfully and with force and strong hand, then such justices shall cause the party complaining to have restitution thereof.

Justices, on a written complaint, how to proceed.

Sec. 2. *Be it further enacted,* That when complaint shall be made, in writing, to any two justices of the peace, of any unlawful and forcible entry, into any lands or tenements and detainer as aforesaid, or if any unlawful or forcible detainer of the same, after a peaceable entry, they shall make out their warrant, under their hands and seals, directed to the sheriff, or in case of his absence or legal disqualification, to the coroner of the same county, commanding him to cause to come before them twelve judicious disinterested men of the county, who shall be freeholders in the said county, which warrant shall be in the form following, to-wit:

-----County, ss.

A B and C D, two of the justices assigned to keep the peace within and for the said county, to the — of — county, greeting: Form of the
warrant.

Whereas complaint is made to us by E F, of — in the county aforesaid, that G H, of — upon the — day of — at — aforesaid, with force and arms, and a strong hand did, unlawfully and forcibly, enter into and upon a tract of land, of him the said E F, in — aforesaid, containing — acres, bounded as follows, to-wit: (or into the messuage and tenements of him the said E F, as the case may be) and him the said E F, with force and a strong hand, as aforesaid, did expel and unlawfully put out of possession of the same, (or, if it is a forcible detainer only, then the entry shall be described and the detainer inserted as follows) and him the said E F does unlawful, unjustly and with a strong hand, deforce and still keep out of the possession of the same, you are therefore commanded, on behalf of the state of Ohio, to cause to come before us, upon the — day of — at — in the said county, twelve judicious, disinterested men of the county, who shall be freeholders in the same, to be empanelled and sworn, to enquire into the forcible entry and detainer (or the detainer only) before described.

Given under our hands and seals, the — day of — in the year —.

A B, } Justices of
C D, } the peace.

Sec. 3. *Be it further enacted*, That it shall be

Justices to issue summons to the party complained of.

How to be served.

Jury to be empanelled.

Oaths of the jurors.

When to return a general verdict.

When a special verdict.

the duty of the justices, at the time they issue their warrant, to issue their summons to the party complained against, which summons shall state the cause of complaint, and the time and place of trial; the summons shall be served upon the party complained against, or a copy thereof left at his usual place of abode, at least seven days before the day appointed by the justices for the trial, and if, after the service of such summons, the party do not appear to defend, the justices shall proceed to the enquiry in the same manner as if he were present. and when the jury shall appear, they shall be empanelled to enquire into the entry or forcible detainer complained of, and the justices shall lay before the jury the exhibited complaint and administer an oath or affirmation to the foreman and the other jurors, to well and truly try, whether the complaint of E F, now laid before them, is true, according to evidence, and if the jury shall find no part of the same true, they shall return a general verdict of not guilty; and it shall be the duty of the justices to render up judgment against the complainant, and thereupon tax the bill of costs and issue execution against the said complainant, returnable in twenty days, and if the jury shall find the same true, they shall return a general verdict of guilty, or they shall return a special verdict for such part as they do find true, and the justices shall render up judgment for the complainant, to have restitution of the premises and costs, and shall award their writ of restitution accordingly; which writ of restitution shall be in the form following, to-wit:

—County, ss.

A B and C D, two of the justices assigned to

keep the peace, in and for the said county, to the
 — of — — county, greeting:

Form of the
 writ of restitu-
 tion.

Whereas at a court of enquiry of forcible entry and detainer (or an unlawful and forcible detainer, as the case may be) held before us at ——— in the said county of ——— upon the ——— day of ——— in the year ———, the jurors empanelled and sworn according to law, did return their verdict of guilty, whereupon it was considered by us, that the said E F, should have restitution of the premises described in his complaint (or any particular part thereof, as the case may be) we therefore require you, that taking with you the force of the county, if necessary, you cause the said G H, to be forthwith removed from the premises, and the said E F, to have the peaceable restitution of the same, and also that you levy of the goods, chattels or lands of the said G H, the sum of ———, being costs taxed against him on the trial aforesaid, together with ——— more for this writ, and satisfy yourself your legal fees; and for want of such goods, chattels or lands of the said G H, by you found, you are commanded to take the body of the said G H and him commit to the common jail of the said county, there to remain until he shall pay the sum aforesaid, together with all fees arising on the service of this writ, or until he be discharged by due course of law, and make return of this writ, with your proceedings thereon, within twenty days from the date.

Witness our hands and seals, at ——— aforesaid, the — — day of ——— in the year ———.

A B, } Justices of
 C D, } the peace.

Where panel is incomplete, to summons talesmen.

Sec. 4. *Be it further enacted*, That if by accident or challenge, on the day assigned for trial, there should not be a full jury, the sheriff or coroner (as the case may be) shall fill the panel with talesman as in other cases: *Provided*, They have the qualifications required by this act.

No appeal allowed.

Sec. 5. *Be it further enacted*, That no appeal shall be allowed from the judgment of the justices:

Proviso.

Provided nevertheless, That the proceedings may be removed by *certiorari*, into the court of common pleas, holden in such county, and be there quashed for irregularity, if such there be; nor shall such judgment be a bar to any after action brought by either party.

Removal by certiorari.

This law not to affect three years quiet possession.

Sec. 6. *Be it further enacted*, That nothing in this act contained, shall be construed to extend to any person, who hath had the occupation or quiet possession of any lands or tenements, for the space of three whole years together next before, and whose estate therein is not ended or determined.

Repealing clause.

Sec. 7. *Be it further enacted*, That a law, against forcible entry and detainer, adopted from the Massachusetts code, and published at Cincinnati, the fourteenth day of July, one thousand seven hundred and ninety-five, be and the same is hereby repealed.

Commencement.

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 2, 1805.

CHAPTER XVIII.

An act, fixing the rate of interest and for preventing usury.

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.

Creditors
entitled to
interest,

at the rate of
six per cent.
per annum.

Proviso.

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

Repealing
clause.

per centum per annum, and for preventing usury, passed November 15, 1799, are hereby repealed.

When to
take effect.

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, 1804.

CHAPTER XIX.

An act, providing for the execution and acknowledgment of deeds.

Deeds, how
to be exe-
cuted,

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That all deeds for the conveyance of lands, tenements and hereditaments, situate, lying and being within this state, shall be signed and sealed by the grantor, in presence of two witnesses, who shall subscribe the said deed or conveyance, attesting the acknowledgment of the signing and sealing thereof, and if executed within this state, shall be acknowledged by the party or parties, or proven by the subscribing witnesses, before a judge of the court of common pleas or a justice of the peace, in any county in this state.

and acknowl-
edged.

Husband and
wife, how to
convey the
estate to the
wife.

Sec. 2. *Be it further enacted*, That where any husband and wife shall incline to dispose of and convey the estate of the wife, or her right in or to any lands, tenements or hereditaments whatsoever, it shall and may be lawful for the said hus-

hand and wife, she being not less than eighteen years of age, to make, seal, deliver and execute, any grant, bargain and sale, lease, release, feoffment, deed, conveyance or assurance, in the law whatsoever, for the lands, tenements and hereditaments, intended to be by them passed and conveyed, and after such execution to appear before a judge of the supreme court or court of common pleas, or a justice of the peace, and acknowledge the same, which judge or justice of the peace is hereby authorized and required to take such acknowledgment, in doing whereof, he shall examine the wife separate and apart from her husband, and shall read or otherwise make known the full contents of such deed or conveyance to the said wife, and if, upon such separate examination, she shall declare that she did voluntarily and of her own free will and accord, seal, and as her act and deed, deliver the said deed or conveyance without any coercion or compulsion of her husband, every such deed or conveyance shall be and the same is hereby declared to be, good and valid in law, to all intents and purposes, as if the said wife had been a *sole* and not covert at the time of such sealing and delivery, and the judge or justice taking such acknowledgment, shall, under his hand and seal, certify the same upon the back of the deed or conveyance.

Before whom to acknowledge the same.

Manner of examination,

and certificate.

Sec. 3. *Be it further enacted,* That all deeds and conveyances of lands, tenements and hereditaments, situate, lying and being within this state, heretofore executed, and which said deeds and conveyances have been or hereafter may be acknowledged or proved, according to and in compliance with the laws and usages of the territory, state or country, in which such deeds and convey-

Deeds and conveyances of land, etc. lying within this state, heretofore executed, to be valid,

ances were acknowledged and proved, or in which they shall have been acknowledged or proven, are hereby declared effectual and valid in law, to all intents and purposes, as though the same acknowledgments had been taken or proof of execution made within this state, and in pursuance of the acts and laws thereof, such deeds and conveyances, so acknowledged and proved as aforesaid, may be admitted to be recorded in the respective counties in which such lands, tenements and hereditaments do or may lie: *Provided*, That all deeds and conveyances of lands, tenements and hereditaments, situate, lying and being within this state, which have been acknowledged or proved in any other territory, state or country, according to and in compliance with the laws and usages of such territory or country, and which deeds or conveyances have been recorded within this state, be and the same is hereby confirmed and declared effectual and valid in law, to all intents and purposes, as though the said deeds or conveyances so acknowledged or proved and recorded, had prior to being recorded, been acknowledged or proven within this state.

and admitted to record.

Proviso.

Deeds, etc., hereafter to be made out of this state,

how certified.

To be recorded within one year.

Sec. 4. *Be it further enacted*, That all deeds and conveyances of lands, tenements and hereditaments, situate, lying and being within this state, which shall hereafter be made and executed in any other territory, state or country, whereby such lands, tenements and hereditaments shall be conveyed in whole or in part, or otherwise affected and encumbered in law, shall be acknowledged or proved and certified as aforesaid, and recorded in the county in which such lands, tenements and hereditaments, so conveyed or affected, shall be situate, within one year after the day on

which such deed or conveyance was executed. And all deeds and conveyances, which shall be made and executed within this state, for the conveyance of any lands, tenements and hereditaments, situate, lying and being within the same, whereby such lands, tenements and hereditaments shall be conveyed, affected or incumbered, shall be acknowledged or proven, and recorded within six months from the actual time of signing or executing such deeds or conveyances; and if any deed or conveyance of lands, tenements or hereditaments made and executed, whereby the same shall be affected in law, or in any manner incumbered, shall not be acknowledged or proved, and recorded within the respective terms allowed by this act, the same shall be deemed fraudulent against any subsequent *bona fide* purchaser or purchasers, without knowledge of the existence of such former deed or conveyance.

Within
this state,

to be re-
corded with-
in six
months.

If not exe-
cuted and re-
corded as
aforesaid,
deemed
fraudulent.

Sec. 5. *Be it further enacted*, That a law, directing how husband and wife may convey their estates, adopted from the Pennsylvania code, and published at Cincinnati, the twenty-fifth day of June, one thousand seven hundred and ninety-five; also, an act, providing for the acknowledgment and recording of deeds in certain cases, passed the twentieth day of January, in the year of our Lord one thousand eight hundred and two, and all other laws heretofore passed on this subject, be and the same are hereby repealed.

Repealing
clause.

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

When to
take effect.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 14, 1805.

CHAPTER XX.

An act, fixing the rate of toll for grinding.

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 only, 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.

Toll allowed
for grinding
grain, etc.,
in grist mills.

For grinding
in horse
mills.

Owners ac-
countable
for grain,
etc.

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

Proviso.

be so construed as to charge the owner or occupier of any mill, or make them accountable for the loss of grain, bags or casks, 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 authorized and be duly convicted thereof, before any court having jurisdiction of the same, shall be fined, for every such offense, 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.

Penalty
for taking
more than
lawful toll.

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.

Repealing
clause.

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

Commence-
ment of this
act.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JOSEPH KERR,
Speaker pro tem. of the senate.

January 12, 1805.

CHAPTER XXI.

An act, defining the duties of sheriffs and coroners, in certain cases.

Sherif and coroners to give bond to commissioners.

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 record, 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, agreeable to law, all the monies by him collected, or that he was legally authorized to collect and pay over, or that he has otherwise been legally discharged therefrom.

In what sum.

Condition.

How released.

Sherif to keep the peace.

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

recognizance 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 recognizance, 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.

To commit

and execute process.

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, agreeable to law; and if any sheriff shall refuse or neglect to perform the duties enjoined by law, he shall, for every such offense, 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, agreeable 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.

And take charge of criminals.

Penalty for neglect of duty.

Fines, how disposed of.

Coroner's
duty when
office of
sheriff be-
comes
vacant.

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.

His duty
when
sheriff is a
party, etc.

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.

Coroner's
duty when
informed of
a dead body,
etc.

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 enquire, 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

To summons
jury.

Penalty on
constable
for neglect,
etc.

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.

On juror failing to appear.

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.

Coroner to swear jury.

Form of oath.

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 accessories, 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

To summon witnesses.

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.

Evidence to be reduced to writing and signed.

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 offense is cognizable within the county, there to give evidence accordingly, and 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.

Witnesses recognized.

Committed in case of refusal.

Jury, their duty.

Sec. 10. *Be it further enacted*, That the jury having viewed the body, examined and heard the evidences, and made all the enquiry within their dower, 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

Coroner's duty in certain cases.

two thousand dollars, at the discretion of the court, which shall be applied as in case of the sheriff.

Penalty on coroner, for neglect of duty.

Sec. 11. *And be it further enacted*, That a law establishing general courts of quarter sessions, etc., published at Marietta, August 23, 1788; a law appointing coroners, published December 21, 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.

Certain laws repealed.

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

Commencement.

JOHN SLOANE,
Speaker pro tem. of the house of representatives.

JOSEPH KERR,
Speaker pro tem. of the senate.

January 5, 1805.

CHAPTER XXII.

An act, making certain instruments of writing negotiable.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That all promissory notes without seal, and bills of exchange, foreign and inland, drawn for any sum or sums of money certain, and made payable to any person or persons,

Notes without seals and bills of exchange for the payment of money negotiable

by endorse-
ment.

or to his, her or their order, or unto bearer, shall be negotiable by endorsement thereon, so as absolutely to transfer and vest the property thereof, in each and every endorsee or endorsees successively; and any endorsee or endorsees, to whom any such promissory note or bill of exchange is made payable by such endorsement or endorsements, may, in his, her or their own name or names, institute and maintain an action for the recovery of the money due thereon, or against the person or persons who made and signed such note, bond, bill or other instrument of writing, against him, her or them, who endorsed the same (having first used due diligence to obtain the money from the drawer or maker) and in every such action, in which judgment is given for the plaintiff or plaintiffs, he, she or they shall recover his, her or their damages and costs of suit.

Endorsee
may sue in
his own
name.

When en-
dorsed after
the day of
payment.

Sec. 2. *Be it further enacted,* That if any such note or bill of exchange, shall be endorsed after the day on which it is made payable, and the endorsee shall institute an action thereon, against the maker and signer of the same, the defendant shall be allowed to set up the same defense that he might have done, had the said action been instituted in the name and for the use of the person or persons to whom the said note or bill of exchange was originally made due and payable.

When be-
fore the day
of payment.

Sec. 3. *Be it further enacted,* That if any such note or bill of exchange shall be endorsed before the day on which the same is made payable, and the endorsee shall institute an action thereon, the defendant may give in evidence, at the trial, any money actually paid on said note or bill of exchange,

before the same was endorsed or assigned to the plaintiff, on proving that the plaintiff had notice of the said payment before such endorsement was made and accepted.

Sec. 4. *And be it further enacted*, That an act, entitled, "An act, making promissory notes and inland bills of exchange negotiable," passed November fifteenth, one thousand seven hundred and ninety-nine, be and the same is hereby repealed. Repealing
clause.

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

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 21, 1805.

CHAPTER XXIII.

An act, for the appointment of guardians to lunatics and others.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That the court of common pleas of each county respectively, are hereby empowered (upon application being made, in writing, by any of the friends or relations of any idiot, *non compos*, lunatic or other insane person, or by any overseer of the poor in the township, where such person doth reside) to issue a writ to the constable of said Court of
common
pleas em-
powered to
issue writ to
make en-
quiry as to
lunatics, etc.

township, directing him to summon twelve discreet freeholders of the same township, to make inquisition thereinto, and if the person said to be an idiot, *non compos*, lunatic or insane, shall be unanimously adjudged, by such inquest, to be incapable to take care of himself or herself, they shall certify the same under their hands and seals to the said court, and the court shall thereupon appoint one or more suitable person or persons to be guardian or guardians to such person, directing and empowering such guardian or guardians to take care of said person and his estate, both real and personal, and within six months thereafter, to make out a true inventory of the said estate, and make return thereof to the clerk of the court of common pleas of said county, who shall file the same in his office.

If so adjudged by inquest, the court to appoint guardians.

Their duty

Sec. 2. *Be it further enacted*, That the guardian or guardians appointed as aforesaid, shall improve, frugally and without waste, the estate of such person, and apply the annual income and profits thereof, for the comfortable maintenance and support of such person, together with his or her family (if any such there be) and are hereby empowered to settle accounts, receive, sue for and recover, all just debts due to such person, and to improve and manage the real estate or divide, agreeable to law, in as full and ample manner as the said idiot, *non compos*, lunatic or insane person could do, were they restored to the use of their reason, and shall also be subject to the payment of all just debts owing by such person, which were contracted before his or her insanity or other disability, out of their personal estate, or in case that be insufficient, then out of the real estate, in such manner as executors or adminis-

and power.

trators are by law enabled to discharge the debts of deceased persons, when the personal property is found insufficient; and in case such idiot, *non compos*, lunatic or insane person, shall be restored to the use of his or her reason, which shall be ascertained by a like inquest, as is directed in the first section of this act, the residue of the estate, real and personal, shall be returned and delivered to him or her, and in case of his or her death, to his or her heirs or administrators, the guardian or guardians having first such reasonable allowance out of the same, for their compensation, as the court may order.

Lunatics, etc., restored to reason, their property to be returned.

Allowance to guardians.

Sec. 3. *Be it further enacted*, That the guardian or guardians appointed as aforesaid, shall give bond to said court, in a reasonable sum, with two sufficient securities, for the use of such idiot, *non compos*, lunatic or insane person, conditioned for the faithful discharge of the trust, and for the rendering a just and true account of their guardianship, when and so often as they shall be thereunto required by the court.

To give bond to the court.

Sec. 4. *Be it further enacted*, That the court of common pleas in each county, are hereby empowered to appoint guardians for the children of idiots, *non compos*, lunatics or insane persons, in the same manner as though their parents were actually dead.

Guardians to children of lunatics, etc., may be appointed.

Sec. 5. *And be it further enacted*, That the act, entitled, "An act, providing for the appointment of guardians to lunatics and others," be and the same is hereby repealed.

Repealing clause.

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

Commencement.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JOSEPH KERR,
Speaker pro tem. of the senate.

January 15, 1805.

CHAPTER XXIV.

An act, regulating prison bounds.

Persons
entitled to
the benefit
of prison
bounds.

Laid off by
judges of
common
pleas.

Not to ex-
ceed 400
yards from
said jail.

Prisoners to
give bond
with surety,
etc.

Bond lodged
with sheriff.

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 jailer, 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, Repealing clause. allowing and regulating prison bounds, passed December nineteenth, seventeen hundred 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 Commencement. 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 XXV.

An act, for the maintenance and support of illegitimate children.

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 On complaint made by woman.

Justice to take accusation in writing and issue warrant.

On return, to examine the woman on oath.

Questions, etc., to be in writing.

Conditions on which he shall be discharged.

Woman failing to bring or prosecute suit.

Overseers of the poor, their duty.

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 prosecutions.

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 recognizance 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.

Where the man does not compound,

justice to bind him over to court,

or commit him.

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 recognizance, that the accused person shall be forthcoming, 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 recognizance taken in court, for that purpose.

Recognizance to be renewed or continued in certain cases.

Continuance valid.

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 recognized, 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 bastard 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

Plea of not guilty tried by jury.

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.

If found guilty,

Sec. 6. *Be it further 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 adjudged 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 until he shall comply with the order of the court, or until such court shall, on sufficient cause shown, direct him to be discharged.

charged with the support of the child,

and give security,

or be committed.

Repealing clause.

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 **Commence-**
and after the first day of June next. **ment.**

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 20, 1805.

CHAPTER XXVI.

*An act, allowing mutual debts and demands to be
set off, and concerning tenders.*

Sec. 1. *Be it enacted by the general assembly of
the state of Ohio,* That in all actions and suits
brought on any bonds, bills, notes, promises or
accounts in any court in this state, it shall be law-
ful 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, con-
tract or demand, against the plaintiff, which he
may be desirous to have set off and allowed to
him in such action or suit, 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, with his costs; and if it shall
appear, that the plaintiff is indebted to the defend-
ant 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,

Suits on
bonds, etc.,
defendant
may plead
the general
issue and
give notice
of setoff, etc.

Proviso.

after the suit is commenced against him, shall be allowed to be brought in by way of set off to such suit.

Party proving a tender, judgment, how rendered.

Sec. 2. *And 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 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, 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 if 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 prove 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, the defendant was bound to pay or perform, judgment shall be given for the defendant, with costs, unless it shall appear to the court or jury, that the plaintiff was prevented by inevitable accident and without his own default, accepting such tender, in which case the defendant shall be holden to pay or perform his obligation, promise or contract, within a reasonable time, to be fixed by the court, and on such payment or performance, he shall have his costs in such action or suit.

Sec. 3. *And be it further enacted*, That a law

concerning defalcation, published at Cincinnati, June third, one thousand seven hundred and ninety-five, and all other laws and parts of laws, heretofore in force on this subject, be and they are hereby repealed.

Repealing
clause.

And that this act take effect and be in force, from and after the first day of June next.

Commence-
ment.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JOSEPH KERR,
Speaker pro tem. of the senate.

January 11, 1805.

CHAPTER XXVII.

An act, directing the manner of executing, proving and recording wills and codicils.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That wills and codicils, in writing, within this state, by which any lands, tenements, hereditaments, goods or chattels are devised, shall be signed by the testator and witnessed in the presence of the testator, by two or more credible witnesses, two of whom declaring, on oath or affirmation, before the court of common pleas of the county, that they were present and saw the testator sign said will or codicil, in the presence of the other witness or witnesses, if any there were, and that they believed the testator to be of sound mind, memory and judgment, at

Will, etc., to
be signed by
testator and
witnessed in
his presence.

What con-
sidered legal
proof of exe-
cution, etc.

the time of signing the same, shall be legal proof of the execution of said will or codicil: *Provided*, No proof of fraud, compulsion or improper conduct be exhibited, which, in the opinion of the court, shall be sufficient to invalidate or destroy said will or codicil, and every will or codicil thus proven, to the satisfaction of the court, shall be recorded by the clerk of the said court, in a book by him provided for that purpose, and shall be good and available in law, for the granting, conveying and assuring of the lands, tenements, hereditaments, goods or chattels, thereby given or bequeathed.

Recorded by clerk of common pleas.

Wills, etc., executed out of the state, how certified to be admitted to record.

Sec. 2. *Be it further enacted*, That all wills and codicils (other than such as are annulled or revoked) legally executed and proven out of this state, whether in the United States or elsewhere, being transferred here and accompanied with a certificate from the proper officer or officers, that said will or codicil was executed and proved, agreeably to the laws and usages in that state or country in which the same was executed and proved, and duly authenticated, shall be recorded as aforesaid, and be good and available in law, in like manner as wills in this state are declared to be: *Provided*, That if it be proven, within five years after the recording such will or codicil, that it was revoked or altered by the testator, it shall and may be lawful for the party aggrieved, his, her or their heirs, executors or agents, to have their action for what shall be taken or retained from them, by occasion of such will or codicil, or to have their writ or writs of error, for reversing the judicial proceedings thereupon, as the case may require.

Proviso, where will is revoked.

Sec. 3. *Be it further enacted*, That a nuncupa-

tive will shall be good and available in law, for the conveyance of personal property bequeathed thereby, if committed to writing within ten days, and proven before the court of common pleas next holden after the same is reduced to writing, by two or more credible disinterested witnesses, who were present at the speaking thereof; said witnesses moreover declaring, on oath or affirmation, that they were present and heard the testator pronounce said words, and that they believed him to be, at that time, of sound mind, and that he did, at the same time, desire the persons present or some of them, to bear witness that such was his will, or words to that effect, and that such will was made in the time of the last sickness of the testator, and it also being proven, by two disinterested witnesses, other than those hereinbefore mentioned, that the said will was committed to writing within ten days after the death of the testator and no proof of fraud, compulsion or improper conduct be exhibited, which in the opinion of the court shall be sufficient to invalidate and destroy said will, the same shall be recorded by the clerk of said court, and shall be good and available in law, for the purposes therein mentioned: *Provided*, That no letters testamentary shall be granted on such will, until the expiration of sixty days after the death of the testator: *And provided also*, That no words spoken shall revoke or annul any will or codicil in writing, executed in due form of law.

Nuncupative will for personal property good if committed to writing in ten days, etc.

Further qualifications of such will.

Proviso.

Sec. 4. *Be it further enacted*, That if the widow or person of kin, appearing by themselves or their attorney, at the proving any will, should contest the same, the court shall take cognizance thereof, and grant proceedings thereon agreeably to law.

Persons contesting, what proceedings had.

Court of
common
pleas to
grant letters
testamentary on wills,
etc.

Sec. 5. *Be it further enacted*, That the court of common pleas shall grant letters testamentary, on all wills and codicils proven as aforesaid, to the executor or executors named in such will or codicil, if any such there be; which letters shall specify a time, within which the executor or executors shall return a true inventory, on oath or affirmation, of the estate of the deceased, with all the debts due and owing to the same, so far forth as comes to his, her or their knowledge, to the associate judges of the court of common pleas, and also, the time within which such estate shall be settled up, so far as the provisions of the will or codicil will admit, and a true and accurate statement thereof, make and return as aforesaid; but if no person be appointed executor in such will or codicil, letters of administration shall be granted, as is provided in case of intestate estates, by an act, defining the duties of administrators on wills and intestate estates, and providing for the appointment of guardians.

Executor's
duty.

Repealing
clause.

Sec. 6. *Be it further enacted*, That a law concerning the probate of wills written and nuncupative, published at Cincinnati, June 19, 1799, and all other laws and parts of laws on the subject of proving and recording wills and codicils, are hereby repealed.

Commence-
ment.

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 5, 1805.

CHAPTER XXVIII.

An act, concerning divorce and alimony.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That the supreme court shall have the sole cognizance of granting divorces, where either of the parties had a former wife or husband living at the time of solemnizing 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.

Supreme court, power of granting divorces.

Causes thereof.

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 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

Proceedings in cases of divorce.

of sufficient ability to pay an adequate compensation, and such counsel or attorney shall not charge or receive any compensation for such service.

Court, on testimony, may decree marriage dissolved.

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.

Provided decree not to affect legitimacy of children.

Court to take order in their favor.

Divorce decreed on aggression of the husband, is no issue.

Wife restored to land, etc.

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.

If on aggression of wife,

Sec. 5. *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.

barred of dower.

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.

Repealing clause.

This act to take effect, from and after the passage thereof.

Commencement.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JOSEPH KERR,
Speaker pro tem. of the senate.

December 29, 1804.

CHAPTER XXIX.

An act, securing certain persons from arrest in certain cases.

Members of the general assembly and the officers, privileged whilst in session.

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, doorkeeper 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 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 offense, 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.

Persons arresting, liable to a fine.

Electors privileged while attending elections.

Judges and clerks of the supreme court and president especially privileged.

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 cryers, and all suitors, witnesses and jurors, while attending court, and while going to and returning from court, shall be privileged from arrest.

Associate judges, attorneys, coroners, clerks, sheriffs, etc.

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.

Times and places that no arrests shall be made.

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 member or officer.

Privilege not to extend to treason, felony or breach of the peace.

Sec. 6. *Be it further enacted*, That nothing herein contained shall be construed to privilege any person herein named, from being served, at

No privilege in case of a summons, etc.

When arrest is made contrary to this law, how discharged.

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 persons 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.

Repealing clause.

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.

When to take effect.

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 XXX.

An act, directing the distribution of insolvent estates.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That when the executor or .

executors, administrator or administrators of any estate, find the same insufficient to pay all the just debts of the deceased, they shall, within sixty days thereafter, make a statement of the condition and circumstances thereof in writing, to the court of common pleas, or in recess of the court, to the associate judges thereof, and if it shall be made to appear to them that the estate is insolvent, they shall forthwith appoint two or more trustees, who shall give bond to the court, with sufficient sureties to the acceptance of the court, respect being had to the amount of the estate, conditioned for the faithful performance of their trust; and the court or associate judges aforesaid, shall allow the creditors of said estate, such time (not exceeding the time limited in the letters of administration granted) as they may think proper, for the adjusting, proving and bringing forward their accounts to the trustees, of which time and the place of meeting the trustees shall give public notice in three of the most public places in the county, at least sixty days prior thereto, and also in one of the newspapers printed in the state, for at least six weeks successively, if thought necessary by the court aforesaid.

Sec. 2. *Be it further enacted*, That the trustees (and also the executors or administrators) shall meet at the time and place appointed, and the trustees shall then and there adjust the accounts exhibited, and make equal distribution to the creditors severally, in proportion to the amount of their accounts as adjusted, after first deducting out of the estate, the physician's bill, the debts incurred during the last sickness, and the funeral expenses of the deceased, all expenses necessarily arising on the settlement of the estate, and also,

Executors, etc., finding estate insufficient to pay debts,

to report to common pleas.

Court to appoint trustees, who shall give bond.

Creditors to bring forward accounts, etc., within a limited time.

Trustees to give notice.

Trustees and executors, etc., to meet and make distribution.

Physician's bill, etc., preferred.

Reservation
to widow.

Proviso,
judgments
on action,
etc.,

an equal
dividend.

Proviso,
costs first
paid.

Creditors
failing to
present
claim in
limited
time, barred,
except in
certain
cases.

Trustees to
make out
two written
lists,

to deliver
one to ex-
ecutors,

other to
clerk com-
mon pleas.

Estate, how
settled.

saving to the widow her right of dower and bed, with the useful furniture thereto belonging, and her wearing apparel: *Provided*, That judgments on actions instituted against the deceased, or against the executors or administrators of said estate, when obtained and presented as aforesaid, shall be entitled to an equal dividend agreeable to the amount thereof: *Provided also*, That the costs on such judgments, shall, in all cases, first be paid out of the estate.

Sec. 3. *Be it further enacted*, That such creditors as shall not make out his or her claim and present the same to the trustees, within the time limited, shall be forever barred, unless such creditor shall find some other property or estate of the deceased, not inventoried or accounted for by the executors or administrators, before distribution was made as aforesaid, or unless the assets, at any time, in the hands of the administrators or executors, shall exceed the amount of debts for which a distribution, under this act, shall have been made.

Sec. 4. *Be it further enacted*, That the trustees shall make out and sign two written lists of the amount of the estate, with all the accounts of and against the same, with an account of their proceedings thereon, and the distribution by them made; one of which statements or lists they shall deliver to the executors or administrators, and the other, with the vouchers, they shall deliver to the clerk of the court of common pleas of the county, which he shall file in his office; and the executors or administrators shall settle up the estate in conformity with the dividend made by the trustees, and make return thereof to the court, agreeable to law.

Sec. 5. *And be it further enacted*, That an act for the equal division and distribution of insolvent estates; an act, as to the order of paying debts of persons deceased, and an act, for the distribution of insolvent estates, are hereby repealed. Certain laws repealed.

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

JOHN SLOANE,
Speaker pro tem. of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 11, 1805.

CHAPTER XXXI.

An act, providing for the recovery of money, secured by mortgage.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That if any person or persons, who hereafter shall 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 contained 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

Clerk of the
supreme
court or
clerk of
common
pleas
authorized
to issue
scire facias.

Duty of
officer.

Defendant
pleading
payment,
parties to
proceed to
trial.

Defendant
not appear-
ing, judg-
ment by
default.

Court to as-
sess dam-
ages, etc.

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 or writs 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 authorized and, on application for that purpose, required to issue, directed to the proper officer, commanding him, that, by good and lawful men of his bailiwick, he make known to the defendant or defendants in such writ, that he, she or they be and appear before the court, to show 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 of all or any part of the money demanded by the plaintiff or plaintiffs, or any other legal plea in bar, or avoidance of the 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 *levari 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.

Levafacias to issue and mortgaged premises to be taken and sold.

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, on 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.

Mortgaged premises sold not satisfying the judgment, the remainder a debt of record.

Scire facias may issue.

Proviso.

Sec. 4. *Be it further enacted*, That nothing herein contained shall affect the right of any person or persons who may set up a claim to such mortgaged premises, by purchase from or under the mortgagor or otherwise, and which claim, in law, shall be paramount to the lien of such mortgagee, nor shall any thing contained herein be construed to prevent such claimant from availing himself of any defense 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.

Claim set up to mortgaged premises, secured in certain cases.

Sec. 5. *And be it further enacted*, That an act, entitled, "An act, providing for the recovery of money, secured by mortgage," be and the same is hereby repealed.

Repealing clause.

Commence-
ment.

This act shall commence and take effect, 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 XXXII.

An act, defining the duties of administrators on wills and intestate estates, and providing for the appointment of guardians.

Judges of
common
pleas to
grant letters
of adminis-
tration in
certain
cases, and to
whom.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That when any person in this state, dies intestate, leaving personal property (whether in goods, chattels or debts) to the amount of one hundred dollars, the court of common pleas shall grant letters of administration to the person or persons nearest of kin to the deceased, and if the nearest of kin will not accept, then to the next nearest of kin who will accept, and if no person of kin will accept, the court shall appoint an administrator who will serve; but if no application be made to the court, and the court 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 show cause or agree to administer, then the court shall appoint a person and grant to him letters of administration.

Sec. 2. *Be it further enacted,* That letters of administration shall empower and direct the administrator or administrators, under oath or affirmation, to have all the goods and chattels of the deceased, so far forth as shall come within his or her knowledge, appraised, by three freeholders of the township, who shall be appointed by the court, and named in said letters, which freeholders, on oath or affirmation, 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 administrators, shall be, by him or her, returned to the clerk's office of said court, within three months, and he shall moreover adjust and settle up the account within twelve months from the date of such letters; and the executor or executors of any last will or codicil, shall be governed by the provisions of this section, so far as it 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: *Pro-*

Adminis-
trators, etc.,
their power
and duty.

Executors,
etc., gov-
erned by this
section.

To give
notice to
creditors
to exhibit
their ac-
counts, etc.

vided however, That for good cause shown to the court, they may extend the time for adjusting and settling accounts as aforesaid, for any period not exceeding two years and a half, from the date of such letters.

Administra-
tors, etc., to
give bond.

Sec. 3. *Be it further enacted*, That the court, when they grant letters of administration, shall cause the administrator or administrators to give bond to the court, 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 or them by law, and if it shall thereafter appear to the court, that any last will and testament was made by the said 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 former administrator or administrators to deliver to the court such letters of administration, and on the delivery thereof to the court, he or they shall thereupon be released from such bond.

Condition
thereof.

Executors
and adminis-
trators, etc.,
to sell per-
sonal proper-
ty.

Sec. 4. *Be it further enacted*, That the executor or executors, administrator or administrators, shall, in all cases, sell the personal property not devised or bequeathed, at public vendue, unless otherwise agreed on by the creditors and heirs:

Proviso, in
favor of the
widow.

Provided always, That the widow may keep such part of the household furniture as she may think proper, at the valuation of the appraisers aforesaid, she securing the payment thereof to the executor or executors, administrator or administrators, or receipting therefor, as part of her legacy or portion, as the case may be.

Sec. 5. *Be it further enacted*, That the executor

or administrator 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 clerk's office as aforesaid, and the court shall allow the executor or executors, administrator or administrators, 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.

In case of sales, to make return to clerk's office.

Compensation.

Sec. 6. *Be it further enacted*, That it shall be the duty of the executors or administrators, after all just debts shall have been paid, to set off and allow to the widow of such intestate, one full third part only of all the remaining goods and chattels, by her to be held as her own proper goods and chattels, if there are any living children of the intestate; in case there shall be no children of the intestate living, then the executors or administrators shall set off and allow to the widow one moiety of all the goods and chattels remaining, after payment of all just debts: *Provided*, That when the whole amount of the estate, after payment of all debts, does not exceed two hundred dollars, the widow shall be entitled to one-half of the personal estate, as her own proper goods and chattels to be set off to her in manner above provided.

Executors, administrators, etc., to make set-off to widow.

Sec. 7. *Be it further enacted*, That the goods and chattels of an intestate, remaining after the payment of all just debts, and the allowance of the widow's portion, shall, by the executors or administrators, be distributed agreeably to the act, entitled, "An act, regulating the course of descents and distribution of personal estates," unless all the heirs of such intestate shall be of full age and agree to a distribution.

Goods, etc., remaining, how distributed.

Court of
common
pleas to ap-
point guardi-
ans.

Sec. 8. *Be it further enacted*, That it shall be the duty of the court of common pleas, on being informed that there are living any heirs or legatees of the estate of any deceased person within the county, forthwith to appoint two guardians for such heirs or legatees, as are minors under fourteen years of age, if males, and under the age of twelve years, if females, who shall take care of such minors and their property, until they arrive at the age aforesaid, and shall moreover be accountable to the court for the profits of the estate or property which such minor or minors may be by law entitled to, by will or otherwise.

Their duty.

At what age
minors may
choose guar-
dians.

Sec. 9. *Be it further enacted*, That when there are any minors as aforesaid, males above fourteen and females above twelve years of age, or when any minors, for whom the court have chosen guardians, arrive 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.

Guardians
to give bond.

Sec. 10. *Be it further enacted*, That guardians chosen as aforesaid, shall give bond to the court, with sufficient surety, such as the court may approve of (respect being had to the value of the estate) for the faithful discharge of their trust, according to law, and for rendering an accurate statement of his transactions, with a just account of the profits arising, and deliver up the same to the court, at such time as the court may require.

Certain laws
repealed.

Sec. 11. *And be it further enacted*, That a law establishing courts of probate, published June

sixteenth, one thousand seven hundred and ninety-five, and "An act, empowering the judges of probate to appoint guardians to minors," passed August, one thousand seven hundred and ninety-two, and all other laws on the subject of this law, are hereby repealed.

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

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 1, 1805.

CHAPTER XXXIII.

An act, defining the duties of the auditor and treasurer of state.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That the auditor and treasurer of this state, shall each keep an office at the seat of government, and respectively do and perform such duties, appertaining to their offices, as may be enjoined them by law, and they shall each, before they enter on the duties of their office respectively, enter into bond, with two or more securities (such as the governor may approve of) for the sum of five thousand dollars, payable to the governor or his successor, for the use of the state, conditioned for the faithful discharge of their Auditor and treasurer to keep office at the seat of government.

To give bond.

duties, which bond shall be filed in the office of the secretary of state.

Auditor to issue warrants payable at the treasury.

Sec. 2. *Be it further enacted*, That the auditor shall, from time to time, by the direction of the general assembly, have warrants printed, payable at the treasury of state, with interest, for the discharge of public debt; which warrant shall be printed on sheets, leaving sufficient space to indent and number them; and he shall indent each warrant and enter the numbers on said space; and when said warrants are returned or brought in for redemption, they shall be compared with their indents and numbers aforesaid, and also, with the other entries thereof, made agreeably to the provisions of this act: *Provided*, That the auditor shall issue no warrants for any other sum than twenty dollars, ten dollars, five dollars and one dollar.

To be indented and numbered.

How compared when brought for redemption.

Warrants to be either twenty, ten, five or one dollar.

Auditor to make entries, liquidate and certify accounts.

Sec. 3. *Be it further enacted*, That the auditor shall make and keep, fair and accurate entries on books by him provided, of all the public accounts and vouchers relative to the fiscal system of this state, which, agreeably to law, are returnable to his office, and shall also receive, examine and liquidate accounts against this state and certify the balance due thereon, and issue (agreeable to the provisions of this act) warrants, payable at the treasury of state, for monies due from the state, and make out true and accurate statements thereof, and report to both houses of the general assembly on the third day of their annual session, at which time he shall also make out and report to both houses, a true and accurate account of the state of the revenue, with a general list of the amount of all lands subject to taxation in each

To make report to the general assembly.

district or county, with the several rates within this state, as returned to his office, stating the lands of residents and non-residents separately, likewise an accurate copy of each duplicate of taxable land, transmitted to his office from the counties severally, noting the particular tracts (if any) on which the taxes have not been paid, and the reason thereof, if to him known, stating also, what collectors have paid, how much have been paid by each, and how much each is yet delinquent, and also, what measures have been taken in case of delinquent collectors, to enforce payment.

Sec. 4. *Be it further enacted,* That all demands against the state shall be presented to the auditor, who shall examine and adjust the same, and thereupon certify the balance due, and issue his warrant or order on the treasurer for the amount thereof and no more, which warrant or order, shall specify the name of the person to whom payable, and bear the date of settlement; a list of all which warrants or orders, 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 the warrants or orders by him issued, the name of the person to whom issued, the date of issuing and the amount of the warrant or order issued, keeping all warrants of the same amount and of the same year's emission, separate and distinct.

Demands against the state presented to auditor.

His duty.

Sec. 5. *Be it further enacted,* That the treasurer shall receive and safely keep, for the use of the state, all public monies which shall be paid into the treasury, and pay out the same as directed by law, an accurate account of the receipts and payments of which, he shall keep in a book or books, to be by him provided for that purpose, in which

Duty of the treasurer.

he shall specify the name or names of the person or persons paying in the same, on what account, and the time of receiving the same, also the name or names of the person or persons to whom paid, on what account and the time of payment.

Further duty of the treasurer.

Sec. 6. *Be it further enacted*, That the treasurer shall receive in payment of all public dues, the warrants or orders of the auditor, and on receiving any warrants or orders, he shall cause the person paying in such warrant or order, to endorse the same, and shall make entry thereof, in a book or books, to be by him provided for that purpose, which book or books shall be ruled with seven columns, in the first of which, to the left hand, he shall enter, in progressive order, the number of warrants or orders by him received; in the next, the name of the person to whom issued; in the next, the date of issuing; in the next, the date of redemption; in the next, the amount of the warrant or order; in the next the amount of interest, and in the last, the amount of the principal and interest, keeping an account of all warrants or orders of the same amount and of the same years emission, separate and distinct; a schedule of all such entries, in form aforesaid, shall be annexed to and compose a part of the auditor's and treasurer's annual report to the general assembly.

Auditor and treasurer to submit their books, etc.

Sec. 7. *Be it further enacted*, That the auditor and treasurer shall, at any time, submit their books, accounts and vouchers to the inspection of the general assembly, for their examination.

Penalty on the auditor and treasurer speculat-

Sec. 8. *Be it further enacted*, That the auditor and treasurer, and each of them, are hereby

barred and excluded from deriving, obtaining or applying, directly or indirectly, to their own proper use or benefit, any emolument or gain for negotiating or transacting any business in either of their departments, other than is expressly allowed them by law, neither shall either of them offer or receive any warrant or audited order or account on any pretense whatever, at less value than is expressed therein.

Sec. 9. *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 manner and form 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.

ing on warrants, etc.

Faith of the state pledged for the redemption of warrants.

Treasurer to redeem warrants.

When redeemed, marked.

Sec. 10. *Be it further enacted*, That if the auditor or treasurer, or either of them, shall fail or neglect to execute the duties of their offices respectively, 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 any sum not exceeding one thousand dollars, at the discretion of the court having jurisdiction thereof, and shall also be liable for damages.

Penalty for neglect of duty.

Sec. 11. *And be it further enacted*, That "An act, to create the office of a territorial treasurer and of an auditor of public accounts;" also, an act

Certain laws repealed.

amendatory thereto; and "An act, defining the duties of the auditor and treasurer of state," are hereby repealed.

Commence-
ment.

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

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 21, 1805.

CHAPTER XXXIV.

An act, providing for the service and return of process, in certain cases.

When all de-
fendants
named in a
writ cannot
be found,
service on
one suf-
ficient.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That if any plaintiff or plaintiffs shall sue out any writ of *capias ad respondendum*, or summons, against one or more defendants, directed to the sheriff or coroner of the proper county, as the case may require, and if the said sheriff or coroner cannot find each and every of the defendants named in the said writ of *capias ad respondendum*, or summons, within his or their county, it shall be the duty of the said sheriff or coroner to serve the said *capias* or summons on as many of the said defendants as may be found in his or their county, either by taking their bodies or by delivering to them copies of such process, as the case may require; and the said sheriff or coroner shall make return of such process by

endorsing thereon *cepi corpus*, as to the defendant, or *cepi corpora*, as to the defendants, on whom the same hath been served, in manner aforesaid, and by also endorsing thereon *non est inventus*, as to the defendant, or *non sunt inventi*, as to the defendants who are not to be found in his or their bailiwick.

How returns shall be made.

Sec. 2. *Be it further enacted*, That after the *capias* or summons hath been served and returned as aforesaid, the plaintiff or plaintiffs may file a declaration against the defendant or defendants on whom such service hath been made, suggesting therein the return endorsed on the said process, as to the defendant or defendants on whom the same hath not been served, and may proceed to judgment against the said defendant or defendants, according to the custom and practice of the court, and after such judgment hath been obtained, the plaintiff or plaintiffs may, by a writ or writs of *scire facias*, cause the defendant or defendants on whom such process hath not been served, to be made parties to the said judgment, unless such defendant or defendants show good and sufficient cause why judgment should not be entered against him, her or them, and the defendant or defendants made parties to the judgment as aforesaid, shall be subject to the same final process as though he, she or they had been duly served with *mesne* process, and had thereupon appeared and received a declaration and make defense or suffered a default.

Plaintiff may proceed to judgment, etc.,

and issue writ of *scire facias*.

Sec. 3. *Be it further enacted*, That an act, entitled, "An act, providing for the service and return of process in certain cases," be and the same is hereby repealed.

Repealing clause.

**When to
take effect.**

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 XXXV.

An act, authorizing the leasing of certain lands in the county of Washington, granted for religious purposes.

**Corporation
established.**

Style.

Capacities.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That there shall be established a body politic and corporate, by the name and style of the trustees for managing lands granted for religious purposes, in the county of Washington, within the Ohio Company's purchase, which corporation shall consist of nine persons, to be appointed by the general assembly, capable of suing and being sued, of pleading and being impleaded, and when sued, service shall be by leaving a copy of the process with their clerk, if the debt or demand exceed the jurisdiction of a single magistrate, at least thirty days before the sitting of the court to which such process is made returnable, but if cognizable by a single magistrate, a copy of the process shall be left with the clerk, and the time of service regulated agreeably to the laws of this state, in such case made and

provided, and they shall have one common seal, with the power to break, alter and renew the same, when and so often as said corporation may think proper. Seal.

Sec. 2. *Be it further enacted*, That William Rufus Putnam, Matthew Backus, Joseph Buell, Silas Bent, Jr., Cornelius Hogland, Haffield White, Joseph Wood, William Skinner and William Nixon, be and the same are hereby appointed, trustees for the purpose expressed in this act, any five of whom to constitute a board capable of doing and transacting the business of the said corporation: *Providing*, That no act or resolution of the board shall be binding, unless the same shall be approved of by a majority of the whole number of the trustees composing the corporation. Persons composing the corporation.

Sec. 3. *Be it further enacted*, That the legislature may, on complaint, remove any member of the corporation for misconduct or breach of trust, and when vacancies occur in the corporation, either by death, removal or resignation of any trustee, the legislature shall appoint a person to fill such vacancy, and in case a vacancy should happen during the recess of the legislature, the board of trustees may fill such vacancy, to serve during such recess, which appointment shall be certified to the next legislature, by said board. Legislature may remove from office and fill vacancies.

Sec. 4. *Be it further enacted*, That the corporation shall meet, annually, on the first Monday of May, at which time the trustees shall choose, from their body, a chairman, clerk and treasurer; the chairman may call special meetings, when necessary; the clerk and treasurer shall reside and keep their offices in Marietta; the treasurer Trustees may fill vacancies during recess.

Annual meeting of corporation.

Chairman, his power.

Clerk and treasurer to give bond.

shall give bonds, with two sureties, neither of whom shall be a member of the corporation, conditioned for the faithful discharge of his office, in such sum as the trustees may think necessary.

Lands put in charge of the trustees.

Sec. 5. *Be it further enacted*, That all and every lot of land lying in the county of Washington, granted as aforesaid, by the United States to the Ohio Company in trust, shall be and the same are hereby placed under the care, charge and inspection of the trustees aforesaid, and they are hereby vested with full power and authority, when and so often as they may think proper, by legal process, to remove any person or persons from the possession of any of the lots granted as aforesaid, when such person or persons have not taken a lease, and refuse or neglect to take the same, or are on such lands as the trustees think proper to reserve for wood lands, commons or other useful purposes; and the said trustees are authorized to prosecute any person or persons for committing trespass or waste on any lands granted as aforesaid, in any court proper to try the same.

Their power to remove from possession, etc.

Marietta.

Sec. 6. *Be it further enacted*, That as the town of Marietta is built on the fractional lot number twenty-nine, in the second township of the eighth range, surveyed agreeably to the ordinance of congress, of the twentieth of May, one thousand seven hundred and eighty-five, granted for religious purposes aforesaid, and it is reasonable that those persons who have built or may build valuable houses on the same, shall hold the same so built on by a permanent lease, the said trustees therefore, are authorized to lease any part of the aforesaid lot number twenty-nine, except such streets and commons as have been heretofore laid out and

Trustees to lease.

established by law, as public roads and highways, in the following manner, viz.: To any person or persons who have built or may build a dwelling house or store-house, or house or houses for any manufactory, of the value of two hundred and fifty dollars, a lot or parcel of ground not exceeding one-third part of an acre. To any person or persons who may build a dwelling house or house or houses, for any manufactory, of the value of one thousand dollars, a lot or parcel of ground not exceeding two-third parts of an acre. To any person or persons who have built or may build a dwelling house of two thousand dollars and upwards, a lot or parcel of ground not to exceed one acre and one-third of an acre: *Providing*, The person or persons building such house, have that quantity in possession; which lease or leases shall be made for the term of ninety-nine years, and renewable forever, with a fixed annual rent, not in any case, to exceed ten dollars for one-third part of an acre, nor less than one dollar, and in the same proportion for any greater or less quantity of ground leased as aforesaid; and it is hereby made the duty of the trustees aforesaid, to regulate the lot number twenty-nine aforesaid, by the survey made by the Ohio Company, of part of the said lot, in laying off the town of Marietta.

To those who may build a house worth two hundred and fifty dollars.

One thousand dollars.

Two thousand dollars.

For what length of time.

What rent.

Governed by the survey made by Ohio company.

Transfer made.

Sec. 7. *Be it further enacted*, That any person holding any lot or parcel of ground, by lease or leases aforesaid, renewable forever, may transfer the same, and the legal evidence of such transfer shall be the same as by law required for evidence of the transfer of lands in fee simple.

Sec. 8. *Be it further enacted*, That any part of lot number twenty-nine, as aforesaid, which shall

Vacant lots may be leased not more than ten nor less than three years. not be leased as aforesaid, may be leased for a term not exceeding ten years nor less than three years, and the trustees may, from time to time, require such rent as they may think reasonable:

Rent limited. *Providing*, That the same shall, in no case, exceed three dollars for one-third part of an acre, for one year; and if any part of the said lot, number

Building during the lease. twenty-nine, held by lease for years, as aforesaid, should be built on during the continuance of the lease, and the occupant or occupants should obtain a permanent lease, as aforesaid, then so much of the lease for years shall be void as is contained in the permanent lease.

Rent, when paid. Sec. 9. *Be it further enacted*, That the money due for rent, shall be paid by the lessee to the treasurer of the trustees, on the first day of July,

On failure, annually, and on failure of the payment of the rent for forty days after the day of payment, the

warrant of distress. trustees may direct their clerk to issue a warrant of distress, directed to a constable of the township, commanding him to levy and collect the rent out of the goods and chattels of the delinquent,

Fees. and the clerk shall recover twelve and a half cents for such warrant, and the constable such fees as are given by law for the like services in other cases, to be collected with the rent: *Providing*,

Provided, where goods, etc., cannot be found, trustees may re-enter and sell improvements. No goods or chattels can be found, of which distress can be made, the trustees are empowered to re-enter upon the land, and the improvement shall be sold at public vendue, to satisfy such rent and costs; in which case, the said trustees shall give at least fifteen days public notice of the time and place where the improvement of such land or part thereof, will be sold, and in case the improvement

Overplus paid over. should sell for more than the rent and costs, or there be only a part sold, the overplus, if in

money, shall be paid over, and if in lands, shall again be leased to the delinquent.

Sec. 10. *Be it further enacted*, That it shall be lawful for every free male inhabitant, who resides in the town of Marietta, annually, in the month of May, to lodge with the clerk of the trustees a certificate, setting forth the religious society to which he belongs, and the certificates returned as aforesaid, shall be the ratio by which the trustees shall make the distribution of the proportional part of the clear profits, income and rent of the said fractional lot number twenty-nine, in Marietta, amongst each and every religious society, which money shall be appropriated for religious purposes, agreeably to the original grant.

Persons entitled to a dividend, when to apply.

Trustees to make distribution.

Sec. 11. *Be it further enacted*, That it shall be the duty of the trustees aforesaid, annually, in the month of October, to issue their order on the treasurer, in favor of such committee, as a majority of such society shall appoint for that purpose, the proportional part of the rents and profits of the said lands due to such society, agreeably to their numbers, certified as aforesaid.

To draw in favor of committee, etc.

Sec. 12. *Be it further enacted*, That should there be any dispute, whether the money aforesaid is distributed agreeably to the provisions of this act, the society or societies who may think themselves aggrieved by the decision of the trustees, may appeal from such decision to the court of common pleas of the county, which appeal shall be entered with the clerk of the trustees, within fifteen days after such decision is made public, and the clerk is required to certify such decision, with all the proceedings had thereon, to the next court

Societies aggrieved,

may appeal to common pleas within fifteen days.

Their decision final.

of common pleas, and the said court is authorized and required, to hear and determine such matter in dispute, and certify their determination to the clerk of the trustees, which determination shall be final and the distribution made accordingly, and the books of the trustees, with the accounts of the treasurer, shall at all times be subject to the inspection of any committee or committees, from any one or all of the societies of said township, established as aforesaid.

Improve-
ment leases.

Sec. 13. *Be it further enacted,* That the trustees are hereby authorized to lease all the other lands granted as aforesaid, for religious purposes, in the county aforesaid, for any term not exceeding twenty years, and may require such rent or improvement to be made thereon, as they may think reasonable; and the money, when collected, shall be paid into the treasury, for the use of the society or societies of the township in which said section is situated, agreeably to the provisions of this act; and if any lessee shall neglect to make the improvement conditioned in the lease, the trustees shall have power to re-enter upon the land and lease the same to any other person.

Compensa-
tion to the
trustees,

Sec. 14. *Be it further enacted,* That the trustees may require for each lease for improvement, a reasonable sum for said lease, together with a sum to defray the expense of subdividing any lot, and the trustees aforesaid, for all business performed under this act, relative to the lot number twenty-nine, in the township aforesaid, shall each receive, for every day necessarily employed on said business, seventy-five cents; and the treasurer is hereby authorized to pay the same, and the treasurer shall retain six per centum on all monies by

treasurer
and clerk.

him received, in full compensation for receiving and paying out the same, and the clerk shall receive such allowance as the other trustees shall think reasonable, for all writing performed under this act.

Sec. 15. *Be it further enacted*, That all leases which have heretofore been given, and all business performed under the authority of an act, entitled, "An act, authorizing the leasing of lands granted for the support of schools and for religious purposes, in the county of Washington," passed the twenty-seventh day of November, in the year of our Lord, one thousand eight hundred, shall be considered good and valid in law, anything to the contrary notwithstanding.

Proceedings
under for-
mer law
valid.

Sec. 16. *Be it further enacted*, That all laws and parts of laws, heretofore passed on this subject of ministerial lands, lying in the county of Washington, be and the same is hereby repealed.

Repealing
clause.

This act to take effect, from and after the fifteenth day of March next.

Commence-
ment.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 21, 1805.

CHAPTER XXXVI.

An act, to prevent destroying publications.

Penalty. 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.

Repealing clause. 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.

Commencement. 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 XXXVII.

An act, to prevent destroying of timber.

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 black walnut, black, white, yellow or red oak, poplar, or white wood, wild cherry, white or blue ash, yellow or black locust, chestnut, coffee, pine 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 twenty-five cents, nor more than ten 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 three dollars, at the discretion of the court having jurisdiction of the same, due proof thereof being made on the suit of the owner or owners of said land, his, her or their representative, agent or attorney.

Persons cutting, boring, boxing or otherwise destroying certain trees, etc., to forfeit and pay.

not less than twenty-five cents, nor more than ten dollars,

not less than twelve and a half cents, nor more than three dollars for all others.

Sec. 2. *And be it further enacted.* That a law, to prevent trespassing by cutting timber, published at Cincinnati, the 14th of July, 1795, and an act to prevent trespassing by cutting of timber, passed November 15, 1799, and an act supplementary thereto, passed December 19, 1799, be and the same are hereby repealed.

Certain laws repealed.

Commence-
ment 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.

JOSEPH KERR,
Speaker pro tem. of the senate.

January 11, 1805.

CHAPTER XXXVIII.

An act, to prevent firing woods and prairies.

Penalty for
firing woods,
prairies, etc.

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 offense, be fined in a sum not exceeding fifty dollars, at the discretion of the court having cognizance of the same, to be recovered by indictment, to be paid into the treasury of the county where the offense 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.

Repealing
clause.

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

Commence-
ment.

JOHN SLOANE,
Speaker pro tem. of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 11, 1805.

CHAPTER XXXIX.

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 anywise to affect any law requiring any specific seal to be affixed to any instrument of writing therein mentioned.

Seals of
wax, wafer
or ink, equal
effect in law.

Proviso.

Repealing
clause.

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.

Commence-
ment.

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,
Seaker of the senate.

February 11, 1805.

CHAPTER XL.

An act, authorizing the governor to fill vacancies, in certain cases.

Officers ap-
pointed by
the legis-
lature die or
office be-
come va-
cant, gov-
ernor to ap-
point.

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.

Commence-
ment.

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 XLI.

An act, to provide for the recording of town plats.

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.

Proprietors
of towns
hereafter
laid out to
record plat,

under pen-
alty.

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

Substance
of the plats.

To be ac-
knowledged,

and certi-
fied.

Shall vest
the fee of
the public
ground to
uses.

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.

Penalty for
causing plats
to be re-
corded
which do
not set forth.

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.

Disposition
of forfei-
tures.

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 December, eighteen hundred, be and the same is hereby repealed.

Repealing
clause.

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

Commence-
ment.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 14, 1805.

CHAPTER XLII.

An act, defining a lawful fence and providing against trespassing animals.

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 inclosed with a strong and sound worm fence, sufficiently staked and ridered, 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

A lawful
fence, what.

Owners, etc., injured by trespassing animals, to apply to fence viewers. 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 inclosure 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

Their duty.

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.

Penalty for neglect.

If in the opinion of the fence viewers the fence is lawful,

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 applicant 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.

to assess damages, etc.,

and certify the same.

The owner of trespassing animals refusing payment,

how proceeded against.

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.

Justice's duty.

Proviso.
appeal allowed.

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.

Compensation to fence viewers, etc.

Penalty for neglect of duty.

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.

Repealing clause.

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

When to take effect.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 2, 1805.

CHAPTER XLIII.

An act, for the prevention of certain immoral practices.

Sabbath day, how to be kept and observed.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That if any person shall be found on the Sabbath day, sporting, gaming, rioting, quarreling, hunting, horse racing, shooting or common labor (works of necessity excepted) or 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 other duties enjoined or appertaining to them, as members of such society, the person so offending shall, on conviction thereof, before any court, judge or justice, having jurisdiction of the same, be fined in any sum not exceeding five dollars, at the discretion of such court, judge or justice: *Provided*, That nothing herein contained, shall be so construed as to prevent families emigrating from travelling, watermen from landing their passengers, or ferrymen from conveying over the water travellers or persons removing with their families, on the Sabbath day.

Proviso, in favor of ferrymen, etc.

Profane swearing, how punished.

Sec. 2. *Be it further enacted*, That if any person of the age of fourteen years or upwards, shall profanely curse, damn or swear, by the name of God, Jesus Christ or the Holy Ghost, such offender shall, on conviction thereof, be fined in the sum of fifty cents, for every such offense.

Cock fighting, bullet playing, card, etc.,

Sec. 3. *Be it further enacted*, That cock-fighting, bullet-playing, card-playing, and every other species, kind or way of gambling at hazard or chance, under any pretense whatever, for money

or any other article of value, and betting thereon, are hereby prohibited, and if any person shall be found in the practice thereof, such offender shall be fined in any sum, not exceeding ten dollars; and if any person shall lose any money or other article of value, by practicing or playing any of the games aforesaid or betting thereon, the person so losing shall not be bound or compelled to pay the same, and any contract, note, bill, bond, assignment, judgment, mortgage or other security or conveyance whatsoever, given, drawn or entered into, for the security or satisfaction of the same or any part thereof, shall be utterly void and of no effect.

punished by
fine.

Gaming con-
tracts void.

Sec. 4. *Be it further enacted*, That if any person by being intoxicated, shall be found making or exciting any noise, contention or disturbance, at any tavern, court, election or other meetings of the citizens for transacting or doing any business appertaining to or enjoined on them, the person so offending shall, on conviction thereof, be fined in any sum, not exceeding two dollars, and if necessary, imprisoned, until such court, election or meeting, is over.

Drunken-
ness, etc.,
how pun-
ished.

Sec. 5. *Be it further enacted*, That actions to prosecute for offenses under this act, may, within two days after the offense be instituted by any person, on oath or affirmation, before any justice of the peace, of the offense having been committed; but no person shall be convicted but by the testimony of one or more credible witnesses, and the justice before whom it is tried, shall adjudge the fine: *Provided*, That every judge of any court, and every justice of the peace may, in hearing or on view of any offense aforesaid when

When prose-
cutions un-
der this act
may be com-
menced.

Judges and
justices may
take cogni-
zance and
convict on
view.

committed, forthwith cause the offender to be fined, as aforesaid, at the discretion of said judge or justice, and on refusal or neglect to pay the fine, commit such offender or offenders to jail, not exceeding eight hours, in which case the person so committed, shall pay the jail fees: *Provided also*, That all fines recovered by this act, shall be paid into the township treasury, for the use of the township.

Fines paid into township treasury.

Repealing clause.

Sec. 6. *Be it further enacted*, That a law to suppress gaming, published July the sixteenth, one thousand seven hundred and ninety-five, and an act for the prevention of vice and immorality, passed December second, one thousand seven hundred and ninety-nine, are hereby repealed.

When to take effect.

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 XLIV.

An act, to amend an act, entitled, "An act, to provide for organizing and disciplining the militia."

Sec. 1. *Be it enacted by the general assembly of*

the state of Ohio, That where there shall not be sufficient number of militia companies in any one county in this state to form a regiment, the major general or commanding officer of the brigade, may form the whole of the companies within such county into one battalion, to continue as such until their numbers will entitle them to form a regiment, and may direct the major of such battalion to appoint an adjutant, *pro tempore*, and the other staff officers, to make return and proceed in every respect, in the same manner as is directed by law, for commanding officers of regiments.

When not a sufficient number of companies in one county to form a regiment, to be formed into a battalion, etc.

Sec. 2. *Be it further enacted*, That where there may be any odd battalion or company in any county, the major general or commanding officer of the brigade to which such battalion or company belongs, may attach such battalion or company to the nearest battalion or regiment, or form them into a battalion, as directed in the foregoing section, as they may think most proper; and when the centre of any company district shall be more than fifteen miles from the place of battalion meeting, the brigadier general may dispense with such company's meeting with the battalion.

When an odd battalion or company, the major general or commanding officer's duty.

Sec. 3. *Be it further enacted*, That the major generals are authorized to appoint one surgeon and one quartermaster to each division, agreeably to the sixth section and fifth article of the constitution, and may create new or alter old company districts, and order elections to fill any vacancies which now exist in any companies, battalions or regiments: *Provided*, The same be done without injury to the companies already established, and

Major generals to appoint surgeons and quartermasters, etc.

before the election of brigadier general in that brigade.

Elections,
how con-
tested.

Sec. 4. *Be it further enacted,* That if any candidate or other elector, chooses to contest the validity of any election, or the right of any person proclaimed duly elected an officer, he may give notice thereof, in writing, to the major general or commanding officer of the brigade or regiment, within twenty days after such election, and shall notify the person or persons whose election he means to contest, expressing the points on which he means to contest the same; and the major general or commanding officer of said brigade or regiment (as the case may be) shall summon the parties to appear before three commissioned officers, whom he may appoint for that purpose, who shall hear and determine the same and shall report their decision, in writing, to the officer who gave the summons, which decision shall be final, if approved of by said commanding officer, if not approved of, he shall order a new election; and if two or more candidates have an equal number of votes for one office, a new election may take place, and if no choice is made on the second balloting, the persons having the highest and an equal number of votes, may draw lots for the office, and the person drawing the prize or highest number shall be considered duly elected, and shall be commissioned accordingly.

Superior of-
ficers may
attend mus-
ters and give
orders, etc.

Sec. 5. *Be it further enacted,* That every superior officer shall have a right to attend any muster of officers, or any part of his division, brigade, regiment or battalion, when paraded for muster or inspection, and may give such orders

or necessary directions, on parade, and from time to time, as they may deem expedient and proper, for the good of the militia, and may call for returns as often as they may think necessary.

Sec. 6. *Be it further enacted*, That the major generals, on complaint or view of any misconduct of any officer in his division, may order such officer arrested, and may order a court martial for the trial of such arrested officer.

Major generals may order an arrest.

Sec. 7. *Be it further enacted*, That the majors general of the state, shall be entitled to receive the sum of seventy-five dollars each, as a compensation for paying postage of commissions, returns, letters and extra stationery and expenses in organizing their several divisions, to be paid out of the treasury of this state, as soon as the organization of their divisions shall have been completed agreeably to law, which said sums shall be paid on the certificate of the governor.

Major generals to receive seventy-five dollars each for organizing their divisions.

Sec. 8. *Be it further enacted*, That the commissioned officers of each and every company, are authorized and required, to assess and collect the fines incurred by any non-commissioned officer or private, for non-attendance on any day or days of company muster or training, and the commanding officer of such company shall issue his warrant, under his hand and seal, directed to one of the sergeants of said company, commanding him to levy and collect the said fine or fines, and the said sergeant, by virtue of the warrant, shall call on every delinquent that shall be named in said warrant, or in a list annexed thereto and accompanying the same, and demand payment, and eight per cent. on the amount thereof, for his trouble in

Commissioned officers of companies to assess and collect fines, etc.

How collected,

collecting the same, and on neglect or refusal of such payment, the said sergeant shall proceed to levy the said fine or fines, with costs equal to those received by constables in similar cases, by distress irreplevible, and to make sale of the offender's goods and chattels, in like manner and with like effect as the collectors of taxes may or can do, which sum so collected, shall be paid into the hands of the paymaster of the regiment within thirty days, who shall allow the sergeant three per cent. on the amount of the money so paid in, in addition to the eight per cent. received as afore-said; and the commanding officer of each and every company, shall keep a fair and accurate account of all warrants by him issued, as afore-said, and shall produce the same at the sitting of the next board of officers, and if any person shall feel himself aggrieved by the decision of his officers, he may appeal to the next board of officers, who, if they think proper, for good cause shown, may remit said fine.

and dis-
posed of.

Persons ag-
grieved may
appeal.

Non-com-
missioned
officers, how
appointed.

Sec. 9. *Be it further enacted,* That the commis-
sioned officers of each company may appoint their
non-commissioned officers, and a warrant from
the commanding officer of the company shall be
deemed sufficient: *Provided,* Such non-commis-
sioned officer may require the commanding officer
of the regiment to countersign and seal the same.

Light com-
pany not less
than thirty
privates.

Sec. 10. *Be it further enacted,* That no light
infantry, grenadier or rifle company, shall be
formed of less number than thirty privates.

Platoon off-
cers, how
armed.

Sec. 11. *Be it further enacted,* That the platoon
officers only, shall be required to arm themselves
with elpontoons.

Sec. 12. *Be it further enacted*, That the commanding officer of each company, may notify his company while on parade, of the day and place of the next company muster or training, and such notice shall supersede the necessity of any further notice.

Companies may be notified on parade.

Sec. 13. *Be it further enacted*, That fines incurred by officers or privates in the artillery or cavalry, shall be assessed and collected in the same manner as is provided for in assessing and collecting the fines from the militia, and the fines so collected shall be disposed of to purchase colors, trumpets, drums and fifes, in such manner as shall be directed by the brigadier general.

Fines incurred in the artillery or cavalry, how assessed, collected and disposed of.

Sec. 14. *Be it further enacted*, That each commanding officer of a company shall make return of his company to the commanding officer of his battalion, at every battalion or regimental muster, while on parade, or within five days after such parade; and the major or commanding officer of the said battalion shall lay the same before the next board of officers.

Commanding officer of company to make return.

Sec. 15. *Be it further enacted*, That the judges of the supreme court, and the presidents of the courts of common pleas in this state, shall be exonerated from performing militia duty, any law or usage to the contrary notwithstanding.

Supreme judges and presidents of court of common pleas exonerated.

Sec. 16. *And be it further enacted*, That all parts of the act, entitled, "An act, to provide for organizing and disciplining the militia," passed at the second session of the general assembly at Chillicothe, contrary to the provisions of this act, together with the twenty-eighth section of the

Repealing clause.

above recited act, be and the same is hereby repealed.

Commence-
ment.

This act to commence and be in force, from and after the passage thereof.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 20, 1805.

CHAPTER XLV.

An act, providing for the election of justices of the peace.

Vacancy in
the office of
justice of
the peace,

trustees to
warn meet-
ing.

In new town-
ships, the
court of com-
mon pleas
duty.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That whenever there shall be a vacancy in the office of a justice of the peace, in any township in this state, the trustees of such township shall warn a meeting of the electors therein, to elect a suitable person to fill such vacancy, and whenever hereafter any township shall be divided or set off, the court of common pleas of the proper county, shall determine and fix on a suitable number of justices of the peace for such township, and the trustees of such township shall warn a meeting of the electors to elect the number of justices determined on; but if there be no trustees elected in such township, the said judges shall cause notices, in writing, signed by themselves to be set up at three of the most public places within the said township, which notices

shall state the number of justices of the peace to be elected and the time and place at which such election will be held, which shall not be less than fifteen nor more than twenty days, after the date of such notice.

Sec. 2. *Be it further enacted*, That whenever it shall be made to appear, to the satisfaction of the associate judges of any county within this state, that there is not a sufficient number of justices of the peace within any township thereof, that the said judges are hereby authorized to add one or more justices to such township (as to them may appear reasonable and right) and the trustees shall warn a meeting of the electors of such township, to elect the number of justices so added.

Associate judges may add one or more justices to any township.

Sec. 3. *Be it further enacted*, That all elections held under this act, shall be held and conducted in the same manner and under the same regulations as required in the act, entitled, "An act, to regulate elections."

Elections, how conducted.

Sec. 4. *Be it further enacted*, That if any candidate or elector of the township, in which the election was held, thinks proper to contest the validity of his or their election, who was proclaimed elected, he or they intending to contest, shall make it known to one of the associate judges of the court of common pleas, within ten days after such election, and the points on which he means to contest such election, whose duty it shall be to communicate the same to him or them whose election is contested (as the case may be) citing him or them to appear on such a day, at some convenient place appointed by the judge aforesaid; allowing the person whose election is contested ten days notice of such contested elec-

Manner of conducting contested elections.

tion, specifying the name of the person who contests the same, and shall, at the time, give notice thereof to the clerk of the county, directing him to withhold the return of such contested election, until the same is decided.

Judge to
summon
three free-
holders.

Sec. 5. *Be it further enacted,* That the judge aforesaid, on the same day that he issues notice to the person or persons whose election is contested, shall issue a summons to three respectable freeholders, whom he may appoint, making known to them the cause of such summons, which shall be directed to a constable, whose duty it shall be to serve the same.

Duty of free-
holders sum-
moned.

Sec. 6. *Be it further enacted,* That when the said freeholders have met and taken the necessary oath or affirmation, before any judge of the court of common pleas or a justice of the peace, shall then proceed to hear and try such contested election, agreeable to evidence, make report, in writing, signed by each of the said freeholders, and transmit the same to the clerk of the court of common pleas of the proper county, within ten days after the decision of such contested election; and the clerk, on receiving said report, shall send, within ten days thereafter, a certificate of the determination of such freeholders to the trustees of the proper township, that in case there should be a vacancy in the office of justice of the peace, by reason of such determination, the said trustees shall call a township meeting for the purpose of electing a suitable person or persons to fill such vacancy.

Trustees
calling a
meeting,
how gov-
erned.

Sec. 7. *Be it further enacted,* That in all cases where the trustees of any township are required to call a meeting of the electors under this act,

they shall, in all respects, be governed by the ninth section of the act, entitled, "An act, to provide for the incorporation of townships."

Sec. 8. *Be it further enacted*, That all actions pending and judgments unsatisfied, remaining on the docket of justice of the peace, which has become vacant, either by removal from office or resignation, shall be regularly made out in a fair abstract, signed by such justice removed or resigned, and deliver over the same to any one justice of the peace for said township, within twenty days, and the said justice, after receiving the said abstract or record, at the request of either party, is hereby authorized and required, to proceed thereon in the same manner as if the cause or causes had been commenced or judgment had before himself: *Provided*, That in case the office of justice of the peace should become vacant by death, that the legal representative of such deceased justice shall, on oath or affirmation, deliver over to his successor in office the docket, together with all documents relating thereto, of such justice deceased, and shall proceed thereon as in case of an abstract from a justice removed or resigned.

Actions, etc., pending, to be delivered over to justice of the peace, of the township,

who is to proceed thereon.

Proviso, where the office becomes vacant by death.

Sec. 9. *Be it further enacted*, That an act, passed the sixteenth day of April, eighteen hundred and three, entitled, "An act, to regulate the election of justices of the peace, and for other purposes;" also, an act, passed the twenty-fourth day of January, one thousand eight hundred and four, entitled, "An act, to provide for filling vacancies of justices of the peace," be and the same are hereby repealed.

Certain act repealed.

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

Commencement.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 20, 1805.

CHAPTER XLVI.

An act, directing the mode of leasing section numbered sixteen.

Section, No. 16 to be leased, etc., by the trustees of the township.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That the right to lease section numbered sixteen and equally distribute the net proceeds arising therefrom, is vested in the trustees of the townships severally, in their corporate capacity; and it is hereby made their duty, to see that the same be duly and impartially applied to the education of youths within the particular surveyed township of sixteen miles square or fractional part of a township, within which the section numbered sixteen is situated, from which any such net proceeds may arise, in such manner that all the citizens resident therein may be equal partakers of the benefits thereof, agreeably to the true intent of the donation.

Their duty prior to granting lease.

Sec. 2. *Be it further enacted*, That the trustees shall, prior to their granting a lease for section numbered sixteen aforesaid, proceed to view and lay off the same, in lots of not less than eighty nor more than two hundred acres, and shall also advertise the same to be leased, in four of the most public places in the township, and also on the court house door, at least thirty days before

granting the lease, mentioning the time and place where applications will be received and when they will meet to execute the lease; and the trustees shall grant leases to those who make the most advantageous proposals: *Provided*, That no lease shall be granted for a longer time than fifteen years: *Provided nevertheless*, That nothing in this act shall be so construed as to prevent the trustees of any township from leasing any land heretofore leased, in tracts of the same quantity of acres-specified in their original leases. Proviso.

Sec. 3. *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 timber or sugar camps thereon, and to make such improvements as the trustees may think proper. Not to lease more than one lot to any one person, etc.

Sec. 4. *Be it further enacted*, That so soon as any lease heretofore legally given for section numbered sixteen, is expired, the trustees of the township shall proceed to view, lay off, advertise and lease the same, as hereinbefore directed. When leases heretofore given expire, trustees duty.

Sec. 5. *And be it further enacted*, That so much of the "Act, for leasing certain lands therein named," as respects the leasing section numbered sixteen, passed April fifteenth, one thousand eight hundred and three, is hereby repealed. Repealing clause.

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

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 20, 1805.

CHAPTER XLVII.

An act, to amend the act, entitled, "An act, appropriating part of the three per cent. granted for laying out, opening and making roads, within this state."

State treasurer's duty in paying orders, etc.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That the state treasurer shall pay all orders drawn on him by the road commissioners, of which a list was forwarded to his office before the first day of November last; and all road commissioners, who have or shall make legal return to this general assembly, of their proceedings agreeable to the requisitions of the seventh section of the above recited act, shall, at the end of every three months from the said first of November last, forward to the state treasurer, a list of all orders by him or them drawn, for labor done on their respective roads, and the treasurer shall (if there be a sufficiency of the money appropriated in his possession) pay the whole of said orders, but if there should not be money sufficient to pay the whole amount of said orders, he shall, at the end of every three months, make a distribution of the money in his possession, between the several persons holding orders on him, in proportion to the amount of their orders, until the whole sum or sums appropriated are paid.

Road commissioners, when to draw orders

When treasurer has not money to pay orders, etc., to make distribution.

Speaker of the house of representatives or road commissioner to certify to treasurer, etc.

Sec. 2. *Be it further enacted,* That the speaker of the house of representatives shall certify to the treasurer the length of each road of which returns have been made to the present general assembly, by the respective road commissioners, or that each

road commissioner shall certify to the treasurer, the length of the road of which he was appointed commissioner; and the treasurer shall, in either case, thereupon have such commissioner the amount allowed him by law.

Sec. 3. *Be it further enacted*, That the commissioners appointed under the provisions of the above recited act, who have not had their roads cut out and completed in time to report to the present legislature that their respective roads were completed, shall report to the next legislature the situation of their respective roads.

Commissioners whose roads were not completed, when to report.

Sec. 4. *Be it further enacted*, That the town of New-Ark, in the county of Fairfield, be and is hereby made a point in the road from Zanesville to Franklinton.

This act shall 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 21, 1805.

CHAPTER XLVIII.

An act, to amend an act, entitled, "An act, regulating the public salt-works."

Sec. 1. *Be it enacted by the general assembly of*

Persons licensed after March 1, 1906, to pay the agent quarterly yearly, etc.

the state of Ohio, That from and after the first day of March, one thousand eight hundred and five, each and every person who have or may hereafter obtain a license to manufacture salt, shall pay or cause to be paid to the agent of the salt-works, quarter yearly, the sum of two cents per gallon and no more, on the capacity of the kettles or other vessels used in boiling salt water in their respective furnaces, which rent shall be collected and recovered in the manner directed by the above recited act.

Number of kettles, etc., used in one furnace.

Sec. 2. *Be it further enacted*, That no person or company shall, under any pretense whatsoever, be permitted to use at any time, a greater number of kettles or vessels than will contain four thousand gallons, nor less number in any one furnace than three hundred gallons.

Agent on application, to grant leases.

Sec. 3. *Be it further enacted*, That the said agent shall give any person making application, a lease for any quantity not less than five acres nor more than twenty acres, in any lot, as is described in the second section of the above recited act; the lessee to have the use of the same for seven years for enclosing the lot or ground so leased, with a good and lawful fence and leaving the same in good repair at the end of his lease, then to be disposed of as shall be directed by law.

and inspect barrelled salt, etc.

Sec. 4. *Be it further enacted*, That the agent of the salt-works shall, on application made to him for that purpose, inspect any barrelled salt, and if the same is merchantable, he shall brand the barrel with the word "inspected," and if any person shall sell any salt in barrels which has been condemned by the inspection of the agent, such person shall forfeit to the state the sum of ten

dollars, which shall, by the agent, be recovered before any court having cognizance thereof, and the said agent shall pay into the treasury of the state all such fines collected; and if any person working the salt-works, shall become obligated to any person for salt and the person to whom the salt is due shall object that the salt offered to him in payment is not merchantable, it shall be inspected and determined by the agent, whether the salt so offered is merchantable or not. All parts of the above recited act, that are contrary to the provisions of this act, be and the same is hereby repealed.

This act to take effect, from and after the passage thereof. Commencement.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 20, 1805.

CHAPTER XLIX.

An act, to amend an act, entitled "An act, creating boards of commissioners."

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That 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

When new counties are erected, associate judges to notify electors etc.

Three commissioners to be elected.

courts for said county and elect three county commissioners, who shall hold their offices until the next annual election for commissioners and no longer.

Commencement.

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

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

CHAPTER L.

An act, to amend "An act, levying a state tax."

Rate of taxation,

agreeable to entry last made.

Proviso.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That first rate land shall be taxed at the rate of ninety cents per hundred acres, second rate sixty-five cents per hundred acres, and third rate forty cents per hundred acres, and all lands shall be taxed agreeable to the entry that was last made by the owner or agent; and all land that has not been heretofore entered by the owner or agent, shall be entered by the auditor or other proper officer, as second rate land and taxed as such: *Provided,* That if any person thinks his land has been entered in an improper class, he may, on application to the proper officer for that purpose, either by himself or agent, have his land entered in the class to which it properly belongs.

Sec. 2. *Be it further enacted*, That in all cases where judgment shall be rendered against any delinquent collector by the court of common pleas, agreeable to the ninth section of the above recited act, there shall be no stay of execution, appeal or removal therefrom.

Common pleas judgment against delinquent collectors conclusive.

Sec. 3. *Be it further enacted*, That the collectors of the state tax in the counties of Butler and Muskingum, for the present year, are hereby authorized and required, to collect the state tax for the year one thousand eight hundred and four, in the same manner and under the same regulations, and be subject to the same penalties as directed in the before recited act.

Collectors in Butler and Muskingum counties to collect state taxes for 1804, etc.

Sec. 4. *Be it further enacted*, That the auditor of public accounts is hereby directed, on or before the first Monday of May, annually, to forward to the clerks of each county, other than those lying in the Virginia military district, a list of all lands lying in their respective counties, which are subject to taxation and have not been heretofore entered agreeable to the provisions of the existing laws; and the clerks aforesaid, on receiving the said list, shall proceed to enter the said lands for taxation.

Auditor, his duty.

Clerks, their duty.

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

When to take effect.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

CHAPTER LI.

An act, defining and regulating the duties of the secretary of state.

Secretary of state charged with the keeping at the seat of government all public records.

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.

To make out copies of all laws, acts and resolutions.

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.

To superintend printing 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.

and to cause them, with the laws of the United States, to be distributed in the several counties.

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.

To countersign commissions, etc.

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 back 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 expense of said seals to be paid out of the state treasury.

To procure seals.

Device.

Expense paid out of the state treasury.

Certain acts
repealed.

Sec. 6. *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.

Commence-
ment.

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 LII.

An act, for the relief of insolvent debtors.

Persons in-
solvent may
petition
court of
common
pleas for re-
lief.

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 is 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.

and exhibit a schedule of his property.

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 he 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.

Notice to be given by the court of the pendency of petition.

On final hearing, the applicant to make oath, etc.

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

Court to appoint trustees.

conveyance or assignment from each insolvent petitioner, of all the lands, tenements, hereditaments, goods, chattels, rights, credits and effects (excepting such effects as are hereinafter 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.

who are to give bond and security.

Trustees, their power and duty.

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 petitioners' 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.

After collecting debts, etc., to make distribution.

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.

Proviso.

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 distribution; 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

Trustees to give notice of time and place of receiving and determining claims, etc.

Provided six months notice be given.

Creditors failing to exhibit claims, barred.

Creditor may appeal to the court of common pleas.

county, who are hereby empowered to make up a final decision upon the subject matter contained in such appeal.

Penalty on insolvent petitioner concealing property.

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.

Privileged from imprisonment after assignment of property

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.

Insolvent petitioner imprisoned, how released.

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.

Sheriff, etc. prosecuted, may plead the general issue.

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.

Persons imprisoned in vacation, be released.

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.

Repealing clause.

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

Commencement.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 2, 1805.

CHAPTER LIII.

An act, for ascertaining the boundaries of counties.

Sec. 1. *Be it enacted by the general assembly of*

Commissioners to issue orders to surveyor.

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.

Further duty of commissioners.

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.

Surveyor to make return to clerk.

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.

Compensation to surveyors.

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.

Commencement.

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 LIV.

An act, ascertaining what counties the lands of the non-residents, within the Virginia military district, lie.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That Nathaniel Massie, William Lytle, Duncan M'Arthur, Joseph Kerr and Lucas Sullivant, or any three of them, be and are hereby appointed and authorized, to meet on the first Monday of April next, in Chillicothe, and there proceed to examine the auditor's books, to ascertain as near as in their power, the quantity of land belonging to non-residents, that is subject to taxation in each county, which lies in or extends into the Virginia military district, and furnish the auditor and state treasurer, each, with a certified abstract of the quantity of land and the amount of tax each county is entitled to, and the auditor and treasurer shall be governed thereby in their proceedings.

Persons appointed, when to meet.

Their duty.

Sec. 2. *Be it further enacted,* That the persons hereinbefore mentioned, shall, before they enter upon the duties enjoined on them by this act, take an oath or affirmation, faithfully and impartially to perform the duties aforesaid.

To take oath or affirmation.

**Commence-
ment.** This act shall commence and be in force, from
and after the passing thereof.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

CHAPTER LV.

*An act, declaring what laws shall be in force in this
state.*

**The common
law, British
acts prior to
fourth,
James, first,** Sec. 1. *Be it enacted by the general assembly of
the state of Ohio,* That the common law of Eng-
land, all statutes or acts of the British parliament,
made in aid of the common law, prior to the fourth
year of the reign of king James the first, and which
are of a general nature not local to that kingdom,
**and state
laws.** and also the several laws in force in this state,
shall be the rule of decision and shall be consid-
ered as of full force, until repealed by the general
assembly of this state.

**Repealing
clause.** Sec. 2. *Be it further enacted,* That a law, en-
titled, "A law, declaring what laws shall be in
force," adopted from the Virginia code and pub-
lished at Cincinnati, the fourteenth day of July,
one thousand seven hundred and ninety-five, be
and the same is hereby repealed.

**Commence-
ment.** 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 LVI.

An act, establishing a pilot over Letart Falls, in the county of Galia.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That the court of common pleas for the county of Galia, are hereby empowered and authorized, to appoint a discreet person as a pilot over Letart Falls, in Ohio river, in the county of Galia, to continue in office during good behavior, who before he enters upon the duties as a pilot, shall give a bond, with good and sufficient security to the clerk of the court of Galia county, in the penalty of two thousand dollars, for the faithful performance of his duties as pilot, who shall, before he enters upon the discharge of his duties, take an oath for the faithful performance of his trust.

Court of common pleas, Galia county, to appoint a pilot.

who is to give bond and security

Sec. 2. *And be it further enacted,* That the said pilot, when appointed and qualified, shall take charge of all vessels, boats and other crafts, upon application being made to him for that purpose, and safely convey every such vessel, boat or craft, over the said falls; and any vessel, boat or craft, or their loading, sustaining any damage, through the

Pilot's duty

Liable for neglect or misconduct.

neglect or misconduct of the said pilot, he and his securities shall be liable to the party injured for all damages sustained, to be recovered before any court having cognizance of the same.

His compensation.

Sec. 3. *And be it further enacted,* That the said pilot shall be entitled to receive such compensation from the owner of each vessel, boat or craft, as may, from time to time, be allowed by the court of common pleas of Galia county; and it shall be the duty of the pilot, to procure a certified copy of such fees as the court of common pleas for Galia county shall, from time to time, allow, which shall be signed by the clerk of that court; and it shall be the further duty of said pilot, to put up on the door of his dwelling-house, said certified copy and there to continue the same.

Penalty on others for piloting, etc., for reward.

Sec. 4. *And be it further enacted,* That if any other person, residing within this state, shall take or receive any reward for piloting or conducting any vessel, boat or craft, over the said falls, without the consent of the pilot, shall forfeit and pay to said pilot, twenty dollars, to be recovered by said pilot before any court having cognizance thereof; and that if any person or persons shall sustain damage, through the neglect, misconduct or want of skill of any person undertaking to pilot a vessel, boat or craft, over Letart Falls, for fee or reward as aforesaid, he not being authorized by the court or pilot so to do, shall be liable to the action of the party injured, in the same manner as is provided against the pilot, in the second section of this act.

This act to be in force, from and after the first

day of June, one thousand eight hundred and five. Commencement.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JOSEPH KERR,
Speaker pro tem. of the senate.

December 27, 1804.

CHAPTER LVII.

An act, authorizing Jehiel Gregory and John Havner, their heirs and assigns, to erect a milldam across the Hockhocking river.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That Jehiel Gregory and John Havner, their heirs and assigns, are authorized to build a mill on the Hockhocking river, and erect a milldam across the aforesaid river, opposite to outlot number ten, in the town of Athens, which mill and dam, when completed, is hereby vested in the said Jehiel Gregory and John Havner, their heirs and assigns, so long as they shall continue to have a legal right to the before mentioned lot. Jehiel Gregory and John Havner authorized to erect a milldam, etc.

Sec. 2. *Be it further enacted,* That the said Jehiel Gregory and John Havner, their heirs and assigns, shall make or procure to be made, in the milldam aforesaid, a good and sufficient lock or apron, constructed in such manner and form that the free navigation of the aforesaid river will not To make a lock or apron

be obstructed or the passage of boats and other crafts be rendered any way dangerous to the owners of such boats or crafts.

and to pilot
and assist
persons
passing,

Sec. 3. *Be it further enacted*, That the said Jehiel Gregory and John Havner, their heirs and assigns, shall pilot and assist, either by themselves or some other person or persons, every person or persons that may be passing up or down the aforesaid lock or apron, and that they shall at all times (when called upon) pilot, aid and assist all and every person or persons that may wish to pass up or down the aforesaid lock or apron, which said service the said Jehiel Gregory and John Havner, their heirs and assigns, shall render unto such person or persons as may be desirous to pass up or down the said lock or apron, without fee or reward to be received by them or by any other person or persons, for the use of them or any other person or persons whatever.

without fee
or reward.

Milldam,
lock, etc.,
to be kept
in good re-
pair.

Sec. 4. *Be it further enacted*, That the said Jehiel Gregory and John Havner, their heirs and assigns, shall keep the aforesaid milldam and the lock or apron therein, in good repair: *Provided nevertheless*, That if the said dam and lock or apron therein, should be impaired by the overflowing of water or other unavoidable accidents, then and in that case, the said Jehiel and John, their heirs or assigns, shall be allowed a reasonable time to repair the said milldam and the lock or apron therein.

Milldam,
lock and
apron to be
completed
within five
years.

Sec. 5. *Be it further enacted*, That the said Jehiel Gregory and John Havner, their heirs or assigns, shall, within the term of five years from the passage of this act, erect and complete the aforesaid milldam, and improve the navigation of

the said river Hockhocking, in the manner above required by the second section of this act.

Sec. 6. *And be it further enacted,* That if the said Jehiel Gregory and John Havner, their heirs or assigns, or either of them, shall take, demand or receive, either fee or reward, directly or indirectly, from any person or persons whom they have piloted, aided or assisted in passing up or down the said milldam, or through the lock or apron therein, or shall neglect or refuse to pilot or assist any boat or vessel passing up or down said river, when thereunto required, shall incur, for every such offense, a fine not exceeding five dollars, to be recovered by action of debt, before any court having cognizance thereof, which said fine shall be paid into the county treasury for the use of the county, and be moreover liable to the action of the party injured.

Penalty for taking fee or reward.

or refusing to assist boats passing.

How recovered.

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

Commencement.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 21, 1805.

CHAPTER LVIII.

An act, establishing the salaries of certain officers.

**Auditor's
salary.**

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That the auditor of public accounts shall be allowed for his yearly salary, the sum of seven hundred and fifty dollars, to be paid quarter yearly, out of the state treasury.

**State treas-
urer.**

Sec. 2. *Be it further enacted*, That there shall be allowed and paid to the state treasurer, four hundred and fifty dollars, annually, to be paid quarter yearly, out of the state treasury.

**Secretary
of state.**

Sec. 3. *Be it further enacted*, That there shall be allowed and paid, annually, to the secretary of state, five hundred dollars, to be paid quarter yearly, out of the state treasury.

**Associate
judges.**

Sec. 4. *Be it further enacted*, That the associate judges of the courts of common pleas for the several counties in this state, shall be entitled to receive three dollars and no more, for each and every day they shall be necessarily employed in holding, going to or returning from, any court by them to be holden, which shall be paid out of the treasury of the proper county, upon the order of the commissioners, any law to the contrary notwithstanding: *Provided*, That in all cases where any person or persons shall require a special session of the court for transacting business of a probate or testamentary nature, such person or persons shall defray the expense of the judges, at the rate aforesaid.

**Repealing
clause.**

Sec. 5. *And be it further enacted*, That all laws and parts of laws, coming within the purview of this act, be and the same are hereby repealed.

**Commence-
ment.**

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

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 21, 1805.

CHAPTER LIX.

An act, establishing the seat of justice for the county of Warren.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That the town of Lebanon, in the county of Warren, be and the same is hereby declared to be the seat of justice, in and for the county aforesaid, and that all courts hereafter to be holden in and for said county shall be held in the said town of Lebanon, and all officers connected therewith, are required to conduct themselves accordingly.

Lebanon,
seat of jus-
tice.

Sec. 2. *And be it further enacted,* That the commissioners of the said county of Warren, are hereby authorized and empowered, to take charge of all subscriptions and obligations, whether given for money, property or labor (given in behalf of the county for the purpose of erecting public buildings) and apply the same for the special use designed by the donors; and the said commissioners are further authorized to receive, from time to time, from any person or persons, any money, property or labor, that may be voluntarily contributed towards the completion of the public

County
commission-
ers, their
duty.

buildings of the county, and they shall apply the same accordingly.

JOHN SLOANE,
Speaker pro tem. of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 11, 1805.

CHAPTER LX.

An act, erecting a part of the counties of Ross, Adams and Clermont, into a separate county, by the name of Highland.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That all that part of the counties of Ross, Adams and Clermont, within the following boundaries, be and the same is hereby laid off and erected into a separate county, which shall be known by the name of Highland; beginning at the twenty mile tree, in the line between Adams and Clermont counties, which is run north from the mouth of Eagle creek, on the Ohio river, and running thence east twelve miles; thence northeastwardly until it intersects the line which was run between the counties of Ross and Scioto and Adams, at the eighteen mile tree from the Scioto river; thence northwardly to the mouth of the Rocky fork of Paint creek; thence up main Paint creek, by the bed thereof, including John Watts's survey of one thousand acres, on which

Boundaries.

the town of Greenfield is situate, to the south line of Franklin county; thence with said line west, to the east line of Green county; thence with said line south, to the southeast corner of said county; thence with the south line thereof west, to the northeast corner of Clermont county, and from the beginning west, to the north fork of White Oak creek; thence north, to the south line of Warren county; thence with said line east, to the corner between Clermont and Warren counties.

Sec. 2. *Be it further enacted*, That from and after the first day of May next, said county shall be vested with all the powers, privileges and immunities of a separate and distinct county: *Provided*, That it shall be lawful for the coroners, sheriffs, constables and collectors for the counties of Ross, Adams and Clermont, to do and perform all the duties which they are or may be required to do in their respective counties, within the bounds of said county of Highland, before the said division shall take place; and all suits and actions, which are or may be pending therein at the time of said division, shall be tried and determined in the same manner as though a division had not taken place.

Proviso as to actions, etc., pending.

Sec. 3. *Be it further enacted*, That all that part of the county of Highland, which shall lie south of an east line drawn from the forty-four mile tree, in the line which divides the counties of Adams, Clermont, Ross and Warren, to Paint creek, shall be a district, within which and within four miles of the common center thereof, the commissioners who may be appointed, agreeably to an act, entitled, "An act, establishing seats of justice," shall fix the permanent seat of justice for the said county of Highland.

Seat of justice to be fixed within certain limits.

Certain in-
habitants
exempt from
taxation,
etc.

Sec. 4. *Be it further enacted*, That all the inhabitants within the said county of Highland, who do now, or may hereafter reside north of the east and west line mentioned in the third section of this act, shall be exempted from paying any county rates or levies, for the purpose of erecting public buildings therein.

Temporary
seat of jus-
tice.

Sec. 5. *Be it further enacted*, That the courts to be held in the said county of Highland, shall be holden in the town of New-Market, until a permanent seat of justice shall be established in said county.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 18, 1805.

CHAPTER LXI.

An act, allowing compensation to the officers of the general assembly, and to repeal all laws and parts of laws, heretofore in force on that subject.

Clerks, four
dollars and
fifty cents
per day,
each.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That there shall be allowed from and after the passage of this act, to the clerk of the senate and to the clerk of the house of representatives, each the sum of four dollars and fifty cents per day, for their services during the re-

maining part of the present session of the legislature, and to the doorkeepers of each house, the sum of one dollar and fifty cents each per day, for their services during the remaining part of the present session, and no longer.

Doorkeepers, one dollar and fifty cents per day, each.

Sec. 2. *Be it further enacted*, That all laws and parts of laws, heretofore in force, allowing compensation to the officers of the general assembly, are hereby repealed.

Repealing clause.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

December 20, 1804.

CHAPTER LXII.

An act, to incorporate the town of Steubenville in the county of Jefferson.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That so much of the township of Steubenville, in the county of Jefferson, as is comprised in the plat of the town of Steubenville, remaining on record in the office for the recording of deeds, in the said county, shall be and the same is hereby erected into a town corporate, which shall henceforth be known and distinguished by the name of "The town of Steubenville."

Boundaries.

Sec. 2. *Be it further enacted*, That for the better ordering and governing of the said town of

Steubenville, and for the better regulating the police thereof, there shall henceforth be in the said town, a president, a recorder, seven trustees, and assessor, a collector, a treasurer, and a town marshal, who shall be elected and qualified as is hereinafter directed; which president, recorder and trustees, shall be one 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 Steubenville."

Officers to be chosen.

Their style.

Power of the president, recorder and trustees.

Who may sue and be sued.

Service on corporation, how made.

To have one common seal.

Freeholders, etc. to assemble on the first Monday of May, annually.

Sec. 3. *Be it further enacted,* That the said president, recorder and trustees, and their successors in office, shall be able to receive, acquire, hold and convey, any estate real or personal, for the use of the said town, and shall also be capable in law, by the name aforesaid, of suing and being sued, of pleading and being impleaded, in any action or suit, in any court within this state; and when any action or suit is commenced against the said corporation, the service shall be by leaving an attested copy of the original process with the recorder, at such time and in such manner as is provided by law for the service and return of process in suits between individuals; and the said corporation are hereby authorized to have one common seal for the use of the same, which may be altered at their discretion.

Sec. 4. *Be it further enacted,* That all the inhabitants of the said town, who are freeholders, and all other white male inhabitants of full age, who shall have resided within the said town for the space of six months, and have paid or are chargeable with a tax for the use of said town, shall and may assemble on the first Monday of May next ensuing, at ten o'clock in the forenoon, at the

court-house in the said town, and on the first Monday of May succeeding, in each and every year, at such place, within the said town, as the president, recorder and trustees, or any five of them, may appoint, and then and there elect, by ballot (in the same manner and under the same regulations as is prescribed by an act of the legislature, entitled, "An act, to provide for the incorporation of townships,") a president, a recorder, seven trustees, an assessor, a collector, a treasurer and a town marshal, to hold their respective offices during one year, and from thence until their successors in office shall be elected and duly qualified; and it shall be the duty of one of the judges of said election, within three days thereafter, to notify the persons so elected, and each of the said officers shall, within three days after notice of their election, take an oath, faithfully to discharge the duties of their respective offices, before some person authorized to administer oaths.

To choose officers.

Who are to take oaths.

Sec. 5. *Be it further enacted,* That the said president, recorder and trustees, when convened for business, shall be called "The select council of the town of Steubenville;" and they or any five of them, whereof the president or recorder always be one, shall have full power and authority, from time to time, and at any time, to hold a select council in the said town, at such place as the president, or in his absence, the recorder shall appoint, and to make and publish such laws and ordinances, in writing, and the same, from time to time, to alter or repeal, as to them shall seem necessary and proper for the health, safety, cleanliness, convenience and good government of the said town of Steubenville and the inhabitants thereof, to administer all necessary oaths to the officers of the cor-

Select council empowered to make and publish laws.

To administer oaths and impose fines.

poration, to impose all reasonable fines upon all persons who shall offend against the laws and ordinances made as aforesaid, and to levy and cause to be collected all such fines, by warrant, under the hand of the president, or in his absence of the recorder, and the seal of the council, directed to the marshal, who is hereby authorized and required to collect the same, by distress and sale of the goods and chattels of the delinquents, and the same to pay to the treasurer of the select council, and where goods and chattels cannot be found whereon to levy, to commit the body of the offender to prison, there to remain until such fine be paid or such offender be discharged by order of the select council; and it shall be the particular duty of the said council, to adopt regulations for securing the town against injuries from fire, to cause the streets, lanes and alleys of the said town to be kept open and in repair, and free from every kind of nuisance, to regulate markets and, if necessary, to appoint a clerk of the market, and to prevent any animals belonging to the inhabitants of said town from running at large in the streets, lanes or alleys of the said town, if in their opinion the interest or convenience of the town shall require such prohibition: *Provided*, That the laws and ordinances, so to be made, shall be consistent with the laws and ordinances of the state.

To be collected by the marshal.

Duty of the council.

Proviso.

Electors authorized to vote money.

Sec. 6. *Be it further enacted*, That the qualified electors as aforesaid, of the said town, shall, at their annual meeting, vote such sums of money as they think proper to be raised for the use of the town, for the ensuing year, which shall be assessed by the assessor on such objects of taxation in the said town as shall be yearly objects of taxation

for county purposes, and on such other objects as the said meeting shall direct.

Sec. 7. *Be it further enacted*, That it shall be the duty of the assessor, within twenty days after he shall be elected and qualified as aforesaid, to return a list of the property subject to taxation within the said town, together with the valuation of the same, to the recorder, who shall, with the advice of the president, or in case of his absence, of two of the trustees, publish a day of appeal, to be held by the select council, not less than five nor more than ten days thereafter, for the benefit of such as may think him, her or themselves aggrieved, and it shall be the duty of the select council, within ten days after holding the said day of appeal, to apportion the sums of money to be raised for the ensuing year for the use of the said town, among the inhabitants thereof, according to the valuation of the property possessed by each of the said inhabitants, as ascertained in manner aforesaid.

Assessor,
his duty.

Day of ap-
peal pub-
lished.

Select coun-
cil, their
duty.

Sec. 8. *Be it further enacted*, That it shall be the duty of the collector faithfully to collect and pay over to the treasurer, all such sums of money as shall be levied for the use of the said town, within two months from the time of his receiving a duplicate thereof, whose receipts shall be his vouchers upon his settlement with the council, which shall be at their next meeting. And the collector and the town marshal shall, before they enter upon the duties of their respective offices, give bond with sufficient security to the treasurer, (to be approved of by the council) conditioned for the faithful discharge of the duties of their offices respectively.

Collector to
pay money
collected to
treasurer.

Collector
and marshal
to give bond
and security.

Sec. 9. *Be it further enacted*, That it shall be

Treasurer to give bond and security.

the duty of the treasurer, previous to his entering upon the duties of his office, to give bond to the recorder, with at least two sufficient sureties, (to be approved of by the council) conditioned for the faithful discharge of the duties of his office, and shall, when required, submit his books and vouchers to the inspection of the select council.

Select council authorized to fill vacancies in offices.

Sec. 10. *Be it further enacted*, That the select council shall have the power of filling all vacancies that may happen in any of the offices that are herein established and made elective, and the appointment so made shall continue valid until the next annual meeting and no longer. And it shall be lawful for the said council, to appoint such other subordinate officers as they may think necessary, and who are not hereinbefore mentioned, and to fix and establish, from time to time, such fees to the assessor, collector, marshal and other subordinate officers of the corporation, and to impose such fines for refusing to accept such offices, and for neglect and misconduct in the same, as to them shall seem necessary and proper. And it shall be lawful for the president, or in his absence, the recorder, with the advice of the trustees or any four of them, at any time to call a meeting of the inhabitants of the town, for the purpose of obtaining a vote for raising any sum or sums of money that may be deemed necessary for the use of the said town; and such sum or sums, so granted, shall be levied and collected in the same manner as the sum voted for at the annual meeting, and shall be held subject to the order of the said select council, for the use of the said town: *Provided*, That five days previous notice be given to the said inhabitants, by advertisements, set up in at least three of the most public places in the said town.

Establish fees

and impose fines on officers, etc.

President, etc., to call a meeting of inhabitants for raising money.

Sec. 11. *Be it further enacted*, That if any person or persons shall think himself or themselves aggrieved by any act or judgment of the council, it shall be lawful for such person or persons to appeal to the court of common pleas, and it shall be the duty of the said court to hear such complaint and to grant such relief, as to them shall appear necessary and proper.

Persons aggrieved may appeal to court of common pleas.

Sec. 12. *Be it further enacted*, That the said corporation shall be allowed the use of the county jail for the confinement of all such persons as, by the laws and ordinances of the corporation, may be liable to imprisonment: *Provided*, That no person shall be imprisoned under the authority of the said corporation, unless for the non-payment of taxes, fines or penalties, assessed or imposed, and all persons so imprisoned, shall be under the charge of the sheriff of the county.

Corporation to have the use of the county jail.

Sec. 13. *Be it further enacted*, That David Hull be, and he is hereby appointed, president; John Ward, recorder; David Hog, Zacheus A. Beaty, Benjamin Hough, Thomas Vincents, John England, Martin Andrews and Abraham Cazier, trustees; Samuel Hunter, treasurer; Matthew Adams, assessor; Charles Maxwell, collector; Anthony Beck, town marshal, to hold their respective offices and to perform and execute the duties thereunto appertaining, until the first stated meeting of the inhabitants of said town, as hereinbefore directed, and until their successors are qualified to office and no longer; and the said officers shall give bonds and take the oaths of office as hereinbefore prescribed, before they enter upon the duties of their respective offices.

Officers appointed for a certain time.

Commence-
ment.

This act to take effect 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 LXIII.

An act, to incorporate the town of Dayton, in the county of Montgomery.

Boundaries.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That such part of the township of Dayton, in the county of Montgomery, as is included within the following limits and boundaries, that is to say: Beginning on the bank of the Great Miami, where the sectional line between the second and third sections, first township and seventh range, intersects the same; thence east with the same to the middle of section thirty-three, second township, seventh range; thence north two miles; thence west to the Miami river; thence down the same to the place of beginning, shall be and the same is hereby erected into a town corporate, which shall henceforth be known and distinguished by the name of the town of Dayton.

Sec. 2. *Be it further enacted,* That for the better regulating, ordering and governing the said

town of Dayton, and for promoting the interest, comfort and safety of the inhabitants thereof, there shall henceforth be in the said town, seven trustees and a treasurer, who shall be chosen from the freeholders thereof, an assessor, a collector, a supervisor and a town marshal, who shall be elected by the freeholders and householders, who may have resided six months within the boundaries of said town. The trustees thus elected, shall, within two days after their election, assemble at the place of holding courts in said town and there elect, by ballot, among themselves, a president and a recorder, after which they shall, in like manner, elect a treasurer, who may or may not be of their own number, which president, recorder and trustees shall be one 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 Dayton."

Officers to be chosen.

Their style

Sec. 3. *Be it further enacted*, That the said president, recorder and trustees, and their successors in office, shall be capable and able to receive, acquire, hold and convey, any estate real or personal, for the use of said town, and shall also be capable in law by the name aforesaid, of suing and being sued, of pleading and being impleaded, in any action or suit, in any court whatsoever, and they are hereby authorized to have one common seal, for the use and purpose of the said corporation, and the same to alter or break and to renew at their pleasure.

and power.

In their corporate capacity, may sue and be sued.

To have one common seal

Sec. 4. *Be it further enacted*, That the inhabitants of the said town as aforesaid, shall and may assemble at the place of holding courts in said

Inhabitants to assemble on the first Monday of May, to elect seven trustees.

On the first Monday of May, 1806, to elect three trustees, etc..

and to elect certain other officers.

Proviso.

town, on the first Monday of May next and elect, by ballot, seven trustees from the freeholders aforesaid, who shall serve for one year, and on the first Monday of May, which shall be in the year one thousand eight hundred and six, the inhabitants aforesaid, at the time and place, and in manner aforesaid, elect three trustees, who shall supply the place of a like number who shall be removed by lot from the trustees of the preceding year, and on the first Monday in May, in the year one thousand eight hundred and seven, the said inhabitants shall, in like manner, elect four trustees, who shall supply the place of the original remaining trustees, whose terms shall have terminated with the end of the year, and shall so continue yearly and every year, alternately, removing and supplying, in manner aforesaid, first three and then four trustees, every other year, by which there will always be a sufficient number of experienced persons in office. The trustees shall, within two days after every annual election, meet together as aforesaid, and choose their president, recorder and treasurer; the inhabitants aforesaid shall, at the same time and place, yearly and every year, elect as aforesaid, an assessor, a collector, a supervisor and a marshal, who shall be freeholders in the said town, and shall hold their offices respectively one year, and until their successors shall be elected and sworn into office: *Provided always*, That whenever the business of the corporation shall interfere with the county business, the president, or in his absence, the recorder, shall direct where their meeting shall be held. The president, recorder, every trustee and other officer thus elected, shall, within ten days after notice of their appointment, which shall be within two days after the election, take the oath to support

the constitution of the United States and of this state, and that he will faithfully discharge the duties of his office, under penalty, in case of refusal or neglect, not more than twenty dollars nor less than five dollars: *Provided*, That no person shall be compelled to serve for two successive terms.

Sec. 5. *Be it further enacted*, That the first election shall be held on the first Monday of May next, for the purpose of choosing the several officers hereinbefore enumerated; and it shall be the duty of one of the justices of the peace of said town, to attend at the place of holding courts, and receive and count the ballots, and declare to the persons present, the names of those who appear to be duly elected, and that all elections thereafter shall be superintended by the recorder and one of the trustees; —shall be opened at two o'clock of the same day, when the polls shall be closed and the votes counted, and the person highest in votes, for the respective offices, declared by the recorder to be duly elected.

First election to be held, first Monday of May next.

Justices' duty to superintend the election, etc.

Sec. 6. *Be it further enacted*, That the said president, recorder and trustees, when convened for business, shall be called "The select council of the town of Dayton," and they or any five of them, whereof the president or recorder shall always be one, shall have full power and authority, from time to time and at any time, to hold a select council in the said town, at the place of holding courts as aforesaid, and to make and publish such laws and ordinances, in writing, and the same, from time to time, to alter or repeal as to them shall seem necessary and proper, for the interest, comfort, safety and convenience of the said town of Dayton and the inhabitants thereof;

Style of the council.

Their power.

Duty of the
marshal.

to administer all necessary oaths, to impose reasonable fines upon all persons who shall offend against the laws and ordinances made as aforesaid, to levy and cause to be collected, all such fines, by warrant, under the hand of the president, or in his absence, of the recorder and the seal of the council, directed to the marshal, who is hereby empowered and authorized to collect the same, by distress and sale of the goods and chattels of the delinquent, and the same to pay to the treasurer of the select council, and where goods and chattels cannot be found whereon to levy, to commit the body of the offender to prison, there to remain until such fine be paid or such offender discharged by order of the select council: *Provided,*

Proviso.

That no person shall be imprisoned under the authority of this section, for a longer term than twenty-four hours, for any one offense; they shall have power to regulate markets and, when thought necessary, to appoint a clerk of the market: *Provided always,* That the laws and ordinances to be made, shall be consistent with the laws and ordinances of the state.

Freeholders
and house-
holders
authorized
to vote
money.

Sec. 7. *Be it further enacted,* That the freeholders and householders aforesaid shall, at their annual meeting, vote for such sum or sums of money as they may think proper to be raised for the use of the town for the ensuing year, which shall be assessed by the assessor upon such objects of taxation in the said town, as shall be yearly subjects of taxation for county purposes, and on such other objects as the said meeting may direct, and be collected by the collector at such times and disposed of in such manner, as the select council shall direct.

Sec. 8. *Be it further enacted,* That all monies

arising from fines or collections, shall be paid to the treasurer, who shall enter into bond, with sufficient surety to the recorder, for the faithful discharge of the trust committed to him, and shall, when required, submit his books to the inspection of the council. The assessor shall return his estimate of town property and a copy of his assessment, to the recorder, who shall, with the advice of the president or two of the trustees, publish a day of appeal, to be held by the council, for the benefit of such as may think themselves aggrieved. The collector shall pay all monies he may receive to the treasurer, whose receipts shall be his vouchers upon his settlement with the council, which shall be at the expiration of every three months from the time of his appointment.

Money collected paid to treasurer who is to give bond.

Duty of the assessor.

Day of appeal held.

Sec. 9. *Be it further enacted*, That the select council shall have the power of filling all vacancies that may happen in any of the offices that are herein established and made elective, and the appointment so made, shall continue valid until the next annual meeting and no longer, and to fix and establish, from time to time, such fees to the assessor, collector, supervisor, marshal and clerk of the market, and impose such fines for refusing to accept such offices, and for neglect and misconduct in the same, as to them shall seem necessary and proper. And it shall be lawful for the president, or in his absence the recorder, with the advice of the trustees, or any four of them, at any time to call a meeting of the inhabitants of the town, for the purpose of obtaining a vote for the raising any sum or sums of money that may be deemed necessary for the use of the said town; and such sum or sums of money so granted, shall be held subject to the order of the said select council, for the use

Power of the select council.

Proviso. of the said town: *Provided*, That three days previous notice be given to the said inhabitants, by advertisements set up in at least three of the most public places in the said town.

Appeal may be had to court of common pleas for grievances.

Sec. 10. *Be it further enacted*, That if any person shall feel himself or herself aggrieved by an officer, or individual of the council, it shall be lawful for such person to appeal to the court of common pleas; and it shall be the duty of said court to hear such complaint and to grant such relief, as to them shall appear necessary and proper.

Corporation to have the use of the county jail.

Sec. 11. *Be it further enacted*, That the said corporation shall be allowed the use of the county jail, for the confinement of all such persons as shall be liable to imprisonment, under the sixth section of this act, and all persons, so imprisoned, shall be under the charge of the keeper of said jail.

Commencement.

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

JOHN SLOANE,
Speaker pro tem. of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 12, 1805.

CHAPTER LXIV.

An act, for the relief of the poor.

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.

Overseers of the poor to have management of paupers, etc.

Sec. 2. *Be it further enacted*, That upon complaint made to the overseers of the poor, that any inhabitant or inhabitants of the township, are in a suffering condition and unable to support 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 or order 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, they shall not be entitled to receive any compensation therefor.

Complaint made to overseers, their duty to acquaint the trustees therewith.

Trustees to issue warrant when persons entitled to relief.

Overseers relieving persons without warrant not compensated.

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 three of the most 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

Overseers on receipt of warrant, to give notice, etc.

Authorized to contract for the maintenance of paupers.

Proviso as to notice.

Qualifications for a legal settlement.

Persons likely to become chargeable to the township, how to be notified.

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 paupers, upon the most reasonable terms: *Provided*, The time specified in the said notification for the disposal of said 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 (other than those hereinafter otherwise provided for) residing one year in any township in this state, without being warned by the overseers of the poor for said township within five months after his, her or their first coming into such township, to depart the same, shall be considered as having gained a legal settlement in such township. Every indented servant, legally brought into this state, shall obtain legal settlement in the township where such servant shall have first served his or her master or mistress, the space of five 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 legally 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, they 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 the presence or hearing of the person or persons 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.

Township clerk to record the same.

Sec. 5. *Be it further enacted,* That when any person or persons shall become chargeable to any township in which 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 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 thus removed, and provide for them in manner directed by the third section of this act; and the township in which such paupers have gained a legal settlement and to which they are thus transported, shall pay the said overseers of the township which have thus supported and removed said paupers, all reasonable charges for such support and removal, and on refusal, may be compelled by an action of debt, brought before the court of common pleas of the county in which either or both the said townships may be situated; and the trustees of each and every township in this state, are hereby empow-

Persons becoming chargeable not having a legal settlement, how removed.

ered, to sustain said action against 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 they have a legal settlement, unless such person or persons shall give sufficient security to indemnify the said township.

Overseers, with consent of a justice of the township, to bind poor children.

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 power to bind out to apprenticeship, all such poor children as have no parents or guardians, or having parents or guardians who are unable to support them, males until the age of twenty-one, and females until the age of eighteen years.

Overseers' accounts, how to be kept and settled.

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 were 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 trustees are hereby authorized to audit and allow, together with such compensation to the said overseers for

how compensated.

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 book the said trustees shall lay before the annual township meeting, to be delivered over to their successors in office.

Trustees to issue orders on township treasurer.

Orders to be recorded.

Sec. 9. *Be it further enacted*, That power is hereby vested in each and every township at the annual township meetings, to lay such tax as shall be found necessary for the support of the poor and to compensate the said overseers for their services; a majority of the electors present, at any annual township meeting being sufficient to determine upon what sum shall be raised: *Provided however*, Such articles only shall be liable to taxation, as are made liable by the law regulating county rates and levies. And it shall be the duty of the township clerk to make out an assessment of the tax voted by the township, a duplicate whereof he shall deliver within twenty days to such constable of the township as the trustees shall direct and the other within the like time to the township treasurer; and the constable receiving such duplicate, shall proceed in the collection of the same, and be governed in all respects by the eighth section of the law, entitled, "An act to provide for the incorporation of townships."

Townships at their annual meeting to lay a tax for the support of the poor, etc.

Proviso, as to taxable property.

Township clerk's duty.

Gifts, grants, devises, etc., may be held by the trustees for the use of the township poor.

Sec. 10. *Be it further enacted,* That all gifts, grants, devises and bequeaths, 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 available 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.

Certain laws repealed.

Sec. 11. *And be it further enacted,* That the law, entitled, "A law, for the relief of the poor," published at Cincinnati, the nineteenth day of June, one thousand seven hundred and ninety-five, and also the act, supplementary thereto, passed the nineteenth day of December, one thousand seven hundred and ninety-nine, be and the same are hereby repealed.

Commencement.

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

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

CHAPTER LXV.

An act, regulating the course of descents and distribution of personal estates.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That when any person having title to any real estate of inheritance, shall die intestate, as to such estate, it shall descend and pass in parcenary, to his kindred, male and female, in the following course.

Real estate of inheritance of persons dying intestate to descend in parcenary.

Sec. 2. *Be it further enacted*, That if the estate came by descent, devise or deed of gift, from an ancestor, it shall descend to the children of the intestate and their legal representatives.

Course of descents.

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 and their legal representatives: *Provided*, They are of the blood of the ancestor, from whom the estate came.

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

Sec. 5. *Be it further enacted*, That if the estate came 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. 6. *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.

Continued.

Sec. 7. *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. 8. *Be it further enacted*, That if there be no brothers or sisters of the intestate of the half blood, or their legal representatives, the estate shall descend to the father, if the father be dead, then to the mother.

Sec. 9. *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. 10. *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.

Where they shall take per capita.

Where per stirpes.

When estate advanced, may be brought into hotch pot.

Sec. 11. *Be it further enacted*, That where any of the children of the intestate or their issue, shall have received from the intestate, in his lifetime, 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 pot, with the estate descended.

Sec. 12. *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 a bastard; 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.

Alienage of ancestor no bar in title by descent.

Bastards capable of inheriting, etc., on part of their mother.

Sec. 13. *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 recognized by him, shall be thereby legitimated the issue, also in marriages deemed null in law, shall nevertheless be legitimate.

When bastards shall be legitimated.

Sec. 14. *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.

One parcener may maintain waste against another, etc.

Sec. 15. *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 agreeable to the foregoing course of descents, saving however such rights which any widow may have to any portion of such personal estate.

Goods, chattels, etc., how descend.

Dower saved.

Sec. 16. *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.

Right of tenant by courtesy saved.

Repealing
clause.

Sec. 17. *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.

Commence-
ment.

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

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

CHAPTER LXVI.

An act, repealing the thirteenth section of the act, entitled, "An act, to amend an act, organizing the judicial courts."

Be it enacted by the general assembly of the state of Ohio, That the thirteenth section of the before recited act, be and the same is hereby repealed. This act shall commence and be in force, from and after the passage thereof.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

CHAPTER LXVII.

An act, making a temporary appropriation of money, for certain purposes.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That four thousand dollars of the revenue of this state, be and the same is hereby appropriated, for the payment of the members and officers of the general assembly, in part of their wages for the present session. Also, four hundred dollars, in part payment for services performed by the public printer, for the payment of which, the auditor of public accounts is hereby required to issue bills, redeemable at the treasury of this state.

Four thousand dollars appropriated for the members, etc., of the general assembly.

Four hundred for the printer.

This act to commence and be in force, from and after the passage thereof.

Commencement.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JOSEPH KERR,
Speaker pro tem. of the senate.

December 27, 1804.

CHAPTER LXVIII.

An act, establishing the county of Athens.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That so much of the county of

Boundaries.

Washington as is contained in the following boundaries, be and the same is hereby erected into a separate county, which shall be known by the name of Athens, to-wit: Beginning at the southwest corner of township number ten, range seventeen; thence easterly with the line between Galia and Washington counties, to the Ohio river; thence up said river to the mouth of Big Hockhocking river; thence up the said Hockhocking river to the east line of township number six, of the twelfth range; thence north on said line to the northeast corner of the eighth township, in the said twelfth range; thence west to the east line of Fairfield county; thence south on said county line and the line of Ross county, to the place of beginning.

Proviso, as to actions depending, etc.

Sec. 2. *Be it further enacted*, That from and after the first day of March next, the said county of Athens, shall be vested with all the powers, privileges and immunities of a separate and distinct county: *Provided always*, That all actions and suits which may be pending on the said first day of March next, shall be prosecuted and carried into final judgment and execution, and all taxes, fees, fines and forfeitures, which shall be then due, shall be collected in the same manner as if this act had never been passed.

Athens, seat of justice.

Sec. 3. *And be it further enacted*, That the seat of justice for said county, is hereby established in the town of Athens, any law to the contrary notwithstanding.

Commencement.

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

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 20, 1805.

CHAPTER LXIX.

An act, establishing the county of Champaign.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That so much of the counties of Green and Franklin, as comes within the following boundaries, be and the same is hereby erected into a separate and distinct county, which shall be known by the name of Champaign, viz: Beginning where the range line between the eighth and ninth ranges, between the Great and Little Miami intersects the eastern boundary of the county of Montgomery; thence east to the eastern boundary of the county of Green, and to continue six miles in the county of Franklin; thence north to the state line; thence west with said line until it intersects the said eastern boundary of the county of Montgomery; thence to the place of beginning.

Sec. 2. *Be it further enacted,* That from and after the first day of March next, the said county of Champaign, shall be vested with all the powers, privileges and immunities of a separate and distinct county: *Provided always,* That all actions and suits which may be pending on the first day of March next, shall be prosecuted and carried into final judgment and execution, and all taxes, fees, fines and forfeitures which shall be due, shall be

Boundaries.

Proviso, as to actions, etc., depending.

collected in the same manner as if this act had not been passed.

Temporary
seat of jus-
tice.

Sec. 3. *Be it further enacted*, That the temporary seat of justice for said county, shall be at the town of Springfield, at the house of George Fithen, until the permanent seat of justice be fixed, according to law.

Commence-
ment.

Sec. 4. *And be it further enacted*, That this act shall commence and be in force, from and after the first day of March next.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 20, 1805.

CHAPTER LXX.

An act, appointing Israel Putnam, agent for the heirs of doctor Jedediah Ensworth, deceased.

Preamble.

WHEREAS a memorial has been presented to the legislature of the state of Ohio, praying that an agent be appointed to sell certain lands therein specified: Therefore,

Agent au-
thorized to
sell and con-
vey certain
tracts of
land.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That Israel Putnam, Esq., of the township of Belprie, in the county of Washington and state of Ohio, be and he is hereby appointed agent for the heirs of doctor Jedediah Ensworth,

late of the town of Pomfret, in the state of Connecticut, deceased, and he is hereby authorized to sell and convey the following tracts and parcels of land (viz): One full share of land in the Ohio company purchase, so called, which was drawn in the name of the said Ensworth, he being one of the associates of said company, and the said Putnam shall be governed by such directions as he may, from time to time, receive from the lawful guardians of said heirs, and shall pay over all sums of money that he may receive for said lands, to the guardians, for the use of said heirs.

Sec. 2. *Be it further enacted*, That the said Putnam, previous to his entering on the business as aforesaid, shall give bond, with good sufficient sureties, to the acceptance of the court of common pleas, in and for the county of Washington, conditioned for the faithful performance of his mission; which bond shall be lodged in the office of the clerk of the court of probate, in the county of Washington.

To give bond
with security.

Sec. 3. *Be it further enacted*, That the said Putnam shall convey said land by deed of conveyance, in fee simple signed by him, the said Putnam, as agent for the heirs of Jedediah Ensworth, deceased; and the deed or deeds thus made by him the said Putnam, shall be good and valid in law, to all intents and purposes: *Provided*, That nothing in this act contained, shall be so construed as to affect the widow's right of dower, which shall remain entire at her own disposal, anything in this act to the contrary notwithstanding.

Convey-
ance, how
signed.

Proviso.

Sec. 4. *And be it further enacted*, That this act

Commence-
ment.

shall take effect and be in force, from and after the passage thereof.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 20, 1805.

CHAPTER LXXI.

An act, incorporating the Dayton Library Society.

Body politic
and corpo-
rate estab-
lished.

Name and
style.

May sue and
be sued, etc.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio.* That the present holders of shares in the said association, together with such others as may be by them admitted hereafter, shall be, and they are hereby created and made a corporation and body politic, and shall hereafter be known by name and title of "Dayton Library Society," and shall be capable in their corporate capacity of suing and being sued, of pleading and being impleaded, to answer and be answered, defend and be defended, in any court of record within this state, and to ordain, establish and put in execution such by-laws, ordinances and regulations, as they shall deem necessary and convenient for the good government of the corporation: *Provided,* They are not incompatible to the laws of this state.

Sec. 2. *Be it further enacted,* That the corporation is hereby made capable to receive dona-

tions, and apply them to the express purpose intended by the donor or donors.

Corporation may receive donations.

Sec. 3. *Be it further enacted*, That there shall be held at the library, or some house contiguous a meeting of the members of the corporation annually, on the first Monday of July, where a chairman and clerk of the meeting shall be first chosen, and three directors, a treasurer and librarian, who shall severally be sworn to be true to their trust while they continue in office, and serve for one year and until their successors are chosen and qualified. The directors, or any two of them, shall have power to put all laws, ordinances and regulations in force; they shall have a common seal, which they may alter and renew at pleasure. All by-laws, ordinances and regulations shall be passed at the annual meeting, by a majority of votes of the members present: *Provided*, That before any tax be laid on shares, a notice shall be posted on the door of the library, signed by at least five members, three months previous to such annual meeting, declaratory of their intention, and shall be passed by a majority of the votes of the members of the corporation.

Members to meet annually, on first of July, to choose officers.

Seal of the corporation.

Proviso.

Sec. 4. *Be it further enacted*, That as a further inducement to persons of liberality, willing to promote the object of the society, each member shall be entitled to one vote for each share he or she may possess in the library.

Members have a vote for each share.

Sec. 5. *Be it further enacted*, That the reverend William Robertson, John Elliot and William Miller, are hereby appointed directors, Benjamin VanCleve, librarian, and John Fulkirth, treasurer, to serve until the next annual meeting.

Persons chosen.

Sec. 6. *And be it further enacted*, That the legislature may grant further or greater powers, or limit, alter or restrain the powers by this act vested in the corporation, as shall be found for the best interest of the society.

Commence-
ment.

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

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 21, 1805.

CHAPTER LXXII.

An act, ratifying and confirming the election of commissioners for Muskingum county.

Election
confirmed.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That the election of commissioners held within the county of Muskingum, on the ninth day of October, in the year A. D. one thousand eight hundred and four, be and it is hereby ratified, confirmed and shall stand valid in law, to all intents and purposes, as if the same had been conducted agreeable to the requisitions of an act, entitled, "An act, establishing boards of commissioners."

Commence-
ment.

Sec. 2. *Be it further enacted*, That this act shall be in force, from and after the passage thereof.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 21, 1805.

CHAPTER LXXIII.

An act, for the relief of certain landholders.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That persons holding lands in this state, subject to taxation in the year one thousand eight hundred and two, or one thousand eight hundred and three, who have had the same entered in either of those years for taxation in the proper office where such lands have been since classed and entered by the auditor or other proper person, agreeably to the act levying a state tax, passed the eighteenth of February, one thousand eight hundred and four, the holders of such lands, by coming forward by themselves or agents, at any time before the first day of April next, shall be privileged and have a right to enter such lands in its proper class, and thereupon be released from the twenty-five per cent. and other damages incurred by the last mentioned act: *Provided,* Such landholder does, at the same time, pay to the proper officer, the full amount of taxes due on said land, agreeable to such last entry, but in all cases where taxes have been paid or collected, by virtue of the above recited act, and the owner or owners have been charged with a greater sum than

Lands subject to taxation for 1802 and 1803, improperly classed, re-entered before first of April, 1805, exonerated from 25 per cent., etc.

Proviso on payment of all taxes due.

Owners over-
charged, de-
duction made
out of suc-
ceeding tax,
with six
per cent.

Lands sub-
ject to tax-
ation for
1802 and 1803,
privileged to
be entered
and released
from penalty,
on payment
of tax for
1804.

Proviso, on
payment of
all taxes due,
with for-
feiture and
percentage.

would have been due or payable had their lands been entered by the owner or his agent, agreeable to the provisions of the before recited act, the amount so overcharged shall be deducted out of any taxes that shall hereafter become due, together with six per cent. discount on the amount so overcharged; and persons holding lands as aforesaid, which have been liable and subject to taxation in one thousand eight hundred and two or one thousand eight hundred and three, agreeably to "An act, levying a tax on land for the year one thousand eight hundred and two, and for other purposes," who have not had the same entered for taxation in either of those years, and which have been entered by the auditor or other proper officer for taxation, agreeably to the provisions of the act levying a state tax, passed the eighteenth of February, one thousand eight hundred and four, the holders of such lands, on coming forward before the first day of April, aforesaid, shall in like manner be privileged to have the same entered in its proper class, and thereon be released from the twenty-five per cent. and other damages incurred by the last mentioned act: *Provided*, Such landholders do, at the same time, pay to the proper officer the full amount of taxes due on said land for the year one thousand eight hundred and four, agreeably to the entry last made: *Provided also*, That the holders of such lands do moreover pay at the same time, all the taxes due thereon for the year one thousand eight hundred and two or one thousand eight hundred and three, with the forfeitures and percentage due thereon, in consequence of such tax not being paid agreeable to law.

Sec. 2. *Be it further enacted*, That the auditor

shall forthwith proceed to make out an abstract of the sales made in November, one thousand eight hundred and three (except so much thereof as have been redeemed) therein charging the purchaser or purchasers with the tract or parts of tracts by them purchased, and deducting in a proper manner the quantity sold from each original tract, and charging the remaining part to the original holder, in the same class or rate it was placed in at the time of sale, and shall forward a duplicate of the same to the collector, against the first Monday of April next.

Auditor's duty.

Sec. 3. *Be it further enacted*, That such parts of the act levying a state tax for the year one thousand eight hundred and four, which come within and are contrary to the provisions of this act, are hereby suspended until the first day of April next.

Parts of former act suspended until first of April.

Sec. 4. *Be it further enacted*, That this act shall be published in the Scioto Gazette, with a request that the editors of newspapers throughout the United States publish the same, for the information of persons holding lands in this state.

Publication in Scioto Gazette.

Sec. 5. *Be it further enacted*, That this act shall be in force, from and after the passage thereof.

Commencement.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 20, 1805.

CHAPTER LXXIV.

An act, for altering the boundary line between Scioto and Galia counties.

Part of the county of Galia attached to the county of Scioto.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That so much of the county of Galia as lies west of the seventeenth range of townships, be and the same is hereby annexed to the county of Scioto.

Actions, suits, etc., depending in Galia, how determined,

and fines, forfeitures, etc., collected.

Sec. 2. *Be it further enacted*, That all actions, suits and prosecutions, now pending in the county of Galia, shall be determined in the court of said county, and that all fines, forfeitures and public dues, which are owing to the county of Galia, shall be collected by the sberiff or collector of the said county, in the same manner as if this act had never taken place.

Commencement.

Sec. 3. *Be it further enacted*, That this act shall 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 LXXV.

An act, repealing certain laws.

Sec. 1. *Be it enacted by the general assembly of*

the state of Ohio, That all laws adopted or passed by the governor and judges, prior to the first day of September, in the year of our Lord, one thousand seven hundred and ninety-nine, and now in force in this state, be and the same are hereby repealed.

Laws passed prior to first of September, 1799, repealed.

Sec. 2. *Be it further enacted*, That all the laws and resolutions passed by the territorial legislature, prior to the first day of April, A. D., one thousand eight hundred and two, be and the same are hereby repealed, except these hereinafter excepted (to-wit): An act, entitled, An act, to alter the boundary line between the counties of Jefferson and Washington. An act, to incorporate the town of Marietta. An act, to empower the trustees named in the last will and testament of doctor William Burnet, the elder, to dispose of certain lands. An act, authorizing the town of Marietta to preserve the banks of the rivers in the said town. An act, appointing trustees for the town of Manchester. An act, to incorporate the town of Cincinnati. An act, authorizing Zacheus Biggs and Zacheus A. Beaty, to erect a bridge over Will's creek. An act, for the relief of Sally Mills. An act, for the relief of Jane Mitchson. An act, for the relief of Lucy Petit; and also the different laws passed by the territorial legislature, on the subject of levying a territorial tax, which laws shall remain and continue in force, until the revenue under the same shall be collected, and no longer: *Provided, nevertheless*, That nothing in this act contained shall be so construed as to affect, in any manner, any suit or prosecution now depending and undetermined, but the same shall be carried on to final judgment and execution, agreeable to the provisions of any of the said laws,

Laws, etc., passed by territorial legislature, prior to first of April, 1802, repealed.

Laws excepted.

Proviso.

under which the suit or prosecution may have been commenced and the practice of the courts.

Commence-
ment.

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.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

CHAPTER LXXVI.

An act, making appropriations for the year one thousand eight hundred and five.

Contingent
fund sub-
ject to order
of the gov-
ernor.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That nine hundred and seventy-five dollars, now remaining in the hands of the governor, of the sum appropriated last year as a contingent fund, be appropriated as a contingent fund for the year one thousand eight hundred and five, subject to the order of the governor, who shall make report of the disbursements thereof to the next session of the legislature. That there shall be paid out of the state treasury on the order or warrant of the auditor of public accounts, to discharge the debts of the state, and for the expenditure of the state for the year one thousand eight hundred and five, not more than the following sums, viz:

Payments to
be made out
of the state
treasury, on
the order or
warrant of
the auditor.

To the governor, judges of the supreme court, presidents of the courts of common pleas, secretary, treasurer and auditor of public accounts, a sum not exceeding seven thousand five hundred and fifty dollars.

To Nathaniel Willis, for printing the laws and journals, and other printing done for the present general assembly of the state of Ohio, the amount of his account agreeably to contract, to be settled by the auditor, treasurer and secretary of state.

To the members and officers of the present general assembly, in addition to a sum already appropriated, a sum not exceeding seven thousand dollars.

To George Renick, for stationery furnished the present general assembly, a sum not exceeding one hundred and forty dollars and fifty cents.

To the secretary of state, for distributing the laws and journals of the present general assembly, throughout the different counties in this state, a sum not exceeding five hundred dollars, to be liquidated by the auditor and treasurer. Continued.

To Robert Smith and Anthony Smith, for fire-wood furnished the present general assembly, fifty-five dollars.

To the auditor of public accounts, for postage of letters and procuring the books of surveys and entries from Anderson's office, forty-three dollars.

To the agent of the salt-works, the amount of his salary as it shall become due.

To John Carlisle, for stationery furnished the present general assembly, thirty-five dollars and eighty-two cents.

To the majors-general, for organizing the militia, seventy-five dollars each.

To Nathaniel Willis, for printing, forty-nine dollars.

To the auditor of public accounts, one hundred dollars, to defray the expense of prosecuting delinquent collectors.

To Adam Betz, for candles furnished the present general assembly, one dollar.

To William Creighton, Jr., for fifty-two days' clerkship to the committee of revisal, one hundred dollars.

To James Davenport, for thirty-three days' clerkship to the committee of revisal, and services rendered the house of representatives, seventy dollars.

To Michael Baldwin, Esq., the service of a servant who attended on the committee of revisal, the sum of twenty dollars.

Continued. To Robert Steele, for two desks and a table furnished the present general assembly, fifteen dollars and twenty-five cents.

To William Goforth fifty dollars, Nathaniel Massie twenty-five dollars, James Pritchard sixty dollars, for their services as electors of President and Vice-President of the United States.

To the sheriff of Hamilton county, eighteen dollars.

To the sheriff of Butler county, eighteen dollars.

To the sheriff of Warren county, sixteen dollars.

To the sheriff of Franklin county, ten dollars.

To the sheriff of Scioto county, ten dollars.

To the sheriff of Fairfield county, ten dollars.

To the sheriff of Washington county, twenty-one dollars.

To the sheriff of Gallia county, twelve dollars.

To the sheriff of Adams county, twelve dollars.

To the sheriff of Trumbull county, thirty-two dollars.

To the sheriff of Belmont county, twenty dollars.

To the sheriff of Jefferson county, twenty-four dollars

To the sheriff of Green county, twelve dollars.

To the sheriff of Montgomery county, fourteen dollars.

To the sheriff of Columbiana, twenty-eight dollars.

To the sheriff of Muskingum, thirteen dollars.

To the sheriff of Ross county, six dollars.

To John Blanchard, for services rendered the governor and judges of the north-western territory, as clerk, one hundred and forty-six dollars.

To Thomas Steele, for twenty-eight window lights and making some repairs to the state house, ten dollars. Continued.

To William Betz, for carrying the governor's certificate to William Goforth and Nathaniel Massie, Esquires, twenty dollars.

To Edward Sherlock, for carrying the governor's certificate to James Pritchard, Esq., forty dollars.

To the clerk of the senate and the clerk of the house of representatives, in addition to the compensation allowed by law, eighty-four dollars each.

To Thomas G. Bradford, for binding the laws of this state, (two hundred dollars of which shall be paid in advance, by the auditor) a sum not exceeding five hundred dollars.

To the secretary of state, for furnishing six seals for the three new counties, directed to be

organized this session, a sum not exceeding the sum of thirty dollars.

Continued. To Dix and Cutler, for articles furnished the present general assembly, two dollars.

To Edward Sherlock, for the amount paid by him for repairing the fire places and for three pound of candles, furnished the general assembly, five dollars thirty-three and one-third cents.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

LAWS

Revised at the First Session of the Third General Assembly of the State of Ohio.

CHAPTER I.

An act, to provide for commissioning of certain officers.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That each judge of the supreme court, president or associate judge of the common pleas, sheriff, coroner, auditor or state treasurer, militia officer or justice of the peace, and every officer 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.

Judges, etc.,
to be commissioned.

Certificate
to be produced to the
secretary of
state.

MICHAEL BALDWIN,
Speaker of the house of representatives.

SAM. HUNTINGTON,
Speaker pro tem. of the senate.

March 23, 1803.

CHAPTER II.

An act, to establish the county of Scioto.

Boundaries
of the coun-
ty of Scioto.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That all that tract of country comprehended in the following boundaries, be and the same is hereby erected into a county, by the name of the county of Scioto, to-wit: Beginning on the Ohio, one mile on a straight line below the mouth of the lower Twin creek; thence north to Ross county line; thence east with said county line to the line of Washington county; thence south with said line to the Ohio; thence with the Ohio to the place of beginning.

Actions,
etc., pend-
ing to be de-
termined in
Adams coun-
ty.

Sec. 2. *And be it further enacted,* That all actions, suits and prosecutions, now pending in the county of Adams, shall be determined in the said court; and that all fines, forfeitures and public dues, which have incurred to or which are due and owing to the county of Adams, shall be collected by the sheriff or collector of the said county, in the same manner as though no division had taken place.

Collections,
etc., to be
made as
though this
act had not
been passed.

Alexandria,
temporary
seat of jus-
tice.

Sec. 3. *And be it further enacted,* That until a permanent seat of justice shall be fixed in the county of Scioto, by commissioners for that purpose, Alexandria shall be the temporary seat of justice, and courts held at the house of John Collins.

Commence-
ment of this
act.

Sec. 4. *And be it further enacted,* That this act shall take effect and be in force, from and after the first day of May next.

MICHAEL BALDWIN,
Speaker of the house of representatives.

SAM. HUNTINGTON,
Speaker pro tem. of the senate.

March 24, 1803.

CHAPTER III.

An act, for the division of the counties of Hamilton and Ross.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That all that part of the county of Hamilton, included within the following bounds, viz.: Beginning at the northeast corner of the county of Clermont, running thence west with the line of said county to the Little Miami; thence up the same, with the meanders thereof, to the north boundary of the first tier of sections in the second entire range of townships in the Miami purchase; thence west to the northeast corner of section number seven, in the third township of the aforesaid range; thence north to the Great Miami; thence up the same to the middle of the fifth range of townships; thence east to Ross county line; thence with the same south to the place of beginning, shall compose one new county, to be called and known by the name of Warren.

Boundaries
of the county
of Warren.

Sec. 2. *And be it further enacted,* That all that part of the county of Hamilton, included within the following bounds, viz.: Beginning at the southwest corner of the county of Warren, run-

Boundaries
of the county
of Butler.

ning thence west to the state line; thence with the same north to a point due west from the middle of the fifth range of townships in the Miami purchase; thence east to the northwest corner of the aforesaid county of Warren; thence bounded by the west line of the said county of Warren to the place of beginning, shall compose a second new county, called and known by the name of Butler.

Boundaries
of the county
of Mont-
gomery.

Sec. 3. *And be it further enacted*, That all that part of the county of Hamilton included within the following boundaries, viz.: Beginning on the state line at the northwest corner of the county of Butler; thence east with the lines of Butler and Warren to the east line of section number sixteen, in the third township and fifth range; thence north eighteen miles; thence east two miles; thence north to the state line; thence with the same to the west boundary of the state; thence south with the said boundary to the beginning, shall compose a third new county, called and known by the name of Montgomery.

Boundaries
of Green
county.

Sec. 4. *And be it further enacted*, That all that part of the county of Hamilton and Ross, included in the following bounds, viz.: Beginning at the southeast corner of the county of Montgomery, running thence east to Ross county line, and the same course continued eight miles into the said county of Ross; thence north to the state line; thence westwardly with the same to the east line of Montgomery county; thence bounded by the said line of Montgomery to the beginning, shall compose a fourth new county, called and known by the name of Green.

Sheriffs,
etc., to
make dis-

Sec. 5. *And be it further enacted*, That it shall be lawful for the coroners, sheriffs, constables and

collectors of the counties of Hamilton and Ross to make distress for all dues and officers' fees unpaid by the inhabitants within the bounds of any of the said new counties, at the time such division shall take place, and they shall be accountable in like manner as if this act had not been passed; and the courts of Hamilton and Ross counties shall have jurisdiction in all actions and suits pending therein at the time of said divisions, and they shall try and determine the same, issue process and award execution thereon.

tress for dues unpaid by the inhabitants of the new counties at the time of the division.

Courts of Hamilton and Ross counties, jurisdiction in causes pending at the division.

Sec. 6. *And be it further enacted*, That until permanent seats of justice shall be affixed in the several new counties by commissioners appointed for that purpose, the following places shall be temporary seats of justice, and courts shall be held thereat: In the county of Warren, at the house of Ephraim Harthaway, on Turtle creek; in the county of Butler, at the house of John Turence, in the town of Hamilton; in the county of Montgomery, at the house of George Newcum, in the town of Dayton; for the county of Green, at the house of Owen Davies, on Beaver creek.

Temporary seats of justice in Warren, Butler, Montgomery and Green.

Sec. 7. *And be it further enacted*, That all the inhabitants of the counties of Montgomery and Green, who live north of the eighth range, shall be exempted from paying any tax for the purpose of erecting court-houses and goals in the aforesaid counties of Montgomery and Green.

Exempt from tax for erecting court-houses and goals.

Sec. 8. *And be it further enacted*, That this act shall commence and be in force, from and after the first day of May next.

Commencement.

MICHAEL BALDWIN,
Speaker of the house of representatives.

SAM. HUNTINGTON,
Speaker pro tem. of the senate.

March 24, 1803.

CHAPTER IV.

An act, allowing compensation to the members of the convention who formed the constitution, to their officers and to the members of the general assembly.

Compensation to the members of the convention.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That each and every member who attended to form the constitution of the state of Ohio, shall be entitled to and receive for each and every day's attendance, the sum of two dollars and shall also be allowed two dollars for every twenty-five miles of the estimated distance, going and returning by the most usual road from his place of residence to the seat of government.

Compensation to the members of the senate and house of representatives.

Sec. 2. *And be it further enacted,* That each and every member of the senate and house of representatives, shall be entitled to and receive for each and every day's attendance, on the business of legislation, the sum of two dollars, and shall also be allowed two 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. *And be it further enacted,* That there shall be paid to each clerk of the convention the sum of three dollars, for each and every day they were employed in the business of the convention respectively, and there shall be allowed and paid to the doorkeeper of the convention, the sum of one dollar and fifty cents, for each and every day's attendance on said convention.

Compensation to the clerks of the convention and doorkeeper.

Sec. 4. *And be it further enacted,* That the compensation which shall be due to the members and officers of the convention, shall be certified by the president thereof; and that which shall be due to the members of the senate and house of representatives, shall be certified by their respective speakers, which certificates shall be to the auditor sufficient evidence of claim, and the auditor shall thereupon issue certificates to the several members and other officers of the convention and of this general assembly, payable at the treasury of the state or the treasurer, (as the case may be,) shall pay off the said claims with any money which may be in the treasury.

Compensation due to the members, etc., of the convention, to be certified by the president.

To the general assembly by their respective speakers.

Evidence to the auditor, who shall issue certificates payable at the treasury.

MICHAEL BALDWIN,
Speaker of the house of representatives.

SAM. HUNTINGTON,
Speaker pro tem. of the senate.

March 24, 1803.

CHAPTER V.

An act, for the erecting a part of the counties of Jefferson and Washington into a separate county, by the name of Columbiana.

Boundaries
of the county
of Colum-
biana.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That all that part of the counties of Jefferson and Washington as comes within the following boundaries, be and the same is hereby laid off and erected into a separate county, which shall be known by the name of Columbiana: Beginning at the mouth of Yellow creek, on the north side of the same; thence up said creek, with the meanders thereof, to the northern boundary of the eighth township in the second range; thence with the same west, to the western boundary of the seventh range; thence north, to the northwest corner of the sixteenth township in the said seventh range; thence west, on the south boundary of the ninth township in the eighth and ninth ranges to the Muskingum river; thence up the said river, with the meanders thereof, to the southern boundary of the county of Trumbull; thence with the same east, to the Pennsylvania line; thence with the said line south, to the Ohio river; thence down the same, with the meanders thereof, to the beginning.

Commence-
ment.

Sec. 2. *And be it further enacted,* That from and after the first day of May next, the said county shall be vested with all the powers, privileges and immunities of a separate and distinct county: *Provided always,* That all actions and suits which may be pending in the counties of Jefferson and Washington, on the said first day of

Actions,
etc., pending
in Jefferson
and Wash-
ington,

May next, shall be prosecuted and carried on to final judgment and execution; and all taxes, fees, fines and forfeitures, which shall be then due, shall be collected in the same manner as if this act had never been passed.

to be prosecuted as if this act had not been passed.

Sec. 3. *And be it further enacted,* That until a permanent seat of justice be fixed in the said county, by commissioners appointed for that purpose, the temporary seat of justice shall be at the house of Matthias Lowrey, in the twelfth township and second range; and courts shall be held thereat, in and for the county of Columbiana, aforesaid.

Temporary seat of justice.

MICHAEL BALDWIN,
Speaker of the house of representatives.

SAM. HUNTINGTON,
Speaker pro tem. of the senate.

March 25, 1803.

CHAPTER VI.

An act, establishing seats of justice.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That for each new county established during the present or any future session of the legislature, three commissioners shall be appointed by a resolution of both branches of the legislature, whose duty it shall be to examine and determine what part of said county so established, is the most eligible for holding the several courts within the said county; and it shall be the duty of the secretary of state, immediately to notify the persons of their several appointments.

Three commissioners appointed.

Their duty.

To be notified.

Qualification
of commis-
sioners.

Sec. 2. *And be it further enacted,* That no person residing within the county so established, or holding any real property within the same, and who has not arrived to the age of twenty-five years and been a resident one year within the state, shall be eligible as a commissioner.

To give
notice to
the inhabit-
ants of the
county.

Sec. 3. *And be it further enacted,* That the commissioners, or any two of them, within sixty days after notification of their appointment, shall assemble at some convenient place in that county where the seat of justice is to be established, giving twenty days notice, posted up in three of the most public places in said county, notifying the inhabitants thereof of the time, place and purport of their meeting; and the said commissioners, when assembled, and having taken an oath or affirmation before a magistrate, to faithfully discharge the duties assigned them by this act, shall proceed to examine and select the most proper place as the seat of justice, as near the center of the county as possible, paying regard to the situation, extent of population and quality of the land, together with the general convenience and interest of the inhabitants.

To take
oath.

To fix the
seat of jus-
tice.

Report to
the court of
common
pleas.

Sec. 4. *And be it further enacted,* That the commissioners, after having agreed upon the place for the seat of justice, shall make report thereof to the next court of common pleas to be held in said county, and if it appears that no town has been previously laid off at the place agreed on by the commissioners, the court shall appoint a director, who, after giving sufficient surety for his faithful performance, shall be fully authorized to purchase the land of the proprietor or proprietors, for the use and behoof of the county, and

A director
to be ap-
pointed to
purchase
lots, etc.

proceed to lay off said land into lots, streets and alleys, under such regulations as the court may prescribe; and the said director is hereby further authorized to dispose of the said lots, either at public or private sale, as the court may think proper, and to make a legal conveyance of the same in fee simple to the purchaser: *Provided always*, That the lands thus purchased and laid off into lots, shall not exceed seven hundred acres.

Not to exceed seven hundred acres.

Sec. 5. *And be it further enacted*, That the first proceeds of the sale of lots, shall be applied to the payment of the land and defraying the necessary expenses of laying off the lots; the residue of the money shall be paid into the county treasury.

Proceeds of sale of lots, how applied.

Sec. 6. *And be it further enacted*, That if the land agreed on by the commissioners cannot be purchased at a reasonable price, or a good and legal title in fee simple be obtained, the commissioners shall forthwith select the next most eligible place for the seat of justice.

Where land cannot be purchased, etc., commissioners' duty.

Sec. 7. *And be it further enacted*, That if the said commissioners shall be guilty of any corruption in discharge of their duty as aforesaid, it shall be lawful for any person or persons who may think himself or themselves aggrieved thereby, to make a true representation thereof to the general assembly next ensuing, who shall take such order thereon as they may think proper, by appointing new commissioners, or confirming the decision of the first.

When guilty of corruption.

remedy for persons aggrieved.

Sec. 8. *And be it further enacted*, That if any commissioner shall receive money, or any species of property as a bribe, or be guilty of any mal-conduct in the execution of his office, he shall, on con-

On conviction of bribery, etc., the penalty.

viction before any court having jurisdiction thereof, forfeit and pay a sum not exceeding one thousand nor less than fifty dollars, for the use of the county.

Commissioners and directors, how paid.

Sec. 9. *And be it further enacted*, That there shall be paid out of the county treasury, the sum of two dollars per day to each commissioner, while engaged in the business of the county, and to the director, such sum as the court shall allow.

MICHAEL BALDWIN,
Speaker of the house of representatives.

SAM. HUNTINGTON,
Speaker pro tem. of the senate.

March 28, 1803.

CHAPTER VII.

An act, regulating marriages.

Male and female persons of certain ages permitted to marry.

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, may be joined in marriage: *Provided always*, That male persons, under the age of twenty-one years, and 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.

Proviso, as to consent of fathers, etc.

Sec. 2. *Be it further enacted*, That it shall be

lawful for any justice of the peace in their respective counties, to solemnize marriages, and ordained minister of any religious society or congregation (such minister first producing to the court of common pleas for 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 authorized to solemnize marriage, 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 societies of people called quakers and mennonists, in their public meetings, or agreeable to the rules and regulations of their church, to join together as husband and wife, all persons not prohibited by this law, who may apply to them in manner herein-after provided.

Justices of the peace and minister authorized to solemnize marriage.

Court to grant license to ministers on certain conditions.

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 parties reside, fifteen days before the day of marriage, under the hand and seal of a justice as aforesaid, 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 for the county where such marriage is solemnized.

Public notice to be given, or license obtained from clerk of court of common pleas

Sec. 4. *Be it further enacted*, That it shall be lawful for the clerks of the court of common pleas in their respective counties, and they are hereby

Clerks of courts to issue license on consent of parents, etc.

empowered to grant license for marriage, which in all cases shall issue from the clerk of the court for that county where the female resides, and if any of the persons intending to marry shall be under age and not heretofore married, 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 personally appear before said clerk and make oath or affirmation (as the case may require) that he saw the parent or guardian, whose name is annexed to such certificate, subscribe or acknowledge the same; and the clerk is hereby authorized 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 oath and granting license with the seal affixed thereto, the sum of fifty 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.

Oath required as to parents, etc., signing certificate.

Fee to clerk.

Certificate to be forwarded to clerk within three months.

Penalty on neglect.

Sec. 5. *Be it further enacted*, That a certificate of every marriage hereafter solemnized, signed by the justice or minister celebrating the same, shall be transmitted to the clerk of the county wherein the marriage was solemnized, within three months thereafter, and recorded by such clerk, which shall be evidence of all such marriages. 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 authorized to join persons in marriage, shall celebrate 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 state. And if any person not legally authorized, shall attempt to celebrate the marriage contract, such person shall, upon conviction thereof, forfeit and pay five hundred dollars, to and for the use of the state.

Forfeiture on solemnizing marriage contrary to this act.

Sec. 7. *Be it further enacted*, That any fines or forfeitures, 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 cognizance of the same.

Fines, etc., how recovered.

Sec. 8. *Be it further enacted*, That the law, entitled, "A law regulating marriages," and the law, entitled, "An act supplementary to a law regulating marriages," be and they are hereby severally repealed.

Certain laws regulating marriages, repealed.

MICHAEL BALDWIN,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

April 4, 1803.

CHAPTER VIII.

An act, for the division of the county of Washington.

Boundaries
of Galia
county.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That all that part of the county of Washington, included within the following boundaries, viz.: Beginning at the mouth of Shade river, thence up the same, with the meanders thereof, until it intersects the east and west line between the third and fourth townships in the eleventh range; thence west with the same to the east boundary of Ross county; thence south with the same, to the northeast corner of the county of Adams; thence with the easterly boundary of the same to the Ohio river; thence up the same, with the meanders thereof, to the place of beginning, shall compose a new county called and known by the name of Galia.

Sheriffs,
etc., to
make dis-
tress for
dues, etc.,
unpaid at
the division.

Sec. 2. *And be it further enacted,* That it shall be lawful for coroners, sheriffs, constables and collectors of the county of Washington, to make distress for all dues and officers' fees unpaid by the inhabitants within the bounds of the said new county of Galia, at the time such division shall take place. and they shall be accountable in like manner as if this act had not been passed, and the courts of the county of Washington shall have jurisdiction in all actions and suits pending therein at the time of said division, and they shall try and determine the same, issue process and award execution thereon.

Gallipolis
the tempo-
rary

Sec. 3. *And be it further enacted,* That the temporary seat of justice shall be and hereby is estab-

lished on the public square, in the town of Gallipolis, until the permanent seat is fixed by commissioners, as the law may direct. seat of justice.

Sec. 4. *And be it further enacted*, That this act shall commence and be in force, from and after the thirtieth day of April next. Commencement of this act.

MICHAEL BALDWIN,
Speaker of the house of representatives.

SAM. HUNTINGTON,
Speaker pro tem. of the senate.

March 25, 1803.

CHAPTER IX.

An act, to establish the county of Franklin.

Sec. 1. *Be it enacted by the general assembly of state of Ohio*, That all that part of the county of Ross, contained within the following boundaries, to-wit: Beginning on the western boundary of the twentieth range of townships east of the Scioto river, at the corner of sections number twenty-four and twenty-five, in the ninth township of the twenty-first range, surveyed by John Matthews; thence west until it intersects the eastern boundary line of Green county; thence north with said line until it intersects the state line, thence eastwardly with the said line to the northwest corner of Fairfield county; thence with the western boundary line of Fairfield to the point of begin- Boundaries of the county of Franklin.

ning, shall form a separate and distinct county, to be called by the name of Franklin.

Taxes, etc., to be collected as if the county had not been divided.

Sec. 2. *And be it further enacted,* That all taxes and officers' fees which may be due from the inhabitants of said county of Franklin to the county of Ross, at the commencement of this act, shall be collected and paid in like manner, as if the said county had not been divided, and the same proceedings shall be had in all process, judgments and executions which may be pending in the said county of Ross at the commencement of this act, as would have taken place had it never been passed.

Franklin, seat of justice until permanently established.

Sec. 3. *And be it further enacted,* That courts for the said county of Franklin shall be holden in the town of Franklinton, until a permanent seat of justice be established therein, agreeably to the provisions of the act, entitled, "An act, establishing seats of justice."

Commencement of this act.

Sec. 4. This act shall commence and be in force, from and after the thirtieth day of April next.

MICHAEL BALDWIN,
Speaker of the house of representatives.

SAM. HUNTINGTON,
Speaker pro tem. of the senate.

March 30, 1803.

CHAPTER X.

An act, regulating the mode of petitioning the legislature in certain cases.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That previous to any petition or memorial being received by any future legislature, praying that any act may be passed, whereby the particular rights or privileges of any individuals, bodies politic or corporate, may be affected or infringed, notice of such intended application, by petition or otherwise, shall be given at least thirty days before the ensuing session of the general assembly, either by advertisement in a newspaper printed or in general circulation within the county where the party or parties interested reside, or in case no such paper be printed or circulated within such county, then notice shall be given by advertisement, to be fixed on the door of the house where courts are held for such county, and at three of the most public places in said county, for the aforesaid period of thirty days; but if the party or parties interested as aforesaid, do not reside within this state, then four months notice of such intended application shall be given, in at least one of the public papers printed within this state.

Persons petitioning the legislature to give thirty days' previous notice

Parties interested not residing within the state four months' notice to be given.

Sec. 2. *And be it further enacted*, That it shall be the duty of the speaker of that branch of the legislature to whom such petition or memorial may be offered, to enquire, at the time such petition or memorial is presented, whether notice thereof has been given agreeably to the requisitions of this act, and if satisfactory proof of such notice is produced, then such petition or memorial shall be received.

Duty of the speaker as to notice being given.

MICHAEL BALDWIN,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

April 9, 1803.

CHAPTER XI.

An act, empowering the treasurer of the state to receive from the secretary of the treasury of the United States, monies granted for the opening roads within the state.

The treasurer to receive from the treasurer of the U. S. certain money.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That the treasurer of this state be, and he is hereby authorized and empowered, to receive from the secretary of the treasury of the United States, all money that now is, or hereafter may become due to this state, by virtue of the act of Congress, entitled, "An act in addition to and in modification of the propositions contained in the act, entitled, 'An act to enable the people of the eastern division of the territory northwest of the river Ohio, to form a constitution and state government, and for the admission of such state into the union on an equal footing with the original states, and for other purposes;'" and the money so paid into the hands of the treasurer, shall remain in the treasury until drawn out by some act pursuant to the intention for which it was granted.

To remain in his hands until drawn out by law.

Sec. 2. *And be it further enacted*, That it shall be the duty of the secretary of state to forward a copy of this act to the secretary of the treasury of the United States, within thirty days from the passage thereof.

Secretary of state to forward copy to secretary of the treasury of the U. S.

MICHAEL BALDWIN,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

April 15, 1803.

CHAPTER XII.

An act, to provide for the leasing of certain lands therein named.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That the lands granted for the support of schools in the several parts of the state, shall be let on lease for the purpose of improving the same, and thereby rendering them productive, that the profits arising therefrom may be applied to the support of schools, according to the true intent and meaning of the original donation and the several laws of the United States, reserving, granting and appropriating the same.

School lands to be let on lease.

Sec. 2. *And be it further enacted*, That all the lands lying within the United States' military tract, which have been appropriated for the use of schools, shall be let to lease for any term not exceeding fifteen years, and that section number

The lands in the U. S. military tract to be leased for a term not exceeding fifteen years.

sixteen in all other parts of the state, (except such as have been heretofore leased by persons legally qualified to lease the same) and the sections that shall be located in lieu of such as have been sold or otherwise disposed of by the United States, so soon as they shall be selected by the secretary of the treasury, shall be let to lease for any term not exceeding seven years.

Certain improvements to be made in tracts of two hundred and sixty acres or more.

Sec. 3. *And be it further enacted*, That on each tract of land consisting of one hundred and sixty acres or more, there shall be required the following improvements, to-wit: Fifteen acres cleared and fenced in separate fields or parcels, one parcel or lot of which to consist of five acres, with all the timber and other wood cut and cleared off and sewed down in timothy or red clover seed, and another lot of three acres, cut and cleared in the same manner and planted with one hundred thrifty and growing apple trees, and the remaining tract of seven acres cleared and prepared for cultivation in the ordinary manner of improving arable land: *Provided always*, That the person or persons to whom any of the said lands are leased, shall be obliged to complete the said improvements on all lands leased for fifteen years within the time of the first twelve years of the same, and on all lands leased for seven years within the time of the first five years of the said lease.

Improvements to be completed in a certain time.

The governor or to appoint persons in the counties or districts to lease the land within the same,

Sec. 4. *And be it further enacted*, That it shall be the duty of the governor, and he is hereby required, to appoint suitable persons in the several counties or districts in the state, with full power and authority to lease the several tracts of land within his county or district, conformably to the terms and provisions of this act: *Provided*

always, That the agents or commissioners appointed as aforesaid, shall not lease out any of the said lands in tracts less than one hundred and sixty acres, nor larger than three hundred and twenty acres, except in cases of fractional sections; and *provided also*, That it shall be the duty of said agents or commissioners, before they proceed to lease any of the said lands, to make application to the surveyor general for a list of such part or parts of the same as have been leased under the authority of the United States, in their respective districts or counties.

in tracts not less than one hundred and sixty nor larger than three hundred and twenty acres except in particular sections

To make application.

Sec. 5. *And be it further enacted*, That each of the said agents shall be and is hereby entitled to receive for each lease, the sum of two dollars, to be paid by the said lessees respectively.

Compensation.

Sec. 6. *And be it further enacted*, That it shall be the duty of the several agents, within sixty days after being notified of their appointments, to give notice in one or more newspapers printed or in circulation in the county, or by advertisement set up in three or more public places, expressing the terms for which the lands within his county or district are to be leased, and he shall moreover enter in a book to be by him provided and kept for that purpose, the name of each person that shall apply for a lease, designating at the same time, the number and part of the section or tract applied for, and the term of years for which the applicant proposes to make the improvements required by the third section of this act, and in forty-two days after such application, if no other person shall apply for the same and propose to take a lease on a shorter term, the said agent shall proceed to make out a duplicate lease to the said

Agents to give notice of the terms.

To keep a book for certain purposes.

In forty-two days if no other application is made, agent to make a duplicate lease.

The lease to be made to the applicant proposing to take the same for the shortest term.

first applicant, one part of which shall be retained in the hands of the agent, but if any succeeding applicant shall propose to take the same for a shorter space of time, then and in that case, the lease shall be made to the person proposing to take the same on the shortest term: *Provided always*, That if two or more persons shall apply at the same time and on the same terms for any one tract, then the said agent shall determine by lot, in their presence, the priority of claim; and *provided also*, That leases shall be given to persons living on the land, if such persons shall apply for the same, on as short term as any other applicant, at any time within the forty-two days, notwithstanding such person shall not be the first applicant.

When two or more apply at the same time. claims to be determined by lot.

Preference to persons residing on the land.

The agent to enquire into waste or trespass.

Sec. 7. *And be it further enacted*, That it shall be the special duty of the said agent, to inspect and enquire into any waste or trespass that may be committed on any of the aforesaid lands, by cutting and carrying away timber or stone, or any other damage that may be done to the same whether by persons residing thereon or others; and the said agent is hereby authorized and required, where in his opinion any waste or trespass has been committed, to proceed against the person or persons committing the said waste or trespass, according to law: *Provided always*, That no person residing on any of the said lands shall be liable to damages for cutting timber or removing stone for any necessary or useful improvement made on the same.

To proceed against the trespassers according to law.

Proviso.

The damages recovered, how applied.

Sec. 8. *And be it further enacted*, That actions for waste or trespass, shall be sustained by the agent and the damages recovered shall be one-half to the use of such agent, and the other half to be

applied to the same purposes as the net proceeds of the land on which the damage was sustained, and the agent for those lands in the United States' military tract which are appropriated to the use of schools in the county of Trumbull, shall receive such compensation for his services rendered in pursuance of the seventh section of this act, as the court of common pleas for said county of Trumbull shall allow, to be paid out of the county treasury.

The agent for lands in the U. S. military tract in the county of Trumbull, to receive such compensation as the court of common pleas for said county will allow.

Sec. 9. *And be it further enacted*, That section number twenty-nine, in the several townships within judge Symmes' patent, shall be let to lease by the same persons, on the same terms and under the same regulations and restrictions of the aforesaid sections number sixteen.

Sec. No. 20 in J. Symmes' patent to be leased on the same terms of No. 16.

MICHAEL BALDWIN,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

April 15, 1803.

CHAPTER XIII.

An act, providing for the election of sheriffs and coroners in certain cases.

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

In case of the death or incapacity of sher-

iffs or coroners, associate judges to appoint.

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 election, 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 sheriffs 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.

Duty of sheriff or coroner.

Judges to appoint a day to elect in new counties, giving notice.

Sec. 2. *And 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 authorized to grant commissions to the persons elected ac-

Return to be made to associate judges,

who are to grant certificate to those elected.

cordingly. 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. Their duty.

Sec. 3. *And be it further enacted*, That the clerks and prothonotaries of the several courts abolished by the act, entitled, "An act, organizing 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 authorized and required, to receive and preserve the same in their respective offices. Clerks of courts abolished, to deliver over books and papers.

MICHAEL BALDWIN,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

April 15, 1803.

CHAPTER XIV.

An act, regulating the mode of taking the enumeration of the white male inhabitants, above twenty-one years of age.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That it shall be the duty of the Listers to take an enumeration

of white
male inhabit-
ants above
twenty-one
years of age.

listers of taxable property in the several townships of the respective counties within this state, and it is hereby made their duty, to take an enumeration of all white male inhabitants, above the age of twenty-one years; before the taking such enumeration, the said lister shall take an oath or affirmation, before some justice of the peace of their respective township; the oath or affirmation shall be: "You, A B, do solemnly swear or affirm (as the case may be) that you will make a just and true enumeration of all white male inhabitants above twenty-one years of age, within (here insert the township) and make a true return thereof to the clerk of the court of common pleas of the county of (here insert the county) within the time prescribed by this act, to the best of your abilities." The first enumeration shall commence on the first Monday of August next, and on the first Monday of May every fourth year afterwards, and shall be closed within thirty days after the commencement thereof. The several listers shall, within forty days after the commencement of the enumeration, make to the clerk of the court of common pleas, an accurate return of all white male inhabitants, above the age of twenty-one years, within their several townships.

Oath.

When to
commence.

When
closed.

To make re-
turn to the
clerk of
court of
common
pleas.

Managers to
appoint a
person to
perform the
duties of
clerk.

Sec. 2. *And be it further enacted,* That if any lister of taxable property shall die, remove or be in any ways unable to perform the aforesaid duties, the trustees or managers of the township shall, on information thereof, proceed to appoint some other person in room of such lister so as aforesaid deceased, removed or unable to serve, and give him notice of such his appointment, who shall take the same oath and discharge the same

duties, under the same penalties as by this act is required and imposed on the lister of taxable property.

Sec. 3. *And be it further enacted,* That if any lister or person appointed as aforesaid, shall fail to make return, or make a false return, through neglect or design, of the enumeration of his township, to the clerk of the court of common pleas of his county, within the time limited by this act, he shall forfeit the sum of thirty dollars.

Penalty for neglect or making a false return.

Sec. 4. *And be it further enacted,* That the clerks of the courts of common pleas respectively, shall file the several returns made as aforesaid and carefully preserve the same, and shall transmit, under their hands and seals of their counties, to the speaker of the senate, within ten days after the commencement of the session of the general assembly next ensuing, the aggregate amount of all white male inhabitants, above the age of twenty-one years, within their respective counties, agreeable to the returns to them made as aforesaid; and if any clerk of the court of common pleas shall neglect or refuse to perform all or any of the duties aforesaid, imposed on him by this act, he shall forfeit and pay for every such offense, a sum not exceeding three hundred dollars.

The clerks to file the returns,

and transmit the aggregate to the speaker of the senate.

Penalty for neglect.

Sec. 5. *And be it further enacted,* That the lister shall enumerate all white male inhabitants, above twenty-one years of age, whose usual place of abode shall be in any family within his township, and all who shall be found in his township without a settled place of residence in any township, but are inhabitants of the county at the time of taking the enumeration.

Lister to enumerate all white male inhabitants within his township.

Penalties re-
covered by
action of
debt, etc.

Sec. 6. *And be it further enacted,* That all penalties imposed by this act, shall be recovered with costs of suit, by action of debt, *qui tam*, or indictment, in any court having cognizance of the same; when the prosecution shall first be commenced on behalf of the county alone, the whole shall accrue to its use.

Compensa-
tion to the
lister.

Sec. 7. *And be it further enacted,* That there shall be allowed and paid to each lister or person appointed to take the enumeration, the sum of one dollar and twenty-five cents for each day he may be employed in taking the enumeration, and eight cents per mile for his travel from the place of his abode to the county seat, in making his return to the clerk of the court of common pleas: *Provided,* That if the enumeration be made at the same period the list of taxable property is taken, then and in that case the lister shall only be allowed for his travel in making the return aforesaid, to be paid on the order of the associate judges out of the respective county treasuries.

MICHAEL BALDWIN,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

April 16, 1803.

CHAPTER XV.

An act, to regulate elections.

Sec. 1. *Be it enacted by the general assembly of*

the state of Ohio, That all elections hereafter to be held for governor, sheriffs, coroners, senators and representatives to the general assembly, and representatives to congress, shall be held and conducted in the manner prescribed in this act.

Elections for governor, etc., to be held in conformity to this act.

Sec. 2. *And be it further enacted*, That each township now or hereafter to be erected in the several counties, shall compose an election district, and the courts of common pleas in their respective counties are hereby authorized and required, at their first term, to name a certain house in each township, as nearly central to the inhabitants as circumstances and conveniences will admit, at which the electors shall meet, when and as often as they may be required to vote for the officers hereby authorized to be elected.

Each township an election district.

Sec. 3. *And be it further enacted*, That the sheriffs of the several counties shall cause to be procured, at the expense of the proper county, a number of boxes equal to the number of townships in such county, and shall cause the same to be deposited, together with a copy of the laws passed at the present session of the legislature, at the places where elections are directed to be holden, there to remain for the use of the electors of such township.

Sheriffs to provide election boxes.

Where deposited, with a copy of the laws.

Sec. 4. *And be it further enacted*, That each box to be provided as aforesaid, shall be of a size sufficient to contain the ballots of the township where it shall be deposited, and shall have a lid secured with brass or iron hinges, and a lock and key, through the lid thereof shall be an aperture of a size calculated to admit a single ticket at a time, and beneath it shall be placed an iron spring bolt,

Construction of the boxes.

so as to close the aperture and exclude the admission of anything into the box after the close of the poll.

Sheriff to give public notice by proclamation.

Sec. 5. *And be it further enacted*, That it shall be the duty of the sheriff, and he is hereby authorized and required, fifteen days at least before the holding of any general election, or ten days before the holding of any special election, to give public notice, by proclamation throughout his county, of the time and several places of holding such election and the number of officers at that time to be chosen, one copy of which shall be set up at each of the places where the elections are appointed to be holden.

Hours of opening and closing elections.

Sec. 6. *And be it further enacted*, That all elections to be holden under this act, the poll shall be open at the hour of ten in the morning and close at the hour of four in the afternoon of the same day.

Choice of judges, and clerks.

Sec. 7. *And be it further enacted*, That at the hour of nine in the morning of the election, three persons having the qualifications of electors, shall be chosen, *vive voce*, by the electors present, to act as judges of that election, and the judges thus chosen shall choose two other persons, having the like qualifications, to act as clerks thereof.

Penalty on refusing to act.

Sec. 8. *And be it further enacted*, That if any person chosen to act as judge or clerk as aforesaid, shall refuse or neglect to be sworn or affirm, or to act in such capacity, the place of such person shall be filled in manner prescribed in the preceding section; and the person refusing or neglecting, shall forfeit and pay ten dollars, for the use of the county, to be recovered with costs, before any

justice of the peace of the proper county, in an action of debt.

Sec. 9. *And be it further enacted,* That previous to any votes being received, the judges and clerks shall severally take an oath or affirmation in the following form: "I, A B, do solemnly swear (or affirm as the case may be) that I will perform the duties of a judge of this election (or clerk as the case may be) according to law and to the best of my abilities, and that I will studiously endeavor to prevent fraud, deceit or abuse, in conducting the same."

Judges and clerks to be sworn.

Oath.

Sec. 10. *And be it further enacted,* That the person or persons who shall administer the said oaths or affirmations, shall cause an entry thereof to be prefixed to the poll books in words to the following effect: "I do hereby certify, that A B, C D and E F, judges, and G H and I K, clerks of the election, held in the ——— township of ——— county, on Tuesday the ——— day of ——— A. D., one thousand eight hundred and ———, were severally sworn as the law directs, previous to entering upon the duties of their respective offices;" which certificate shall be subscribed by the person administering the said oaths and be considered a part of the record of the election.

Persons administering oaths, etc., to prefix entry to poll books.

Form thereof.

Certificate to be considered part of the record.

Sec. 11. *And be it further enacted,* That in case there shall be no justice of the peace present at the opening of the election, or in case such justice be chosen judge or clerk, it shall be lawful for the judges, and they are hereby authorized and empowered to administer the oaths or affirmations to each other and to the clerks.

Judges authorized to administer oaths to each other, and clerks in certain cases.

Clerks to furnish themselves with poll books.

Sec. 12. *And be it further enacted,* That each of the said clerks shall furnish himself with a poll book, which shall be headed with words importing that it is a poll book of the election, held in ——— township, of ——— county, on the ——— day of ——— A. D., one thousand eight hundred and ———.

Votes to be by ballot,

Sec. 13. *And be it further enacted,* That each elector shall openly and in full view, deliver to one of the judges of the election, a single ballot or piece of paper, on which shall be written or printed, in an intelligible manner, the name or names of the person or persons voted for, with a pertinent designation of the office which he or they may be intended to fill; but no elector shall vote except in the township in which he resides.

how given in and

Sec. 14. *And be it further enacted,* That the judge to whom any ticket shall be delivered, shall, upon the receipt thereof, pronounce with an audible voice, the name of the elector, and if no objection be made to him and the judges be satisfied that the elector is legally entitled to vote at that election, he shall immediately put the ticket into the box, without inspecting the name or names written thereon.

how disposed of.

When objections are made to electors, judges to examine them on oath.

Sec. 15. *And be it further enacted,* That when objections are made to an elector, and in all other cases where the qualification of a person to vote is a fact unknown to either of the judges, they shall have power to examine such person on oath or affirmation, touching his qualification as an elector, which oath or affirmation either of the judges is hereby authorized to administer.

Poll books to be signed.

Sec. 16. *And be it further enacted,* That at the close of the poll, the poll books shall be signed by

the judges and attested by the clerks, and the names therein contained shall be counted and the number set down at the foot of the poll books, in writing.

Sec. 17. *And be it further enacted,* That after the poll books are signed, the ballot box shall be opened and the tickets or ballots therein contained shall be taken out one at a time by one of the judges, who shall read distinctly, while the ticket remains in his hand, the name or names contained therein, and then deliver it to the second judge, who shall also read distinctly the name or names therein contained, and pass it to the third judge, who shall string it on a thread and carefully preserve the same. The same method shall be observed in respect to each of the tickets in the ballot box, until the number of tickets taken out of the box is equal to the number of names contained in the poll books.

Ballots canvassed.

To be preserved.

Sec. 18. *And be it further enacted,* That the clerks shall enter in separate columns under the names of the persons voted for, all the votes so as aforesaid read by the judges; which entry shall be made in a part of each poll book, reserved for that particular purpose.

Clerk's duty.

Sec. 19. *And be it further enacted,* That where two or more ballots are found folded or rolled together, it shall be considered as conclusive evidence of their being both fraudulent.

Two ballots folded, etc., together fraudulent.

Sec. 20. *And be it further enacted,* That if a ballot shall be found to contain a greater number of names for any one office than the number of persons required to fill such office, it shall be con-

When more names are contained than required, fraudulent.

sidered fraudulent as to the whole of the names designated to fill such office, but no further.

Where less,
not fraudu-
lent.

Sec. 21. *And be it further enacted,* That a ballot shall not be adjudged fraudulent for containing a less number of names than that authorized to be inserted.

Statement
published.

Sec. 22. *And be it further enacted,* That after the examination of the ballots shall be completed, the number of votes for each person shall be enumerated under the inspection of the judges and set down in writing, and be publicly proclaimed to the people present.

One of the
poll books
sent to
clerk of the
county.

Sec. 23. *And be it further enacted,* That after canvassing the votes in manner aforesaid, the judges shall enclose and seal one of the poll books, under cover, directed to the clerk of that county where the return is to be made, and the packet thus sealed and directed shall be conveyed by one of the judges (to be determined by lot if they cannot otherwise agree) to the clerk of such county at his office, within five days from the close of the poll, and if any judge upon whom the lot shall fall to convey the said return, shall refuse or neglect to perform such service, according to the true spirit and meaning of this section, he shall be liable to a penalty of one hundred dollars, and the other poll book, where the same is not otherwise disposed of by this act, shall be deposited with the township clerk, within three days from the day of election, there to remain for the use of those persons who may choose to inspect the same.

Penalty for
neglect.

The clerk's
duty on re-
ceiving the
returns.

Sec. 24. *And be it further enacted,* That on the sixth day after the day of election (or sooner in case all the returns be made) the clerk of the

county, taking to his assistance two discreet judges of the common pleas or justices of the peace, or one of each, shall proceed to open the several returns which shall have been made to his office, and to make abstracts of the votes in the following manner: The abstract of votes for governor shall be on one sheet, and being signed by the judges or justices and clerk, or any two of them, shall be deposited in the clerk's office, and a copy thereof, certified under the official seal of such clerk, shall be enclosed and directed to the speaker of the senate. The abstract of votes for representatives to congress, senators and representatives to the general assembly, sheriffs and coroners, shall be made on one sheet, and being signed in like manner, shall be deposited in the clerk's office, and a copy thereof certified as aforesaid, shall be enclosed and directed to the secretary of state.

Sec. 25. *And be it further enacted,* That if any number of persons greater than the number of offices required to be filled, shall be equal in votes, the clerk and judges or justices aforesaid, shall determine by lot which of the persons shall be duly elected.

When equal in vote, the clerk and judges to determine by lot.

Sec. 26. *And be it further enacted,* That in all cases where a newly erected county shall remain attached to the original county, for the purposes mentioned in the third section of the seventh article of the constitution, one of the poll books of each township of the new county, shall be enclosed under seal, and directed to the clerk of the original county, and to him conveyed under the same regulations as are provided in the twenty-third section of this act, and the votes contained

New counties attached to the old.

The poll book to be enclosed to the clerk of the original county.

To be incorporated.

in the poll books thus returned from the townships in the new county, shall be considered as proper in every respect to be incorporated with the abstract of votes for such offices as are allowed to be elected by those counties in common, but no further.

The clerk, etc., to judge the legality of the returns.

Sec. 27. *And be it further enacted*, That the clerk and judges or justices, so as aforesaid called to his assistance, shall and they are hereby authorized, to adjudge the legality of the returns from the several townships, so far as the same may be determined from the face or appearance of such returns, subject to an appeal to the court of common pleas of the proper county, in case of the contested election of sheriffs or coroners: *Provided*, notice of such appeal be entered with the clerk of the county, within twenty days from the day of election, and to that branch of the legislature to which any person may be returned, whose election is contested.

Subject to an appeal to the common pleas in case of contested elections.

Notice of appeal to be entered in twenty days.

Clerk to make out certificate of election.

Sec. 28. *And be it further enacted*, That the clerk shall make out for the sheriff, coroner and each of the senators and representatives to the general assembly, who appear to be duly elected, a certificate of such his election, and shall deliver the same to the person entitled thereto, upon demand.

Bribery, etc., at elections, how punished.

Sec. 29 *And be it further enacted*, That if any person shall, either directly or indirectly, give or promise any meat, drink or any other reward, with an intention to procure his election, or the election of any favorite candidate, he shall be rendered incapable for two years, to serve in the office for which he was a candidate, and also forfeit and

pay, for every such offense, a sum not exceeding five hundred dollars; and if any elector shall corruptly receive such meat, drink or other reward, he shall forfeit and pay for each offense, a sum not exceeding one hundred dollars; and if any person shall furnish an elector, who cannot read, with a ticket informing him that it contains names different from those which are written or printed therein, with an intent to induce him to vote contrary to his inclination, he shall forfeit and pay a sum not exceeding one hundred dollars.

Penalty for
deceiving an
elector that
cannot read

Sec. 30. *And be it further enacted,* That if any candidate or elector of the proper county, chooses to contest the validity of any election, or the right of any person proclaimed duly elected to his seat in the senate or house of representatives, such person shall give notice thereof, in writing, to the persons whose election he intends to contest, or leave a written notice thereof at the house where such person last resided, within twenty days after the election, expressing the points on which the same will be contested and the names of the two justices of the peace who will officiate at the taking of depositions, and when and where they will attend to take the same: *Provided,* That the time fixed upon for taking such depositions, shall not exceed thirty days from the day of election. And the said justices or either of them, shall have power and they are hereby authorized and required, to issue subpoenas to all persons whose testimony may be required by either of the parties, commanding such person to appear and give testimony at the time and place therein mentioned, under the penalty of fifty dollars, to be levied on each and every delinquent who hath been duly

Of contested
elections.

Notice in
writing to be
given.

Testimony,
how to be
taken.

served with process. And the said two justices when met, shall hear and certify, under seal, all testimony relative to such contested election, to that branch of the general assembly where the person whose seat is contested may be returned to serve at their next session. No person shall contest any election unless he is an elector of that county from which the person is returned to serve. No testimony shall be received by the justices, on the part of the person contesting the election, which does not relate to the point specified in the notice, a copy of which notice, attested by the person who delivers or serves the same, shall be delivered to the said justices and by them transmitted to the legislature, with the other documents.

Qualification
of a con-
tester.

Sheriff, etc.,
elections
contested,
to be deter-
mined by the
court.

Sec. 31. *And be it further enacted,* That the method to be pursued in contesting the election of any person proclaimed sheriff or coroner, shall in every respect be similar to the method directed as aforesaid to be pursued in contesting the election of a senator or representative to the general assembly, save only that the testimony taken as aforesaid, and all matters relative to such contest, shall be sent to the court of common pleas of the proper county, on or before the second day of the term next ensuing the thirty days allowed in which to take depositions, by the preceding sections. And the said court of common pleas, at their said first term after thirty days aforesaid have expired, shall hear and determine the said contest.

Secretary of
state's duty
on receiving
the returns.

Sec. 32. *And be it further enacted,* That within thirty days after the day of election, or sooner in case returns are received from all the counties,

the secretary of state, in the presence of the governor, shall open the returns made to him, and after ascertaining the number of votes given to different persons or representatives to congress, he shall give to the person having the highest number of votes, a certificate of his election, which certificate shall be signed by the governor, sealed with the great seal and countersigned by the secretary of state.

Sec. 33. *And be it further enacted,* That the judges who carry the poll book, shall be entitled to receive for the same, such compensation as shall be allowed to them by the commissioners of their respective counties, to be paid on the order of such commissioners, out of the respective county treasuries.

Compensation for carrying poll book.

Sec. 34. *And be it further enacted,* That if any person from whom an oath or affirmation shall be required, under any of the provisions of this act, shall forswear himself, he shall, upon conviction thereof, be taken and deemed to be guilty of perjury and punished accordingly.

Penalty for forswearing.

Sec. 35. *And be it further enacted,* That if any person or persons, charged with any duty under this act, shall refuse or neglect to perform such duty, according to the true spirit and meaning of this act, he shall, upon conviction thereof before any court where the same may be cognizable, be fined in any sum, at the discretion of the court, not exceeding two hundred dollars.

Penalty for neglecting the duties of this act.

Sec. 36. *And be it further enacted,* That all fines and penalties imposed by this act and not herein otherwise provided for, shall be recovered with costs of suit, by an action of debt, *qui tam*,

How recovered.

and applied. or by indictment, in which case the whole shall be for the use of the county.

Repealing clause. Sec. 37. *And be it further enacted*, That the act, entitled, "An act, to ascertain the number of free white male inhabitants of the age of twenty-one, in the territory of the United States north-west of the river Ohio, and to regulate the election of representatives for the same;" and also the act to amend the same, be and they are hereby severally repealed.

MICHAEL BALDWIN,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

April 15, 1803.

CHAPTER XVI.

An act, creating the office of county surveyor and defining the duties thereof.

Court of common pleas to appoint county surveyors.

To examine them.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That it shall be the duty of the court of common pleas in each and every county within this state, at their first session after this act takes effect, to appoint some person within their county, who is well qualified to act as county surveyor, and it shall be the duty of said court to examine, or cause to be examined, each and every person who shall apply for said appointment, and

appoint some one who shall appear qualified to perform the several duties hereinafter directed, and shall forthwith certify such appointment, under the seal of said court, to the governor, who shall thereupon be authorized to grant a commission to the person so appointed by the court; and the surveyor, after having received such commission, shall take an oath or affirmation, before some judge of the court of common pleas or justice of the peace, to be certified on his said commission, truly and faithfully to discharge the several duties of a county surveyor, to the best of his skill and judgment; and having given bond with one or more sufficient sureties, in the penalty of one thousand dollars, payable to the governor and his successors in office, for the use of all parties concerned, to whom any damage shall accrue through the neglect or misconduct of such surveyor, conditioned for the true and faithful performance of the several duties of a county surveyor, agreeable to law, he shall be qualified to proceed to the execution of his said office.

Appointment certified to the governor.

To be commissioned.

To take oath.

To give bond with sureties.

Sec. 2. *And be it further enacted*, That it shall be the duty of the surveyor of each county, to survey all lands which have been or hereafter may be sold for taxes, within said county, on the application of any person producing him a certificate from the proper officer, agreeable to law.

To survey land sold for taxes on application.

Sec. 3. *And be it further enacted*, That no resurvey hereafter made by any person, except the county surveyor or his deputy, shall be considered as legal evidence in any court of law or equity within this state, except such surveys as are made by mutual consent of parties: *Provided always*, That where it shall appear that the

Where county surveyor interested, the court to appoint a capable person.

county surveyor is interested in any survey, the title of which is disputed before the court, they shall direct the resurvey to be made by some capable person who is in no wise interested, who shall return the said resurvey to the court on oath or affirmation: *Provided also*, That the provisions of this section shall not extend to, or have effect in, that part of the Miami purchase for which John C. Symmes obtained a patent from the United States, until the original surveys be regulated and confirmed in the aforesaid tract.

Proviso, as to land within Judge Symmes' patent.

Surveyor to keep record.

Sec. 4. *And be it further enacted*, That the surveyor of each county shall keep a correct and fair record of all surveys made by himself and deputies, in a book or books to be by him procured for that purpose; he shall number his surveys progressively, and shall also file and preserve a copy of the calculation of each survey, endorsing thereon its respective number; a copy of any survey shall be furnished by the surveyor to any person requiring the same, on their paying therefor the fee hereafter directed.

Sec. 5. *And be it further enacted*, That the several county surveyors may demand and receive for their services, the following fees, viz.:

For each survey, not exceeding fifty acres, the sum of two dollars.

Compensation for services.

And for every additional fifty acres, at the rate of twenty-five cents.

A plat and certificate, fifty cents.

A copy thereof, twenty-five cents.

Recording each survey, fifty cents.

And for every mile he shall travel going to and returning from the land, by the customary route, six cents.

Sec. 6. *And be it further enacted,* That each chainman or marker employed by the county surveyor or his deputies, shall, before he commences the duty assigned to him, take an oath or affirmation, faithfully and impartially to execute the duty of chainman or marker, as the case may be; which oath or affirmation the county surveyor or his deputies are hereby authorized and required to administer, and that the expense of chain carriers and markers shall be paid by the party at whose expense the survey is made: *Provided always,* That the party requesting such survey, shall be at liberty to provide the necessary chainmen and marker, to be approved of by the surveyor; *and provided also,* That there shall not be allowed to any chainman or marker, a greater sum than seventy-five cents, for each day he is actually employed.

Chainman
and markers
to take oath.

Their com-
pensation.

Sec. 7. *And be it further enacted,* That the nineteenth section of the act, entitled, "An act, supplementary to an act, entitled, 'An act, levying a territorial tax on land, and providing for a territorial tax for the year one thousand eight hundred and one,'" be and the same is hereby repealed; and that this act shall take effect and be in force, from and after the first day of June next.

Repealing
clause.

When to
take effect.

MICHAEL BALDWIN,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

April 15, 1803.

CHAPTER XVII.

An act, establishing the salaries of certain officers therein named.

Salaries to commence from the actual qualification.

Paid quarterly.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That the several officers hereinafter mentioned shall, for their respective services, be entitled to the following salaries, annually, to commence from the acceptance of their several appointments and actually qualifying themselves according to law, to be paid out of the public treasury in quarterly payments, after the same shall have been audited according to law:

To the governor, the sum of nine hundred dollars.

To the judges of the supreme court, each nine hundred dollars.

To the presidents of the court of common pleas, each seven hundred and fifty dollars.

To the auditor, including stationery, office and clerk hire, seven hundred dollars.

To the treasurer, including stationery, office and clerk hire, four hundred dollars.

To the secretary of state, four hundred dollars.

To the attorneys prosecuting for the state in each county, such sum to each, shall be allowed by the court of common pleas of the proper county, to be paid on the certificate of the court, out of the county treasury.

Sec. 2. *And be it further enacted,* That the clerks of the supreme court shall be entitled to the same fees for their services, as the clerk of the general court was entitled to receive, by the

act, entitled, "An act, regulating the fees of civil officers and for other purposes," passed the twenty-third day of January, eighteen hundred and two; and the clerks of the courts of common pleas shall be entitled to the same fees as were allowed to the clerks of sessions and prothonotaries of the court of common pleas, for similar services under the act aforesaid.

Sec. 3. *And be it further enacted,* That the auditor of public accounts shall issue warrants for the quarterly payment of the salaries of every person entitled thereto, as the same shall become due, on the last day of March, June, September and December annually, expressing in such warrant that the same is in whole or in part of the first, second, third and fourth quarterly salary, for the year in which it became due. And where any person shall be appointed to any office, his salary due on the fractional part of the quarter in which he was appointed, shall be settled, and thereafter his salary shall become due as aforesaid.

Fees of clerks of supreme court and common pleas.

Sec. 4. *And be it further enacted,* That such parts of the several laws of this state as relates to the subject of providing compensation for the attorney general, and the persons prosecuting the pleas in the several counties, be and they are hereby repealed.

Auditor to issue warrants quarterly on certain days.

MICHAEL BALDWIN,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

April 16, 1803.

CHAPTER XVIII.

An act, providing for the recording of deeds, mortgages and other conveyances of land.

A recorder
in each county
appointed
by the associate
judges,

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That there shall be one recorder in each county, who shall be appointed by the associate judges of the proper county, in the manner following, to-wit: After the said associates shall have received their commissions and have taken the oaths of allegiance and of office, agreeable to law, the associate judge eldest in commission, shall give notice in writing to the other two associates, notifying them of the time of meeting at the seat of justice, for the time being, and at the same time they appoint clerks *pro tempore* (at least six days previous to the time of such meeting) for the purpose of selecting a fit person for recorder of the county; and the said associate judges or any two of them, when so met, shall proceed to appoint a person (having the qualifications of an elector) recorder of the county, for the term of seven years, if he so long behaves himself well, who shall give bond with two good sureties, to be approved of by the said judges, in the sum of one thousand dollars, to the governor of this state and his successors in office, conditioned for the faithful discharge of the duties of his office, who shall then take and subscribe the following oath. "I, A B, do solemnly swear, or affirm (as the case may be) that I will faithfully and impartially discharge the duties of recorder for the county of ——— according to the best of my abilities and understanding."

for seven
years.

To give bond
with good
securities.

Oath.

Sec. 2. *And be it further enacted*, That the said recorders in the several counties in this state, shall record in a fair and legible hand, in a book or books to be by him provided for that purpose, all deeds, mortgages and conveyances of lands and tenements, lying within his county, and also all other instruments and writings which by law are required to be recorded.

Procure books, record deeds, etc.

Sec. 3. *And be it further enacted*, That the said recorder shall, upon the receipt of any deed or other writing, which shall be delivered to him to be recorded as aforesaid, endorse thereon the time when the same was entered for record, and shall also (if thereunto requested) give to the person delivering the same a receipt therefor, expressing the date thereof, the name of the parties, and a description of the premises, without any fee or reward. And said recorder shall record all deeds and other writings in regular succession, according to their priority or time of being brought into his office, and when the same shall be recorded he shall endorse thereon, the time when, the number and page of the book in which the same is recorded.

Endorse the time of recording deeds, etc., for record.

When requested, to give receipt.

Endorse the time of recording, etc.

Sec. 4. *And be it further enacted*, That it shall be the duty of said recorder to make out for any person demanding the same, a fair and accurate copy of any record in his office, to which copy he shall affix his certificate and signature.

Make out copies of record when required.

Sec. 5. *And be it further enacted*, That for the recording of any deed or other writing, the said recorder shall be entitled to demand and receive, of the person or persons for whom the same shall be recorded, the sum of nine cents for every hun-

Compensation.

dred words therein contained; and for all copies of records the said recorder shall be entitled to demand and receive, of the person or persons requiring the same, the sum of nine cents for each hundred words contained therein.

Sec. 6. *And be it further enacted*, That if any recorder shall neglect or refuse to receive and record any deed or other writing, which shall be presented to him for that purpose, or shall refuse to give a receipt therefor, if required, or shall refuse to make out and certify a copy of any record that shall be demanded of him, or shall demand and receive of any person or persons, for any of the aforesaid services, greater fees than is herein allowed, or shall fraudulently endorse on any deed or writing, a different date than the day on which said deed or writing was entered for record, or a different date from that date on which the same was recorded, with intent to defraud any person or persons, he shall for every such offense, forfeit and pay a sum not exceeding two hundred dollars, to the collector of the county where the offense shall be committed, to be recovered by indictment, and shall also pay to the party aggrieved, all damages which he, she or they shall have sustained thereby, with costs of suit.

Penalty.

Recorders
to deliver
over books,
etc.

Sec. 7. *And be it further enacted*, That the recorders of the different counties within this state, are hereby directed and required to deliver up all the books, records and other instruments in their respective offices, to the recorders of the respective counties, immediately after this act takes effect, and the said recorders are hereby required to give their receipt to the said recorders for the said books and papers so delivered, which

To give re-
ceipt.

shall be a full discharge to such recorder, as to the specifications therein mentioned.

Sec. 8. *And be it further enacted*, That all laws and parts of laws, within the purview of this act, be and the same are hereby repealed. Repealing clause.

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

MICHAEL BALDWIN,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

April 16, 1803.

CHAPTER XIX.

An act, declaring the assent of the general assembly of the state of Ohio, to an amendment proposed by the Congress of the United States, in lieu of the third paragraph of the first section of the second article of the constitution of the United States.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That whereas it is provided by the fifth article of the constitution of the United States of America, that congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to the said constitution, or on the application of the legislatures of two-thirds Preamble.

of the several states, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of the same constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by congress. And whereas, at a session of the congress of the United States, begun and held at the city of Washington, in the territory of Columbia, on Monday the seventeenth of October, one thousand eight hundred and three, it was resolved by the senate and house of representatives of the United States of America, in congress assembled, two-thirds of both houses concurring, that in lieu of the third paragraph of the first section of the second article of the constitution of the United States, the following be proposed as an amendment to the constitution of the United States, which, when ratified by three-fourths of the legislatures of the several states, shall be valid to all intents and purposes, as part of the said constitution, to-wit: The electors shall meet in their respective states and vote, by ballot, for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves. They shall name in their ballots, the person voted for as president, and in distinct ballots, the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president and the number of votes for each, which lists they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate; the president of the sen-

Amendment
proposed, by
the congress
of the United
States.

ate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes of president, shall be the president, if such number be a majority of the whole number of electors appointed, and if no person have such majority, then from the persons having the highest numbers not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president; but in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice; and if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president. The person having the greatest number of votes, as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president, shall be eligible to that of vice-president of the United States.

Amendment
proposed,
continued.

Sec. 2. *And be it further enacted,* That the

Assented to, confirmed and ratified. aforesaid amendment to the constitution of the United States, be and is hereby assented to, confirmed and ratified.

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

December 30, 1803.

CHAPTER XX.

An act, for the limitation of actions.

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 times 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 action upon book accounts, or for forcible entry and detainer, or forcible detainer, within four years next after the cause of such actions or suits, and all actions of trespass upon real property, trespass, detinue, trover and conversion and replevin; all actions upon the case and all actions 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 specialty under hand and seal, shall be sued or brought within fifteen years next after the cause of such

The times limited for bringing certain actions.

actions, or suits: *Provided*, That no part of the principal or interest be paid or demand be made within that time. Proviso.

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 lands, tenements or other hereditaments, but within twenty years next after the right of such actions or suits shall have accrued. Limitation for the recovery of lands by ejectment, etc.

Sec. 3. *Provided always, and be it further enacted*, That if any person or persons is or shall be entitled to have, sue or bring any such action or actions as aforesaid, shall be within the age of twenty-one years, insane, *feme covert*, imprisoned or beyond sea, at the time when any such action or actions, may or shall have accrued, then every such person or persons shall have a right to have, sue or bring any of the action or actions aforesaid within the times hereby before limited in this act, after such disability shall have been removed. Proviso.

Sec. 4. *And be it further enacted*, That all actions or prosecutions, 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 offense committed against such penal statute: *Provided* Prosecutions for forfeitures or penal statutes to be commenced within two years.
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, then and in every such case, the action, information, indictment or other suit, shall be brought within the time limited by such statute. Proviso.

Causes of actions already accrued, when barred.

Sec. 5. *And be it further enacted*, That all causes of action enumerated in this act, which have already accrued, shall only be barred by counting the time of limitation given to those actions respectively, from the passage of this law.

Commencement of this act.

Sec. 6. *And be it further enacted*, That this act shall be in force from and after the first day of May next, and that all acts and parts of acts, coming within the purview of this act, be and the same are hereby repealed.

Repealing clause.

ELIAS LANGHAM,

Speaker of the house of representatives.

NATH. MASSIE,

Speaker of the senate.

January 4, 1804.

CHAPTER XXI.

An act, to regulate black and mulatto persons.

Black or mulatto persons not permitted to reside in this state without producing a certificate.

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 a half cents: *Provided nevertheless*, That nothing in this act contained shall bar the lawful claim to any black or mulatto person.

Residents prior to first of June 1804, to enter their names with the clerk of the county.

The clerk's certificate evidence of freedom.

Proviso.

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 offense, 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, harbour or secrete such black or mulatto person, which sum or sums shall be recoverable before any court having cognizance thereof.

Residents prohibited from hiring black or mulatto persons not having a certificate.

Penalty.

One-half to the informer, the other to the state.

An additional sum to the owner, if any.

How recovered.

Sec. 4. *And be it further enacted*, That if any person or persons shall harbour 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 retaking

Penalty on persons harboring or secreting negro or mulatto persons.

How recovered.

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.

Black or mulatto persons coming to reside in this state with a legal certificate, to record the same.

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 a half cents, and the clerk shall give him or her a certificate of such record.

Proceedings when persons or their agents claim any negro or mulatto.

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 cognizance 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, *quittam*, or indictment, and shall moreover be liable to the action of the party injured.

Penalty on persons removing or assisting to remove any black or mulatto person, etc.

How disposed of.

How recovered.

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

January 5, 1804.

CHAPTER XXII.

An act, to establish the county of Muskingum.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That so much of the counties of Washington and Fairfield, as comes within the following boundaries, be and the same is hereby erected into a separate and distinct county, which shall be known by the name of Muskingum, to-wit: Beginning at the northwest corner of the ninth

Boundaries of the county of Muskingum.

township, in the ninth range of the United States military lands; thence with the western boundary line of said range, south, to the southern boundary line of said military lands; thence with the same, west, to the western boundary line of the fifteenth range of public lands; thence with the said line, south, to the southwest corner of the sixteenth township of the fifteenth range; thence eastwardly with the south boundary of the sixteenth township, till it intersects the west boundary of the twelfth range; thence with the sectional lines, east, to the western boundary line of the seventh range; thence with the same, north, to the northeast corner of the military tract; thence with the north boundary line of the tenth township in the first and second ranges of said military lands, west, until intersected by the Indian boundary line; thence with the same, westwardly, to the place of beginning.

Sec. 2. *And be it further enacted*, That from and after the first day of March next, the said county of Muskingum shall be vested with all the powers, privileges and immunities of a separate and distinct county: *Provided always*, That all actions and suits which may be pending on the said first day of March next, shall be prosecuted and carried into final judgment and execution, and all taxes, fees, fines and forfeitures, which shall be then due, shall be collected in the same manner as if this act had never been passed.

Proviso, as
to actions,
etc., depend-
ing.

Sec. 3. *And be it further enacted*, That the temporary seat of justice for the county, shall be at the town of Zanesville, until the permanent seat shall be fixed according to law.

Temporary
seat of jus-
tice.

Sec. 4. *And be it further enacted,* That this act shall commence and be in force, from and after the first day of March next. Commence-
ment.

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

January 7, 1804.

CHAPTER XXIII.

An act, to provide for the election of a representative in Congress.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That on the second Tuesday of October, in the year of our Lord one thousand eight hundred and four, the electors within the several election districts in this state, shall give in their votes for a suitable person to represent the state of Ohio in the congress of the United States, for the term of two years, to commence on the fourth day of March, in the year of our Lord one thousand eight hundred and five. A represen-
tative to be
elected on
the second
Tuesday of
October 1804.

Sec. 2. *And be it further enacted,* That at every period of two years from the said second Tuesday of October, the electors of each election district in this state, shall in like manner give in their votes for a suitable person to represent this state in the congress of the United States, for the term and every
two years
thereafter.

The manner
of conduct-
ing elections
under this
act.

of two years, to commence on the fourth day of March next thereafter.

Sec. 3. *And be it further enacted*, That all elections under this act shall be held and conducted in all respects in conformity to the provisions of the act, entitled, "An act to regulate elections."

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

January 26, 1804.

CHAPTER XXIV.

An act, to provide for the incorporation of townships.

Townships
incorpora-
ted.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That the townships of the several counties in this state, as they are or hereafter may be laid out and designated, be and they are hereby formed into bodies politic and corporate, for the purposes of exercising and enjoying the rights and privileges hereinafter enumerated.

Electors in
each town-
ship to meet
the first
Monday of
April, annu-
ally, etc.

Sec. 2. *And be it further enacted*, That on the first Monday of April, annually, the electors in each and every township, shall assemble at such place in their respective townships, as is hereinafter directed, at the hour of ten o'clock in the morning, and when so assembled, to the number of fifteen or upwards, they shall proceed to elect a

chairman, who shall preside at the said meeting, and it shall be his duty to preserve order, and he shall have power to cause any and every disorderly person to be removed, and if necessary, confined until the close of such meeting; and it shall be the duty of each and every constable present, to obey the orders and directions of the said chairman, for the purpose of preserving order and regularity in such meeting; and at the same time the electors shall elect two persons, having the qualifications of electors, as judges of the election, who shall take an oath or affirmation faithfully to discharge the duties of their office.

To elect a chairman.

His duty.

Two judges elected, to take an oath.

Sec. 3. *And be it further enacted,* That the first meeting of the electors under this act, shall be holden at the places appointed by the associate judges, for holding the last annual election, and ever after, the elections shall be held in such place, in the respective townships, as shall be ordered and directed by the trustees at each preceding meeting, and when any new township is laid off, the board of commissioners shall appoint the place for holding the first meeting, and the place of holding their annual meeting shall be determined as in this section directed.

First meeting, where held.

Subsequent meetings to be fixed by the trustees etc., in new townships by the commissioners.

Sec. 4. *And be it further enacted,* That after the election of a chairman and judges in manner aforesaid, the electors shall proceed to the election of one township clerk, three trustees, two overseers of the poor, two fence viewers, two appraisers of houses, one of whom shall be lister of taxable property, which lister shall be designated on each election ballot, a sufficient number of supervisors of highways, one or more constables and one township treasurer, which several officers shall con-

Officers to be chosen.

Shall take
an oath.

tinue in office until their successors shall be chosen and qualified, and shall, on their respective appointments, take an oath or affirmation, faithfully and impartially to discharge the duties of their respective offices.

Duty and au-
thority of
the clerk.

Sec. 5. *And be it further enacted,* That it shall be the duty of the township clerk, to keep fair and accurate records of all the public transactions of the township meetings, to make out within two days after the election of township officers, a list of all those of whom, by law, oaths are required, stating the offices to which they are respectfully chosen, and the same deliver to a constable of the township, requiring such constable forthwith to summon such officers to appear before a justice of the peace, or before such clerk, within ten days, to take such oaths or affirmations as may be by law required, which oaths or affirmations the said clerk is authorized to administer, and of which he shall make a record; and in case any township officer shall take the oath of office before any justice of the peace, such justice shall file certificate thereof with the clerk of the township, who shall make a record of the same.

Further du-
ty of the
clerk.

Sec. 6. *And be it further enacted,* That it shall be the further duty of the township clerk, to record in a book to be provided by him for that purpose, all private roads and cartways, by the trustees established, together with the earmarks of all cattle, sheep and hogs, and such other marks and brands as any person may wish to have recorded in the said township, but he shall not record the same mark to two different persons; and the said clerk shall be entitled to receive of the person employing him as aforesaid, for such entry of

His compen-
sation.

marks or brands, the sum of twenty-five cents, and shall deliver a certified copy of such entry to the owner if required, and he shall be entitled to receive for recording private roads and cartways, for every sheet of one hundred words, nine cents, payable by the person at whose request the said record is to be made.

Sec. 7. *And be it further enacted,* That it shall be the duty of the trustees, within twenty days after each annual township meeting, to divide their respective townships into districts, allotting to each supervisor one, and it shall be the further duty of the said trustees, to settle the accounts of the supervisors of highways and overseers of the poor, and to examine and settle all accounts and demands against the township, for which purpose the said trustees, supervisors, overseers of the poor and township clerk, shall meet on the first Monday of March, annually, at the place of holding the township meetings, and it shall be the duty of the township clerk to make an entry and true statement of all accounts allowed and adjusted by the trustees, in a book to be provided for that purpose, and for every demand against the township, allowed by the trustees, the creditor shall be entitled to receive from the said trustees, an order on the township treasurer for the full amount thereof, payable on demand.

Duty of trustees,

and of clerk.

Demands against the township paid out of township treasury.

Sec. 8. *And be it further enacted,* That each and every township, whenever and so often as the major part of the whole number of electors in said township shall deem it expedient, shall have power and authority to lay a tax: *Provided,* That such articles only shall be subject to taxation as are made liable by the laws regulating county

Majority of electors empowered to lay a tax.

Proviso.

rates and levies, and that the amount of the tax so laid, shall not exceed what might be laid on the same article for county purposes; and it shall be the duty of the township clerk to make out an assessment of the tax voted by the township, a duplicate whereof he shall deliver, within twenty days, to such constable of the township as the trustees shall direct, and the other within the like time, to the township treasurer; and the constable receiving such tax to collect, shall, before he commences the collection thereof, give bond with two sufficient sureties, to the township treasurer, conditioned to collect and pay over to the said treasurer or his successor in office, the amount of said tax within four months; and in case the said constable shall neglect and refuse to collect and pay over the whole amount of such tax, within the time specified in said bond, it shall be the duty of the township treasurer, after giving twenty days notice, to issue an execution, directed to the other constable of the township, commanding him forthwith to levy the amount of said bond with the costs, on the goods, chattels, lands or tenements of the obligors; and it shall be the duty of such constable receiving such execution, to levy, collect and pay over the same to the township treasurer, within sixty days from the date of said execution, and the constable collecting the township tax, shall be entitled to the same compensation as the county collector is entitled to receive for the like services, and the constable levying such execution, shall be entitled to demand and receive the same fees as are allowed, by law, to sheriffs in like cases.

Duty of the clerk.

Duty of constable to give bond, etc.

Duty of treasurer.

The constable, his compensation.

Sec. 9. *And be it further enacted,* That at least twenty days before the annual township meeting,

the trustees shall issue their warrant to a constable of the township, directing him to notify the electors of such township to assemble at the time and place appointed for their annual meeting, and said warrants shall enumerate the officers to be chosen at such meeting; and on the application of two or more freeholders of the township for that purpose, said trustees shall insert in said warrant such other business, matter or thing, as may be proposed to be submitted to said township meeting; and no tax shall be voted at such township meeting, unless notice thereof shall have been given in the said warrant, and the constable who shall receive such warrant, shall warn the electors of such township by setting up copies of said warrant in three of the most public places in each township, at least fifteen days before the meeting of such electors.

Trustees to issue the warrant to constables, etc.

Their further duty, on application of two or more freeholders.

Sec. 10. *And be it further enacted*, That any person chosen to any office under this act and not exempted by law, who shall neglect or refuse to serve in such office, shall forfeit and pay to and for the use of the township, the sum of two dollars, to be recovered before any justice of the peace; and it is hereby made the duty of the township treasurer to sue for the same, and for all fines and forfeitures accruing under this act, for neglect or misconduct in office of any township officer: *Provided*, That no person chosen to any office by this law created, shall be obliged to serve in such office two years successively.

Penalty on officer chosen and refusing to serve.

Proviso.

Sec. 11. *And be it further enacted*, That all forfeitures under this law, shall be expended and laid out on the highways within the township, and it shall be the duty of the trustees to apportion

Appropriation of forfeitures.

Duty of trustees therein.

Treasurer, his compensation.

Trustees to fill vacant offices, etc.

Township officers to deliver over books, etc.

Commissioners authorized to alter boundaries of townships.

the same among the supervisors of the highways of the said townships, and the township treasurer may retain three per cent. of all monies paid into the township treasury, for collecting or receiving and paying over the same to the order of the trustees.

Sec. 12. *And be it further enacted,* That when by reason of non-acceptance, death or removal, of any person chosen to an office, in any township, at the annual meeting as aforesaid, or in any case where there is a vacancy, the trustees shall fill such vacancy, and the person thus chosen shall take the same oaths and be liable to the same penalties as though he had been chosen at the annual meetings; and in case there should not, at any annual meeting under this act, be a sufficient number of electors assembled for the choice of a chairman, as is hereinbefore provided, between the hours of ten o'clock in the morning and four in the afternoon, so that no township officers can be chosen by the electors, it shall then be the duty of the trustees to appoint all township officers in this law enumerated; and the township officers thus appointed, shall take the same oaths and be liable to the same penalties, as though they had been elected at the annual meeting.

Sec. 13. *And be it further enacted,* That it shall be the duty of all township officers, to deliver over to their successors in office under this act, all books and papers relating to their respective offices.

Sec. 14. *And be it further enacted,* That whenever and so often as the board of commissioners of any county, may deem it conducive to the public convenience, to divide or alter the boundaries of

any township, they shall be and they are hereby authorized to alter the boundary lines, or to divide the township in the most convenient manner: *Provided*, That nothing herein shall be construed to empower the boards of commissioners to divide any township in such manner, as to reduce the same below the size hereinafter prescribed; and that the trustees of each and every township in this state, shall have power to determine on the place of holding elections within the township, and shall give public notice thereof, as is provided in case of township meetings.

Proviso.

Sec. 15. *And be it further enacted*, That whenever and so often as there shall be eighty electors inhabiting in any tract of five miles square, where by the original survey of the county or district, the same was located into townships of that size, and whenever there shall be the same number of electors inhabiting in any tract of six miles square, where, by the original survey of the county or district, the same was located into townships of that size, the inhabitants of said tract or township of five or six miles square, shall be entitled to be set off as a township by themselves, entitled to all the rights, privileges and immunities, by law given to and vested in any township in this state: *Provided*, That townships in the Virginia military district, shall not be of less contents than seven miles square.

Eighty electors inhabiting five or six miles square, entitled to be set off as a township.

Proviso.

Sec. 16. *And be it further enacted*, That any township, desirous of being set off as aforesaid, shall, for that purpose, apply to the board of commissioners of the proper county, and on satisfying the board that they are entitled by law to be set

Commissioners, on application, to set off a township, etc.

off, it shall be the duty of the board to direct their clerk to record the boundaries of said township in a book to be provided for that purpose, and give said township such name as the board of commissioners shall think proper: *Provided*, That no two townships in any one county in this state, shall be set off and incorporated by the same name; and whenever, by the original survey of any county or district in this state, there shall be any gore or tract of land of less area than four and an half miles square, the same shall be, by the board of commissioners, annexed to and shall be a part of some township of five or six miles square, which may be contiguous to and most convenient for, the inhabitants of said gore or tract.

Commence-
ment of this
act.

Sec. 17. *And be it further enacted*, That this act shall commence and be in force, from and after the passing thereof, and that all powers now vested in the several township officers, shall be and remain, until superseded by the several officers chosen under this act.

Repealing
clause.

Sec. 18. *And be it further enacted*, That the act, entitled, "An act to establish and regulate township meetings," and all other laws and parts of laws, coming within the purview of this act, be and they are hereby repealed.

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

January 21, 1804.

CHAPTER XXV.

An act, regulating the public salt works.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That an agent be appointed, by joint ballot of both houses of the general assembly, for three years, to commence from and after the first day of May next, who shall previous to entering on the duties of his office, enter into a bond with good freehold security to the governor and his successors, for the use of the state, in the penal sum of four thousand dollars, conditioned for the faithful performance of the duties required by this act, and shall reside at the said works during his continuance in office; and the said agent shall not carry on the making of salt, either directly or indirectly, by himself or in partnership with others, during such agency.

Agent appointed for three years from and after the first day of May next.

To give security.

To reside at the salt works.

Prohibited from making salt during his agency.

Sec. 2. *And be it further enacted*, That it shall be the duty of the present agent, prior to the first day of March next, to lay off by actual survey, the land at the Scioto salt works, along the creek where salt water may be had, in convenient lots, and in such manner, that those who may hereafter obtain a license, to erect furnaces and sink wells, or occupy those already erected or sunk at the said works, may have a sufficient quantity of salt water for their respective furnaces; also to lay off, by actual survey, eight hundred acres of land, adjoining the works, including all the lands that may be enclosed and under cultivation, in lots of twenty acres each, leaving a space along said creek as far as the surveys of lots may extend, of at least four poles wide, on the most eligible

The present agent to do certain surveying at the salt works prior to the first of March next.

For which he shall receive such compensation as the legislature shall allow.

Authorized to permit persons privileged to enter lots and to give certificate. etc

To open an office at the works,

and to grant a license for a period not exceeding four nor less than one year.

Applicant to produce a written list of furnaces, etc., signed by the former agent.

ground for a road, and leaving at suitable distances from each other, fronting the works, spaces of at least thirty feet wide, for the purpose of convenient roads and pass-ways, into said works, for which service the said agent shall receive such compensation as shall be allowed by the legislature; and the said agent is hereby authorized to permit any person to whom such privilege is allowed by the eleventh section of this act, as also the agent under this act to be appointed, to enter into the possession of one or two of the said lots, and give such person a certificate of such permission; and every person having such certificate, producing the same to the agent appointed by this act, and entering his or her furnaces, shall receive from said agent a lease for the said lot or lots he or she shall be in possession of, as aforesaid.

Sec. 3. *And be it further enacted,* That it shall be the duty of the agent under this act to be appointed, to provide a book or books and open an office at the Scioto salt works, on the first day of May next, and keep said office open to all persons having business to transact therein.

Sec. 4. *And be it further enacted,* That if any of the occupiers of the furnaces or wells, which may be erected or sunk before the first day of June next, shall choose to continue in the occupancy thereof, they shall, on the day last mentioned, make application to the agent for a license for that purpose, who is hereby required to grant the same, for any period not exceeding four years nor less than one year, such applicant first producing a written list, signed by the former agent, containing a true account of the furnaces and wells he may then be in possession of, together with the

number and capacity of the kettles he intends to use in making salt at the said works, which list shall be carefully filed in said office and a fair entry thereof made by the said agent in a book to be provided as aforesaid, for that purpose; but if any of the occupiers aforesaid shall refuse or neglect to make application on the day above mentioned, or in one week thereafter, then it shall be the duty of the said agent to rent such furnaces or wells to any person who may apply therefor, such person producing a written list of the wells and furnaces he applies for, with his signature thereto, whereupon the agent shall grant a license to such applicant, in the same manner as is required in case of those who may be in occupancy of wells and furnaces when this act shall take effect, but no lease so given, shall extend beyond the first day of June, in the year one thousand eight hundred and eight: *Provided always*, That the occupiers under a law of the last session, shall have a reasonable time to remove their kettles and other movable property from said furnaces and wells.

Agent to file the same.

When application is not made by the occupier, agent to rent.

Leases not to be entered beyond the first day of June, 1808.

Proviso.

Sec. 5. *And be it further enacted*, That on application made to the said agent, by any person, for privilege to erect furnaces or sink wells at the said salt works, the agent is hereby required to assign to such applicant, a convenient lot or lots for that purpose, taking care that the erection of such new furnaces or sinking such wells shall not injure those already erected or sunk, and such new furnaces and wells shall be under the same regulations, and the kettles therein subject to the same rent, as is provided in case of those already erected or sunk: *Provided always*, That no person or company shall, under any pretense

On application, agent to assign lot or lots, etc.

Proviso.

whatsoever, be permitted to use at any time, a greater number of kettles or vessels than will contain four thousand gallons, nor a less number in any one furnace than six hundred gallons.

Persons licensed to pay the agent quarterly.

Sec. 6. *And be it further enacted,* That each and every person obtaining a license as aforesaid, shall pay or cause to be paid to the said agent, quarterly, the sum of four cents per gallon on the capacity of the kettles or other vessels used in boiling salt water, in their respective furnaces; and for securing the said rent, the kettles of each person so renting, shall be considered to stand pledged to the state, until all arrears of rent are satisfied and paid, and any private sale thereof, made while such rent remains due and unpaid, shall be deemed void and of none effect.

Kettles bound for the rent.

In case of failure, the agent to make distress and sale.

Sec. 7. *And be it further enacted,* That when any person or company, who may occupy any furnace or furnaces, agreeable to the provisions of this act, shall fail to pay the sum or sums due to the state, agreeable to law, the agent shall be and he is hereby authorized and required, to make distress on and sale of, the property of any such person or company, so failing to make payment: *Provided always,* That the said agent shall, in all cases of distress, give fifteen days previous notice, in writing, at five of the most public places within the township, where the works lie, of any such sale.

Proviso.

Penalty for making salt without license.

Sec. 8. *And be it further enacted,* That if any person shall, after the said first day of June, make or cause to be made any salt at the said works, without first obtaining a license therefor, agreeable to the regulations of this act, such person shall, on

conviction thereof, before any court having cognizance of the same, forfeit and pay the sum of five dollars for every such offense, with costs of suit, to be paid to the said agent, for the use of the state, for each kettle or other vessel, he, she or they, may use in boiling salt water, contrary to the intent and meaning of this act.

Sec. 9. *And be it further enacted*, That the agent of the salt works shall inspect all salt which shall be put up in barrels, and shall brand the barrels with the word, "inspected," and if any person shall offer for sale or sell any salt in barrels which shall not be inspected, such person shall forfeit to the state, the sum of fifty dollars, which shall, by the agent, be recovered before any court having cognizance thereof; and the said agent shall pay into the treasury of this state, all such fines collected, and if any person working the said salt works shall become obligated to any person for salt, and the person to whom the salt is due, shall object that the salt offered to him in payment is not merchantable, it shall be inspected and determined by the agent, whether the salt so offered, is merchantable or not.

Agent to inspect all salt put up in barrels and brand the same.

Penalty on persons selling salt put up in barrels not inspected.

How disposed of.

Salt objected to as not being merchantable, agent to inspect and determine.

Sec 10. *And be it further enacted*, That the said agent shall pay quarter yearly to the treasurer of this state, all monies which he shall receive for rent on kettles, by virtue of this act, and yearly, all monies he shall receive arising from the rent on land, and the treasurer is hereby required to give his receipt for the same, which shall be countersigned by the auditor.

Agent to pay all moneys received for rent to the state treasurer.

Sec. 11. *And be it further enacted*, That it shall be the duty of the said agent to give each occupier

Agent to give leases.

of wells and furnaces, under the regulations of this act, also useful mechanics and other laborers employed about said works, on application to him made, a lease for one or two of the twenty acre out-lots, as is described in the second section of this act, for the purpose of cultivation; the lessee to have the use of the lot or lots three years, for enclosing the same with a good and lawful fence, and after the expiration of three years, the lessee shall pay to the said agent one dollar and fifty cents per acre, yearly; and the said agent shall rent out any land found fenced and in order for cultivation at the said works, at the rate of one dollar and fifty cents per acre, for each year such person shall lease the same, all which rents arising from said lands, shall be paid unto the said agent of the public salt works, for the use of the state, on the first day of June, yearly and every year: *Provided always*, That no lease shall be given for any of the aforesaid lots, which shall extend beyond the first day of June, in the year one thousand eight hundred and eight.

Condition.

Proviso.

Agent's duty as to giving license.

Sec. 12. *And be it further enacted*, That it shall be the duty of the said agent, at the same time when he shall give a license to those who may apply for the occupancy of wells and furnaces, agreeably to the regulations of this act, to assign to such person a lot of timbered land, taking care that each occupier of furnaces, and other persons engaged or employed in manufacturing of salt, shall have a sufficient quantity of timbered land for their respective use, and as convenient as the situation of the place will admit of.

Agent to make an an-

Sec. 13. *And be it further enacted*, That the agent shall, on or before the sixth day of every

annual session of the legislature, lay before the general assembly, an accurate statement of the entries made in his office, together with a fair statement of all monies paid thereon, also a statement of all lands under rent in said township, with a true account of the situation of said works; and he shall likewise hold his books of entries subject to the inspection and examination of the legislature.

nual report
to the legis-
lature.

Sec. 14. *And be it further enacted*, That the agent aforesaid, shall receive as a compensation for the duties required of him by this act, the sum of three hundred dollars for each year, and in that proportion for the time he shall continue in office, which compensation shall be audited by the auditor of public accounts and paid by the treasurer of the state, quarter yearly, to the said agent, out of any public monies in the treasury not otherwise appropriated.

Compensa-
tion.

Sec. 15. *And be it further enacted*, That an agent be appointed, in the mode pointed out by the first section of this act, whose duty it shall be to make a careful examination of the salt springs, commonly known by the name of the Muskingum salt springs, of the strength and quantity of the salt water, and of the extent of the space within which it may be found, of the quality and situation of the lands belonging to the same, of the quantity and quality of the timber or other fuel, of the number of wells, furnaces and kettles, there in use in manufacturing salt, of the state of cultivation and of the number of the buildings erected on said lands, to lease out at his discretion, for the term of one year from the first day of June next, said lands, and the right of manufacturing salt at said

Agent ap-
pointed for
the Muskin-
gum salt
springs.

His duty.

springs, to such person or persons as may apply for the same, to prohibit any unnecessary waste of timber, to bring suit or suits in behalf of the state against any person or persons who may trespass hereafter on the aforesaid premises, and to make an accurate statement of his discoveries and proceedings to the general assembly, at its next session.

To report to the next general assembly.

Commencement of this act.

Sec. 16. *And be it further enacted*, That this act shall commence and take effect, and be in force from after the passing thereof.

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

January 27, 1804.

CHAPTER XXVI.

An act, to provide for the partition of real estates.

Coparceners, etc., holding estates compelled to make partition under certain restrictions.

Courts before whom proceedings to be had.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That all joint tenants, tenants in common and coparceners of any estate or estates, in lands, tenements or hereditaments, within this state, may be compelled to make or suffer partition of such estate or estates, in manner hereinafter prescribed, and that where such estate or estates is or may be situated in two or more counties, the proceedings under this act shall be had before the supreme court, when said court shall be in session, in any one of the counties

where a part of the premises, so to be divided, shall be situated; and where such estate or estates is or may be situated in one county only, the proceedings may be had before the court of common pleas of such county.

Sec. 2. *And be it further enacted,* That any person being a joint tenant, coparcener or tenant in common of any such estate or estates, or the executor, administrator, guardian or agent of any such person, may file his or her petition in the supreme court or court of common pleas, as the case may require, praying that partition of such estate or estates may be made, which petition shall set forth the nature of the title or claim of the demandant, the tract or tracts of land, the tenements or hereditaments, of which partition is demanded, and also the name and place of residence of each joint tenant, coparcener and tenant in common, with such demandant, if they shall be known to such demandant, and if, on examination, it shall appear that the demandant hath a good and legal right and title to any part or proportion of such estate or estates, then the court shall proceed, at the term in which such petition may be filed, to order and direct a partition to be had and made in the manner proscribed by the provisions of this act: *Provided,* It shall appear that the notice required by this act hath been sufficiently and legally given, and no sufficient reason shall appear why the prayer of the petitioner should not be granted, otherwise the court shall order and direct notice of such demand of partition to be given, either by publication in one or more newspapers printed in this state, where the parties concerned reside out of this state, or by personal notice to be served at least forty days before the ensuing term, if the party or parties concerned

Coparceners, etc., to prefer petition to court.

To state the nature of the claim, etc.

When the party has a legal title, the court to order partition.

Proviso.

In case notice hath been given.

Notice, how to be given when parties reside out of the state.

Forty days notice to residents and non residents.

Agents, etc., sufficient. reside within this state: *Provided always,* That where the person or persons, of whom partition is demanded, reside out of this state and have an agent or attorney residing within this state, such personal notice of such demand of partition shall be given to such agent or attorney, as is required in the case of resident proprietors.

When due notice hath been given. duty of the court.

Sec. 3. *And be it further enacted,* That if at the first or any succeeding term (in case a continuance hath been granted) after the filing of such petition, it shall appear to the court, that due notice hath been given, and if no sufficient reason shall appear why partition should not be made, the court shall proceed to order such partition, and shall issue their writ, directed to the sheriff of the county in which the estate or estates shall or may be, or to the sheriff of either of the counties in which the estate or estates shall or may be, in case such estate or estates is or are in more than one county, commanding him, that by the oaths of three judicious and disinterested freeholders of the vicinity, to be appointed by said court, who are not of kin to any of the parties concerned, cause he to be set off and divided, to the demandant in said petition, such part and proportion of such estate or estates as the court shall have ordered and directed; and in making such partition, it shall be the duty of said freeholders, to view and examine such estate or estates, to set apart the same in such lot or lots as will be most advantageous and equitable, having due regard to the improvements, situation and quality of the different parts of such estate or estates, and if the bounds or title of any tract or tracts, or any part thereof, shall be controverted, it shall be the duty of the said freeholders to separate the same from

To appoint commissioners.

Their duty.

the uncontroverted part, and to make partition of the estate or estates in such manner, that a due proportion of the controverted, as well as of the uncontroverted part, may be allotted to the demandant.

Sec. 4. *And be it further enacted*, That if at any time after the filing a petition as aforesaid, and before a writ shall have issued to the sheriff, the person or persons, joint tenants, coparceners or tenants in common, of whom partition is demanded, shall appear by him or themselves, or by his or their attorney, and shall pay the costs which have accrued on such petition, and shall consent to a partition of such estate or estates, then partition shall be made of such estate or estates, by such person or persons as said joint tenants, coparceners or tenants in common, shall agree upon, and in case they do not agree upon any person or persons to make such partition before the end of the term, then a writ shall issue to the sheriff as is hereinbefore provided.

Parties agreeing to make partition after a petition, etc., to pay costs.

Sec. 5. *And be it further enacted*, That when any writ of partition shall issue as aforesaid, if the inquest who are directed to make such partition shall be of opinion, that the estate or estates cannot be divided according to the demand of the writ, without prejudice to or spoiling the whole, the said inquest shall then make and return to the court, a just valuation and appraisement of such estate or estates, whereupon, if the said court shall approve of the said return, and if any one or more of the parties shall elect to take the said estate or estates at the appraised value, the same shall be adjudged to him or them, he or they paying or securing to be paid to the other parties, their proportions of the appraised value, according to their respective rights; and the sheriff

When the estate cannot be divided, etc., to return the appraised value.

Duty of the court when one of the parties shall elect to take the estate.

Sheriff to execute conveyances.

Parties not agreeing court to order lands, etc., to be sold.

Notice to be given.

Sheriff to execute deeds to purchasers, etc., on receiving money or security.

Courts to make distribution.

shall, according to the said order of court, make and execute conveyances to the party or parties electing to take the same, subject nevertheless to a lien thereon, in favor of the others of the said parties, until payment be made to them of their respective shares of the money as aforesaid; and in case the said parties shall not agree who shall take the said lands and tenements on the terms aforesaid, then the said court shall or may, at the instance of the demandant in the said partition, make an order for the sale of the said lands and tenements, at public auction, by the sheriff who shall have holden the said inquisition, or his successor in office, after due and fair notice of the time and place of such sale, by advertisements published and set up in the several counties where the lands lie, and also such public newspapers as shall be most likely to give fair and full notice of such sale to all the parties concerned and others, which public notice shall be given at least twenty days before the time of sale, in cases where the lands all lie in the same county, and at least sixty days where the lands lie in different counties; and the said sheriff is hereby empowered and ordered, to execute deeds to the purchasers of the lands and tenements so as aforesaid sold, on receiving payment of the consideration money, or taking sufficient security therefor, to the satisfaction of the court, which money or securities shall be brought into court, before or at the time of the said sheriff's acknowledging the deed in open court, to be distributed and paid by order of the said court to and amongst the several parties entitled to receive the same, in lieu of their respective parts and proportions of the said lands and tenements, according to their just rights and proportions.

Sec. 6. *And be it further enacted,* That where any writ of partition shall issue, or where the parties interested shall agree on some person or persons to make partition, it shall be the duty of the inquest or persons so agreed on, to make a true and accurate plan or map and field book of such lands as may be so divided, and to describe particularly, the metes and bounds of all tenements so divided and aperted, which plan or map, field book and description, the persons or inquest shall sign and send, under seal, to the next court having cognizance of the same, and after division and return thereof shall be made to the court, it shall be examined by the court, and if found justly and accurately made, the clerk shall record such return, which record shall be deemed as valid and effectual in law, for the partition of such lands, tenements or hereditaments, and thereupon the party or parties shall have and hold the shares or parcels to them respectively allotted, in severalty.

When persons appointed or agreed on to make partition, their duty.

Sec. 7. *And be it further enacted,* That the court before whom any partition shall be had, shall tax the costs and expenses which may accrue on such proceedings, and shall issue execution thereupon, against such person or persons, their goods, chattels, lands, tenements and hereditaments, of whom partition is demanded, as shall not have paid their proportion of the costs and expenses so taxed: *Provided however,* That where the parties concerned shall appear and agree upon a person or persons to make partition for them as is hereinbefore provided, then and in that case, the costs and expenses thereafter accruing, shall be taxed in due and just proportion against all the parties.

Court to tax costs and issue execution.

Proviso, where parties agree on persons, etc., costs to be taxed.

Sec. 8. *And be it further enacted,* That the

Power of
guardians
and minors.

guardians of all minors are hereby respectively authorized and empowered, on behalf of their wards, to do and perform any act, matter or thing, respecting the partition of lands under this act, and the same shall be deemed valid and effectual in law, to every intent and purpose, as if the same had been done by such minor, after his arrival at full age.

Repealing
clause.

Sec. 9. *And be it further enacted*, That all laws and parts of laws, for the partition of real estate, in force at the time of the passing of this act be and the same are hereby repealed.

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

February 1, 1804.

CHAPTER XXVII.

An act, authorizing aliens to hold lands in this state, by purchase or otherwise.

Aliens au-
thorized to
hold lands,
etc.

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.

NATH. MASSIE,
Speaker of the senate.

February 3, 1804.

CHAPTER XXVIII.

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

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That from and after the passing 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, in any court of record within this state, 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.

Persons not admitted to practice, etc., until examined.

Sec. 2. *And be it further enacted,* That whenever any person shall apply to any two of the judges of the supreme court to be admitted as an

Persons applying for admission, how to be examined.

attorney or counsellor, it shall be the duty of the judges of said court, either by themselves or some persons learned in the 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 to, and to record the admission of, such applicant.

Clerk to administer oath of office.

Certificate of a practicing attorney at law necessary.

Sec. 3. *And be it further enacted.* That no person shall be admitted to such examination unless he 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 however,* That any person residing within this state, producing satisfactory evidence to the court, 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.

Proviso.

Supreme court may suspend attorney or counsellor from practicing, etc.

Sec. 4. *And be it further enacted,* That the supreme court shall have power to suspend any attorney or counsellor at law from practicing in any court in this state, for misconduct in office:

Proviso.

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 defense, and shall be allowed reasonable time to collect and prepare testimony in his justification.

Sec. 5. *And be it further enacted,* That no person shall 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, or who holds a commission as judge of the supreme court or of a court of common pleas, or who is clerk of the supreme court or a court of common pleas, or who is sheriff, coroner, deputy sheriff, jailer or constable.

Persons prohibited from practicing the law.

Sec. 6. *And be it further enacted,* That if any suit shall be dismissed for the non-attendance of an attorney, practicing in any court of record within this state, said attorney not having a just and reasonable excuse, it shall be at his costs, and he shall moreover 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 received on execution.

Penalty on attorneys for neglect of duty.

How proceeded against for withholding their client's money.

Sec. 7. *And be it further enacted,* That all laws heretofore in force, regulating the admission and practice of attorneys and counsellors at law, be and the same are hereby repealed.

Repealing clause.

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

February 4, 1804.

CHAPTER XXIX.

An act, appropriating part of the three per cent. granted for laying out, opening and making roads within this state.

Preamble.

WHEREAS, by virtue of the act of congress, entitled, "An act, in addition to and in modification of, the propositions contained in the act, entitled, "An act to enable the people of the eastern division of the territory, northwest of the river Ohio, to form a constitution and state government, and for the admission of such state into the union on an equal footing with the original states, and for other purposes," this state is entitled to receive three per cent. of the net proceeds of the lands of the United States, lying within the state of Ohio, which, since the thirtieth day of June, one thousand eight hundred and two, have been, or hereafter may be sold by the United States, to be applied to the laying out, opening and making roads within the said state, and to no other purpose whatever. And whereas also, the general assembly of the state of Ohio did, on the fifteenth day of April, one thousand eight hundred and three, pass "An act, empowering the treasurer of the state, to receive from the secretary of the treasury of the United States, monies granted for the opening roads within the state." Therefore,

Seventeen thousand dollars appropriated for laying out and opening roads.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That seventeen thousand dollars, of the monies which have been and hereafter may be, received by the treasurer of the state, agree-

ably to the provisions of the before recited acts, be and the same is hereby appropriated, for the purpose of laying out, opening and making roads within this state, in the places and manner hereinafter prescribed.

Sec. 2. *And be it further enacted,* That of the said seventeen thousand dollars, the sum of nine hundred and seventy-five dollars be appropriated, for the purpose of opening and making a road from Steubenville, in the county of Jefferson, to the bridge over Wills' creek, in the county of Muskingum; and the sum of two hundred dollars, for the purpose of laying out, opening and making a road from the mouth of Short creek, to intersect the road at Duncan Morrison's leading from Wheeling to Wills' creek; and the sum of five hundred dollars, for the purpose of opening and making a road from said bridge, over Wills' creek to Zanesville, in the county of Muskingum; and the sum of six hundred and seventy-five dollars, for the purpose of opening and making a road from said Zanesville to Franklinton, in the county of Franklin; and the sum of fifteen hundred and eighty-five dollars, for the purpose of opening and making a road from Chillicothe, in the county of Ross, by the court-house in the county of Warren, to the center of the college township, west of the Great Miami; and the sum of five hundred and twenty-five dollars for the purpose of opening and making a road from Lancaster in the county of Fairfield, to Chillicothe, in the county of Ross; and the sum of five hundred and seventy dollars, for the purpose of opening and making a road from Zanesville aforesaid, to Lancaster aforesaid; and the sum of twelve hundred dollars, for the purpose of opening and making a road from said Chilli-

Special appropriations out of the seventeen thousand dollars.

Continued.

cothe, by West Union, in the county of Adams, to the river Ohio, where it may intersect the same in the most convenient and proper route to Limestone, in the state of Kentucky; and the sum of fifteen hundred dollars, for the purpose of opening and making a road from Marietta, in the county of Washington, to Chillicothe aforesaid; and the sum of two hundred and fifty dollars, to be laid out in opening a road from, at or near the mouth of Little Beaver creek, in the county of Columbiana, to New Lisbon, in said county; and fourteen hundred dollars, to be laid out in the county of Trumbull, on a road leading from Warren court house, in the county of Trumbull, in the best direction towards Pittsburgh, in Pennsylvania, and from the said court house in Warren, on a road leading to the Lake; and the sum of nine hundred and seventy-five dollars, for the purpose of opening and making a road from the river Ohio, opposite to Wheeling in Virginia, to the aforesaid bridge, over Wills' creek; and the sum of one hundred and fifty dollars, to be laid out in repairing the road laid out by the United States, from New Lisbon, in the county of Columbiana, to the south line of the county of Trumbull; and the sum of sixteen hundred and fifty dollars, for the purpose of opening and making a road from Chillicothe aforesaid, by Cincinnati, in the county of Hamilton, to the west line of the state, at or near a place called the Double Lick; and the sum of five hundred and thirty dollars, for the purpose of opening and making a road from Cincinnati aforesaid, to Dayton, in the county of Montgomery; and the sum of six hundred and fifty dollars, for the purpose of opening and making a road from Dayton

aforesaid, to Franklinton, in the county of Franklin; and the sum of eight hundred dollars, for the purpose of opening and making a road from Gallipolis, in the county of Galia, to Chillicothe aforesaid; and the sum of five hundred dollars, for the purpose of opening and making a road from Chillicothe, in the county of Ross, to an intersection with the road leading from Dayton, in the county of Montgomery, to Franklinton, in the county of Franklin, at or near Springfield, in the county of Green; which said several sums shall be laid out on said several roads in manner as is hereinafter directed.

Continued.

Sec. 3. *And be it further enacted,* That there shall be sixteen road commissioners appointed by joint resolution of both houses of the general assembly, viz.: One for the road from Steubenville to the bridge at Wills' creek; one for the road from the mouth of Short creek to Duncan Morrison's; one for the road from the said bridge by Zanesville to Lancaster; one for the road from Zanesville to Franklinton; one for the road from Chillicothe, by Warren court house, to the center of the college township, west of the Great Miami; one for the road from Lancaster to Chillicothe; one for the road from Chillicothe, by West Union, to Limestone; one for the road from Marietta to Chillicothe; one for the road from the mouth of Little Beaver, by New Lisbon, to the south line of the county of Trumbull; one for the road from Wheeling to the bridge at Wills' creek; one for the road from Chillicothe, by Cincinnati, to the west line of the state; one for the road from Cincinnati to Dayton; one for the road from Dayton to Franklinton; one for the road from Chillicothe to Springfield, and one for the road from Gallipolis to Chillicothe; and said commissioners shall severally

Sixteen road commissioners appointed by resolution, etc.

To give
bond.

before they enter on the duties of their office, give bond with good security to the treasurer of the state, in double the sum appropriated, to the laying out, opening and making the road for which he is appointed commissioner, for the faithful discharge of their duty under this act, to be approved of by a judge of the court of common pleas where such commissioner resides; and each commissioner giving bond as aforesaid, shall deliver the same to the sheriff of the county in which he may reside, and it shall be the duty of the sheriffs, receiving such bonds, to forward them to the treasurer of the state, before the first day of June next, and whenever any commissioner shall deliver such bond to the sheriff of the proper county, it shall be the duty of such sheriff to endorse on the commissioner's commission, that he hath received the same.

To deliver
the same to
the sheriff of
the county.

His duty.

Road com-
missioners,
their duty

Sec. 4. *And be it further enacted,* That it shall be the duty of each road commissioner, to cause the road for which he is appointed to be carefully surveyed and plainly marked, on or as near a direct line as the nature of the ground and situation of the country over which the same is to pass, will admit; and all roads laid out under this act, shall be sixty-six feet in width, and shall be and remain public highways: *Provided however,* That the commissioners under this act, shall not be bound to cause said roads to be opened, otherwise than is in this act provided, and each commissioner shall be entitled to receive three dollars per mile, for surveying, marking, examining and making return of his road, and for all other services done and performed under this act.

Compensa-
tion.

Sec. 5. *And be it further enacted,* That each of

the aforesaid commissioners, immediately after he shall have ascertained the ground over which his part of a road is to pass, shall lay out the same into convenient lots, of not less than five miles nor to exceed thirty miles, and shall divide the whole sum of money allowed to his part of the road, amongst the several lots thereof, in proportion to the labor that is necessary to be done on each lot, and shall set up notice in writing at the court house or court houses of the county or counties, where the road is to pass, and in two of the most public places in the vicinity of said road, that he will receive proposals until a day to be mentioned in his advertisement, not less than twenty days after setting up such notice for opening each lot of said road, and the said commissioner shall contract with the person making the most advantageous proposal: *Provided*, That the said person shall at the same time, enter into bond to said commissioner, in double the amount of the money that shall be allowed for his lot of road, with such security as may be approved of by the said commissioner, conditioned for the faithful performance of his contract: *And provided also*, That the said contract shall require at least the labor hereinafter mentioned, to be expended on every part of said road, viz.: All timber and brush shall be cut and cleared off, at least twenty feet wide, leaving the stumps not more than one foot in height; wet and miry places shall be made passable by a causeway sixteen feet wide, to be made of timber covered with earth; small streams that are difficult to be passed shall be bridged; where the road passes on sidling ground, it shall be dug horizontally into the hill, so that the road shall

Commissioners to lay out their roads into lots.

To give notice and receive proposals.

The persons contracted with to give bonds, etc.

The labor to be expended, etc.

measure crosswise at least eight feet in the solid ground; in ascending hills that are to be dug, the road shall not have a greater elevation, from a horizontal line, than fifteen degrees; and it shall be the duty of the commissioner to examine every part of the road so made: *And provided, also,* That all the roads mentioned in this act, for which there is less than ten dollars per mile appropriated to the opening thereof, the commissioners of such roads are allowed to use their own discretion as to the width and bridging, so that the money may be laid out to the best advantage, in making as good a road as the nature of the case will admit.

Proviso.
when less than ten dollars per mile is appropriated.

When a lot of road is completed the person who made the contract to receive an order on the treasurer.

Sec. 6. *And be it further enacted,* That when any person, who shall have made a contract for opening any lot of road as aforesaid, shall have completed the same agreeable to his contract, the commissioner appointed to superintend that part of the road within which said lot is situated, shall give to the said person an order on the treasurer for the amount of the money due to him upon his contract: *Provided,* That said order shall not be payable until after the first day of November next; and it shall be the duty of each of the said commissioners, to forward to the treasurer, before the first day of November next, a list of all orders by him drawn upon the treasurer, stating the amount of each order, and if there shall not be in the hands of the treasurer as much of the money appropriated under this act, as will be sufficient to pay off the whole of such orders, the treasurer is hereby directed to make a distribution of the money in his hands between the several persons holding said orders, in such manner that each person may receive such part thereof as shall be proportioned to the amount of his order; and the said

Proviso.

Commissioners to forward to the treasurer a list of orders, etc.

When the treasurer has not money to pay persons

treasurer is further directed, at the end of every three months after the said first day of November next, in like manner to make distribution of the money between the several persons holding orders on him, until the whole are paid off.

holding orders, etc., to make distribution, etc.

Sec. 7. *And be, it further enacted,* That it shall be the duty of each of the commissioners aforesaid, to return to the clerk of the court of common pleas of the proper county, an accurate map and field notes of the survey of such part of his road as is laid out in such county, and it shall be the duty of such clerk to record the same at the expense of the county; and it shall also be the duty of such commissioner, to make a report to the next general assembly of his transactions under this act, accompanied by a fair list of all such orders as he may have drawn upon the treasurer; and it shall be the duty of the treasurer, to make a statement to the next general assembly, of all monies by him paid out pursuant to the directions of this act, together with the receipts and vouchers therefor.

Commissioners to return map, etc., to the clerk of court of common pleas, etc.

To report to the next general assembly.

Treasurer to make a statement to the next general assembly.

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

February 18, 1804.

CHAPTER XXX.

An act, fixing the ratio of representation throughout the state.

Sec. 1. *Be it enacted by the general assembly of*

Representatives appointed among the several counties.

the state of Ohio, That the representation of this state shall be so fixed and apportioned, that the several counties shall be entitled to send representatives to the general assembly, as hereinafter directed, viz.: The county of Trumbull, two; the county of Columbiana, one; the county of Jefferson, three; the county of Belmont, two; the counties of Washington, Galia and Muskingum, three; the county of Fairfield, two; the counties of Ross and Franklin, four; the counties of Adams and Scioto, three; the county of Clermont, one; the county of Warren, two; the county of Hamilton, three; the county of Butler, two; the county of Montgomery, one; the county of Green, one.

Senators.

Sec. 2. *And be it further enacted,* That the county of Trumbull shall be entitled to send one senator; the counties of Jefferson and Columbiana, two senators; the county of Belmont, one senator; the counties of Washington, Gallia and Muskingum, two senators; the county of Fairfield, one senator; the counties of Ross and Franklin, two senators; the counties of Adams and Scioto, one senator; the county of Clermont, one senator; the county of Hamilton, two senators; the counties of Warren, Butler, Montgomery and Green, two senators, to the general assembly of this state.

When a new county is classed with the original county, the votes for senator, etc., to be sent to the clerk of the original county.

Sec. 3. *And be it further enacted,* That when a newly erected county is, by the foregoing section classed with the original county, for the purpose of electing a senator or senators, the clerk and judges of the court of common pleas or justices of the peace (as the case may be) of such newly erected county, so soon as they make out the abstract of votes for senator or senators in said

county, shall convey a certified copy of the same, under seal, to the clerk of the original county at his office, within ten days next after the close of the election, and the votes contained in the abstract thus returned, shall be considered as proper in every respect to be incorporated with the abstract of votes of said original county, for such senator or senators, as those counties are authorized to elect in common.

Sec. 4. *And be it further enacted,* That the clerks and judges of the courts of common pleas, or justices of the peace (as the case may be) in the counties of Butler, Green and Montgomery, so soon as they make out the abstracts of votes for senator or senators in their counties respectively, shall convey a certified copy of the same, under seal, to the clerk of the county of Warren, at his office, within ten days next after close of the election, and the votes contained in the abstract thus returned, shall be considered proper in every respect to be incorporated with the abstract of votes of Warren county, for such senator or senators as those counties are authorized to elect in common.

The clerk, etc., of Butler, Green and Montgomery to send an abstract of votes for senator, etc., to the clerk of Warren, etc.

Sec. 5. *And be it further enacted,* That on the next day after receiving the returns directed to be made in the two foregoing sections, the clerks of the counties of Jefferson, Washington, Ross, Adams and Warren, shall each make out for the senator or senators who appear to be duly elected in their county, and the county or counties classed therewith, a certificate of the same and deliver it to the person entitled thereto, on demand.

Clerks of certain counties, to make out certificates for the senators elected.

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

February 11, 1804.

CHAPTER XXXI.

An act, establishing boards of commissioners.

Three com-
missioners to
be elected.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That there shall be elected three commissioners in each county in this state, and them and their successors in office, or any two of whom, shall have authority to do and perform any act or duty required and enjoined by law.

Election to
be held first
Monday of
April.

Sec. 2. *And be it further enacted,* That the first election for commissioners shall be held on the first Monday of April next, at the places of holding the township meetings in the several townships in each county, which election shall be conducted and returned in every respect as elections are to be conducted and returned under an act, entitled, "An act, to regulate elections;" and all sheriffs, judges of elections and clerks, are hereby required to conduct themselves accordingly.

How to be
conducted.

Commission-
ers elected
to deter-
mine, by lot,
how long
they shall
continue in
office.

Sec. 3. *And 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 first October annual election, one until the annual October election next succeeding,

and one until the annual October election next succeeding.

Sec. 4. *And be it further enacted,* That at the next October annual 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 until his or their successors shall be elected and qualified.

One commissioner to be elected at the October annual election.

Continuance in office.

Sec. 5. *And 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, who shall continue in office until the triennial election; and it shall be the duty of the clerks of the courts of common pleas in their respective counties, to make out for each of the persons elected as commissioners, a certificate of such his election, and shall deliver the same to the person entitled, upon demand.

Associate judges to fill vacancies occasioned by death, etc., of the commissioners.

To continue in office until the succeeding October election, etc.

Clerks of common pleas to make out certificates for commissioners.

Sec. 6. *And 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 sheriffs or coroners in the before recited act.

Manner of conducting contested elections.

Sec. 7. *And be it further enacted,* That before any commissioner shall enter upon the duties of

Commissioners to take an oath.

his office, he shall take an oath or affirmation, before some judge of the court of common pleas or justice of the peace, faithfully and impartially to discharge the duties of a commissioner for the county of ———, and the judge of the court of common pleas, or justice, administering such oath or affirmation, shall give a certificate that the same hath been done, to the clerk of the court of common pleas, and the same shall be filed with the returns of the persons elected.

Certificate thereof to be filed with the clerk of common pleas.

To meet annually on the second Monday of June, etc.

Their duty.

Sec. 8. *And be it further enacted,* That the commissioners shall meet annually, on the second 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 building and repairing court houses, prisons, bridges, and for such other uses as may be for the benefit of said counties respectively.

To appoint a clerk.

His duty.

Sec. 9. *And be it further enacted,* That the commissioners shall have a just and accurate record kept of all their corporate proceedings, and for that purpose they are hereby empowered to appoint a clerk, who may or may not be of their own body, as they may deem expedient, whose duty it shall be to keep their records as aforesaid, and preserve all papers and documents they may direct, and attest all 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, by the commissioners, for neglect or misconduct in office; and he shall receive as a compensation, such sum as the commissioners may think reasonable.

How compensated.

Sec. 10. *And 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.

Commissioners to assess county taxes and erect public buildings.

Sec. 11. *And 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 taxes; 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.

Demands, against the county to be allowed by the commissioners.

To issue orders on treasurer.

To be numbered.

Sec. 12. *And be it further enacted,* That the county treasurers appointed by the associate judges, under the provisions of the seventh section of "An act to amend an act, entitled, 'An act, to regulate county levies,'" passed the sixteenth day of April, one thousand eight hundred and three, shall continue in office one year, if they so long behave well, from and after the second Monday of June next; and the treasurers of every county that now is or that may be hereafter erected and estab-

County treasurers appointed by the associate judges continue in office one year from the second Monday of June next.

To be appointed by the commissioners.

To continue in office for one year.

To give bond.

His duty.

Treasurer to settle with the commissioners at their annual meeting, entitled to four per cent.

Treasurer removed from office to deliver money, papers, etc., to successors.

lished, shall be appointed by the commissioners, 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 by the commissioners, shall continue in office for one year; 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 treasurers 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 treasurers shall be subject to be removed from office for neglect or misconduct in office, by the commissioners of the respective counties.

Sec. 13. *And be it further enacted,* That the county treasurer shall, yearly, settle his accounts with the commissioners, at their annual meetings, 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 county 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. 14. *And be it further enacted,* That the com-

missioners 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 again, with the proper vouchers, if required by said judges; 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 by affixing the same on the court house door, during the next succeeding term of the court of common pleas.

Commissioners. when to lay before the associate judges a statement of receipts.

Exhibits to be filed among the records.

To be published.

Sec. 15. *And be it further enacted,* That each commissioner shall be allowed one dollar and seventy-five cents for each and every day's attendance, in the discharge of the duties of his office, an account of which shall be rendered quarter-yearly and audited by the associate judges in their respective counties.

Compensation.

Sec. 16. *And be it further enacted,* That if any commissioner shall be guilty of mal-conduct in the discharge of the duties of his office, he, so offending, on conviction thereof before the court of common pleas of the proper county, shall be fined at the discretion of the court, in any sum not exceeding four hundred dollars, with costs.

Penalty on commissioners for mal-conduct in office.

Sec. 17. *And be it further enacted,* That it shall be the duty of the associate judges of the several courts of common pleas, to deliver over to the

Associate judges to deliver to commissioners books.

papers, etc. commissioners under this act, all books and papers, or copies of the same, as the case may require, in their possession, concerning the powers and duties severally given and prescribed to the commissioners, by this act.

Commencement. Sec. 18. *And be it further enacted,* That this act shall be in force from and after the first day of March next; and that all laws and parts of laws, coming within the purview of this act, be and they are hereby repealed.

Repealing clause.

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

February 13, 1804.

CHAPTER XXXII.

An act, levying a state tax.

Lands taxed for state expenses. Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That all lands, the property of individuals, within this state, shall be chargeable for the state expenses, to be levied and collected in such manner and proportion as hereinafter directed.

How rated and classed. Sec. 2. *And be it further enacted,* That lands shall be rated and classed in the manner following, that is to say, first, second and third rates, and the rule to be observed in classing of land shall be as follows: when a greater part of a tract shall be

superior in quality to second rate land, it shall be denominated first rate; when a greater part of a tract shall be inferior to first rate, and superior to third rate, it shall be denominated second rate; and when a greater part of a tract shall be inferior to second rate, it shall be denominated third rate land, taking into view the situation and surface of the earth as well as the quality of the soil. First rate land shall be taxed at seventy cents, second rate at fifty cents, and third rate at twenty-six cents; and it is hereby made the duty of every resident proprietor, owning land chargeable as aforesaid, on the fifteenth day of April, annually, when thereto required by the listers of the respective townships, to give an accurate list of such land, in writing; and such resident proprietor or proprietors shall list all and every tract of land he, she or they claim within this state, specifying the quality, quantity, range, township, section and county, if known, and whether holden either by patent, deed, entry or other evidence of claim.

Rate of taxation.

Resident proprietors to enter their lands with the listers of townships.

Sec. 3. *And be it further enacted,* That it shall be the duty of the lister of each township, annually, between the fifteenth day of April and the twenty-fifth day of May, to demand of every resident proprietor within their respective townships, a list as aforesaid, and if any person shall refuse to render his list, such lister shall make out a list of such person or persons' land so refusing, according to the best information he may have or can obtain; which land so listed, shall be double taxed, and the person so refusing shall be bound thereby; and if any person shall request any lister to make out his list, such lister shall make out the same as directed by such person, which list such person shall sign.

Lister of each township, his duty.

Lister to make out two alphabetical lists of lands.

Sec. 4. *And be it further enacted,* That each lister shall, after collecting the lists within his township, make out two alphabetical copies therefrom, of all land by him listed, one whereof he shall deliver to the clerk of the commissioners, on or before the first Monday of June annually; the other copy, together with the original lists, by him collected, shall be returned to the clerk of the court of common pleas by the first Monday of June: which lists, so returned, shall be kept and filed by said clerks, in their respective offices.

How to be disposed of.

Non-residents holding lands in this state, except in the Virginia military tract, to enter the same for taxation with the clerk of the court of common pleas where the land lies.

Sec. 5. *And be it further enacted,* That all persons not residing within this state, and holding lands within the same, except lands lying between the Scioto and Little Miami rivers, called the Virginia military lands, shall have the same entered for taxation, either by themselves or their agents, in the form aforesaid, with the clerks of the court of common pleas in and for the county within which the same shall be situate, on or before the first Monday of June next; and it shall be the duty of each clerk of the court of common pleas, to make out two alphabetical lists of all lands so entered with him; one whereof he shall retain in his own possession, together with the original entry; the other shall be, by him, delivered, with a general alphabetical list of all returns to him made by the several township listers within the county, to the commissioners of the county, by the second Monday in June, annually.

Clerk's duty.

The clerks of the courts of common pleas to make out, annually, a list of lands for taxation.

Sec. 6. *And be it further enacted,* That the clerks of the several courts of common pleas, shall, on or before the first Monday in August, on which day the tax shall become due, annually, make out a general alphabetical list of taxation,

according to the form hereunto annexed, in the manner following: First, a list of non-residents' lands; second, a list of residents' lands; from which general list, they shall make out two duplicates, one to be delivered to the collector, the other to be transmitted to the state auditor, both whereof shall be certified by the clerks respectively under the county seal, to be accurate copies of the general list in his office.

Form there-
of.

Proprietor.	Quantity & Rates.			Range.	Township.	Section.	County.	Title.	Amount of tax.	
	1st.	2d.	3d.						D.	C.
A. B.										

Sec. 7. *And be it further enacted,* That the sheriff of each county shall be the collector thereof, and before he receives the duplicate above directed, he shall enter into bond with at least two sufficient freehold securities, in double the amount of the tax by him so to be collected, payable to the auditor of public accounts, for the use of the state, conditioned for the due and faithful paying and accounting for all taxes that is made his duty to have collected; which bond shall be filed with the clerk of the court of common pleas; and if the sheriff of any county shall neglect or refuse to give such bond as aforesaid, on or before the first Monday of August, annually, a collector of the tax shall be appointed by the commissioners, or any two of them, who shall continue in office for one year, and such collector shall, before he enters upon the duties of his office, enter into bond as aforesaid.

The sheriff of each county the collector thereof.

To give bond.

In case of refusal or neglect to give bond, commissioners to appoint a collector.

Sec. 8. *And be it further enacted,* That the collectors of each county shall, from and after the first Monday of August, annually, collect and receive from every person, all taxes wherewith they may be chargeable upon his duplicate; and in case payment be not made by the first Monday of October next after such tax shall have become due, it shall be the duty of the collector to proceed forthwith to distrain the goods or chattels of such delinquent or delinquents; and if the owner thereof shall not pay the taxes within ten days after such distress made, the collector shall sell the same, or so much thereof as will be sufficient to discharge said taxes and the charges of such distress and sale, and the overplus, if any, he shall return to the owners; but if goods or chattels cannot be found whereon to distrain, and

Taxes due first Monday of August, annually.

If not paid by the first Monday of October, collector to make distress, etc.

When distress cannot be made, and tax not paid by the first Monday of December

after it is due, collector to charge delinquent with twenty-five per cent.

the taxes so due shall not be paid by the first Monday of December next after the tax shall have become due, the collector is hereby required to charge all delinquents with a penalty of twenty-five per cent. on the tax of such delinquent or delinquents; and it shall be the duty of the collectors, within ten days thereafter, to make out and transmit to the auditor, a schedule from their duplicates, of all the taxes which shall not have been paid by the time aforesaid; and the auditor, on receiving the said schedules, shall charge the collectors respectively, with the said penalty, on the amount of all the taxes contained in their respective schedules.

Each collector to pay into the state treasury, annually, all taxes, etc.

Sec. 9. *And be it further enacted,* That it shall be the duty of each collector, by the third Tuesday of December, annually, to pay into the treasury of this state, the full amount of all taxes contained in his duplicate and not transmitted to the auditor in their schedules, of which payment, or such part thereof as may be made, the treasurer shall give his receipt, which receipt the collectors shall deliver to the auditor, upon the delivery whereof he shall give his receipt for the same to the collector, which shall be a voucher of the payment so made; and if any collector shall not have paid, or shall have not delivered the treasurer's receipt as aforesaid, the auditor is hereby required, within fifteen days, to make out an account of the sum due from each delinquent collector, and transmit said account to the clerk of the court of common pleas of the proper county, whose duty it shall be to issue a summons to the coroner, commanding him to notify the collector and his securities, to appear at the succeeding term of the court and show cause, if any, why judgment should not

Treasurer to give his receipt to the collector, who shall deliver it to the auditor.

Proceedings to be had by auditor against delinquent collectors.

be rendered against him, at the suit of the auditor; and the court of common pleas are hereby required to enter judgment against such collector and his securities, on the return of the said summons, the same having been served by leaving a copy thereof at the usual place of abode of such collector and his securities, for the amount of the account, by the auditor transmitted, and ten per centum damages on such sum, unless such collector or his securities shall produce the auditor's receipt of the payment of the account aforesaid, then, in such case, the court shall dismiss the suit, upon the collector or his securities paying reasonable costs; and in case judgment shall be rendered, the clerk shall issue execution thereon in due form of law, directed to the coroner, returnable in thirty days; and the coroner, when he shall have collected the amount of execution, or such part thereof as may be, he shall, within twenty days, pay the sum so collected into the treasury of this state, of which payment the treasurer shall give his receipt, which receipt the coroner shall deliver to the auditor and take his receipt; and the payment so made shall be, by the auditor, carried to the credit of such delinquent collector; and the coroner shall be allowed lawful fees and twelve cents for each mile's travel to the treasury from the seat of justice in his county, to be levied and collected by him from such delinquent collector or his securities.

Duty of the coroner.

Sec. 10. *And be it further enacted*, That if the proprietor or proprietors of any tract of land charged with taxes, shall have neglected to pay to the collector, or the collector shall not have collected the same, by distress, on or before the said first Monday of December, annually, after the tax shall have become due, and thereafter shall have neg-

Lands, when and how to be sold for the payment of taxes.

lected to pay the said tax so due, together with the penalty of twenty-five per cent. on or before the first Monday of April next after such tax shall have become due, then the collector, in such case, is hereby required to proceed and sell, at public sale, at the court house in his county, so much of each tract of land charged with taxes, as will satisfy the amount of the tax and penalty as aforesaid; and the collector, before any sale, shall advertise the time and place of such sale, thirty days, at the door of the court house, and also at five other public places in the county; and the collector shall deliver to the purchaser a certificate of the quantity of land sold, describing therein the tract that was charged with the tax; which part so sold shall be taken as nearly as may be, in a square, and bound on one or other of the lines of the original survey, having regard to such lands, if any, as may have been sold out of said tract for taxes, and a designation of the part so sold, shall be made at the time of sale.

Certificate
to be made
to the purchaser
of
the quantity
sold.

Sec. 11. *And be it further enacted,* That when any tract of land or part thereof, shall not sell upon being offered for sale, for want of bidders, and the tax on the same not being paid, it shall be the duty of the collector to deliver to the auditor a transcript of such land not sold as aforesaid, within thirty days after such sale, under the penalty of fifty dollars, to be recovered at the suit of the auditor, in any court having jurisdiction thereof, within this state, for the use of the state; and no collector shall, directly or indirectly, purchase, nor be in any wise concerned in the purchase of any lands sold for the payment of taxes.

Collector
prohibited
from purchasing
lands sold
for taxes,
etc.

Sec. 12. *And be it further enacted,* That it shall be the duty of every collector, within thirty days after the day of sale of lands for the payment of taxes, as directed by this act, to pay into the state treasury the full amount of all taxes that he may be charged with, after deducting the amount of the taxes and penalty due on land not sold for want of bidders, and five per cent. as his commission, on the amount of all taxes, and on the twenty-five per cent. penalty by him collected, and six cents per mile for going to and returning from the office of the state treasurer, reckoning from the court house in his county, by the nearest road, of which payment the treasurer shall pass his receipt, whereupon the collector shall proceed as before directed; and if any collector shall fail or neglect to settle with the auditor within thirty days last aforesaid, and shall be indebted to the treasury, the auditor is required to proceed with such delinquent collector in the same manner as directed by the tenth section of this act; and the clerk of the court of common pleas and other officers, are hereby required to conduct themselves accordingly.

Collectors to make payment into the state treasury within thirty days after the day of sale.

Compensation for collection and travel.

Penalty for neglect.

Sec. 13. *And be it further enacted,* That the surveyor of the county, upon the receipt of the collector's certificate, shall, by himself or his deputy, proceed to survey the quantity of land agreeable to the said certificate, and charge the expense of making such survey and plat to the purchaser or his assigns; and upon the plat and certificate of survey being presented to the collector, it shall be his duty to convey the same to the purchaser, or his assigns, by deed, in due form of law executed; which conveyance shall vest

How land sold for taxes shall be surveyed.

How to be conveyed.

in the purchaser or his assigns, all the right, title and interest of the late proprietor, and in consideration of law shall also vest the possession of the land so deeded, in the purchaser or his assigns; but any collector may convey any lot or tract of land sold for taxes, without having the same surveyed, when the whole lot is sold: *Provided*, That nothing herein contained shall extend to bar the right or equity of redemption, which any infant person, *non compos mentis*, or in captivity, may have in the land so sold: *Provided*, the taxes and charges thereon, with interest, and an equitable compensation for improvements thereon made, taking into view the rent that might arise therefrom, be tendered within one year after such disability be removed.

Proviso.
Where the
whole tract
is sold.

**Equity of re-
demption al-
lowed in cer-
tain cases.**

**Duty of col-
lectors in
the sale of
lands.**

Sec. 14. *And be it further enacted*, That it shall be the duty of the collectors of the several counties, when they make sale of any land for the payment of taxes, to make a fair record of the purchaser's name, the quantity sold, with a description thereof, the name of the person the tax stood charged, with the amount of the tax and costs, and the day and year of the sale, and the year for which the tax was levied; which record he shall subscribe and lodge in the office of the clerk of the court of common pleas, within fifteen days after any sale made, under the penalty of one hundred dollars, to be recovered by indictment, in any court of record in this state; and it shall be the duty of the clerk to receive and preserve such record, and to transfer said land to the purchaser, for the purposes of taxation.

Penalty.

**Lands when
listed, how**

Sec. 15. *And be it further enacted*, That no tract of land that is listed agreeable to this act,

shall be again listed, but shall stand charged to the person for whom it was listed, unless the person so charged shall sell or dispose of the whole or any part of the land so listed, then if he or the person or persons purchasing or obtaining such land, shall have a transfer made with the clerk of the court of common pleas in the proper county, the clerks respectively are hereby authorized to list the land in the name of the person or persons to whom sold, and such person shall be chargeable with the tax of such land or lands thereafter: *Provided*, That no transfer shall take place, so as to exempt any person from paying the whole amount of taxes due upon all or any lands listed, after the tax bill shall have been made out for that year.

to stand charged.

When sold, the purchaser to have a transfer made with the clerk, etc.

Sec. 16. *And be it further enacted*, That any person failing to give in his or her list, agreeably to the provisions of this act, or giving in a false list, or who shall, in such list, class his or her lands as being of a quality inferior to their real quality, such person shall be subject to a tax equal to double the amount of the tax for that year, on lands of like quality, which tax shall be annexed to his or her list, by the commissioners of the county in which such lands are or ought to have been entered for taxation, or by the auditor, if the lands lie within the Virginia military tract, and a copy of the same forwarded by the auditor to the collector of the tax on the said Virginia military lands, or by the commissioners to the auditor and the collector of the proper county, as the case may require; which collectors respectively shall be charged on the auditor's books with the amount of such tax; and in all cases where satisfactory proof of the fact shall have been made by the

Penalty on persons failing to give in a list, or giving a false list.

Commissioners, their duty.

Auditor, his duty.

Continued.

listers of the town where the lands lie, to the commissioners, or by the commissioners of the county within which the lands lie (provided they are situated within the Virginia military tract) to the auditor, one moiety of such tax shall be paid over to such listers or to such commissioners, whose receipt for the same, certified by the clerk of the commissioners of the county, shall entitle the collector, on settlement with the auditor, to a credit equal to the sum paid; and it shall be the duty of the auditor to transmit to the county commissioners, as soon as his tax bill shall have been made out, a transcript of all entries of lands within the said Virginia military district, which lie within their respective counties, that have been entered for taxation in his office; and it shall be the duty of the commissioners of every county, to transmit, in like manner, to the commissioners of any other county in which the lands may lie that have been entered in their own, a list of such lands; and it shall be the further duty of the commissioners of every county, to transmit to one of the listers of each township within their respective counties, a list of all lands (other than those contained within the Virginia military district) in his township, which according to the returns made to them from their own or other counties, have been entered for taxation in any county in the state; which last mentioned lists shall be made out and transmitted, between the tenth of August and the first of September, annually; in all which before mentioned transcripts or lists, the section, township and range shall be specified, in which the lands lie, as also the person to whom they belong. And it shall be the duty of the commissioners and of the listers, on receiving such transcripts or lists, to

make diligent enquiry after all such lands as may not have been entered, or have been entered improperly; and if any such shall be found, to transmit a list of the same, with their proofs, to the auditor, or the commissioners, as the case may require.

Sec. 17. *And be it further enacted,* That in all cases where lands shall be listed for taxation for the year one thousand eight hundred and four, which have not been entered nor taxed for the four preceding years, and were liable and subject thereto, it shall be the duty of the auditor, when he makes out the duplicates for the Virginia military district, and clerks when they make out the general alphabetical lists for the year one thousand eight hundred and four, to add to the tax, a sum equal to the taxes due on each respective tract, for the four years, or such part thereof as such land shall have been subject to taxation, and twenty-five per cent. damages, yearly, on the taxes so in arrears.

Lands listed etc., for 1804, not taxed for the four preceding years, to be charged with the taxes and twenty-five per cent. yearly.

Sec. 18. *And be it further enacted,* That the state shall have a perpetual lien on every tract of land, and every part thereof, for the full amount of all taxes, penalties and interest, that have become due, and all that may hereafter become due thereon; and no alienation of lands, or neglect in entering or listing, shall in anywise destroy the claim or lien of the state; and the land shall be liable to be sold, at any time, for the taxes, penalties and interest due thereon, in whomsoever the title of the same shall be found.

Land bound for payment of taxes, etc.

Sec. 19. *And be it further enacted,* That when

Land im-
properly
listed, owner
to apply to
the county
commission-
ers.

any person thinks any tract or tracts of land, belonging to him or her, are improperly classed or the land twice listed, it shall be lawful for such person, upon application to the commissioners of the county where such land may be situate, and making due proof of the same, to have the same rectified, and the proper class of such tract or tracts ascertained or error corrected, and such alterations as shall be made by the commissioners, shall be certified by the clerk of the commissioners to the clerks of the courts of common pleas in the respective counties, and to the collectors and the auditor, and they shall be governed accordingly.

Their duty.

United
States land
sold after
the 30th of
June, 1862,
not listed
until the ex-
piration of
five years
from the
day of sale.

Sec. 20. *And be it further enacted,* That the clerks of the courts of common pleas or listers, shall not list any lands for taxation which have been purchased from the United States, from and after the thirtieth day of June, one thousand eight hundred and two, until the same shall have been purchased five years, when they shall be subject to taxation; all other lands purchased from the United States, prior to that period, shall be subject to taxation and listed accordingly.

Listers and
clerks of the
courts of
common
pleas, how
compensa-
ted.

Sec. 21. *And be it further enacted,* That the commissioners in each county shall make such allowance to the listers and the clerks of the courts of common pleas, for their respective services under this act, as they shall deem just and reasonable, and shall grant to each of them an order on the county treasurer for the sum so allowed.

Collectors to
make deeds
to purchas-
ers or their
assigns, etc.

Sec. 22. *And be it further enacted,* That the collector of taxes in the Virginia military district and the collectors of the several counties shall, and it is hereby made their duty respectively, to

make deeds to the purchaser or his assigns, of all lands heretofore sold for taxes (that have not been already deeded) and in case of the death of any purchaser, to his or their legal representative, in the same manner as their predecessors were authorized to do upon receiving the certificate and plat from the county surveyor; and every collector shall be entitled to receive seventy-five cents for every deed that he may grant under this act, from the person requiring the same, upon the delivery thereof.

Deeds
seventy-five
cents each.

Sec. 23. *And be it further enacted,* That all non-residents' lands, lying between the Scioto and Little Miami rivers, called the Virginia military lands, shall be one district, and shall be under the direction of the auditor of public accounts; and all entries and transfers shall be made with the auditor, specifying the number of entry, number of warrant, rates, to whom entered, for whom surveyed, when entered, to whom transferred, water course and county, if within their knowledge; and the auditor shall make out two alphabetical duplicates in the following manner:

Nonresi-
dent prop-
rietors of the
Virginia mil-
itary lands to
make entries
and trans-
fers with
the auditor.

Auditor to
make two al-
phabetical
lists.

Form there-
of.

Owners' names.		
Number of entry.		
Number of warrant.		
Rates.	1st.	
	2d.	
	3d.	
To whom entered.		
For whom surveyed.		
When entered.		
To whom transferred.		
When transferred.		
Water course.		
County.		
Amount of tax.	Dollars.	
	Cents.	
	Mills.	

one of which he shall deliver to the collector of the taxes for said district, on or before the first Monday of August, and the other he shall retain in his office.

To deliver one to the collector the first Monday of August.

Sec. 24. *And be it further enacted*, That the rule to be observed in entering or listing the lands commonly called the Virginia army lands, for taxation, shall be to enter or list all lands held by patent, deed, survey or entry, and if by entry only, the lands shall not be sold until the same shall be surveyed and a return thereof be made. The state shall nevertheless hold a lien on all such lands; and if the same shall be removed from the lands so entered on, when listed for taxation, whenever the same shall be removed, the lien of the state shall follow the warrant; and after survey and return as aforesaid, so much thereof shall be sold as will satisfy all arrears of taxes, interest, costs and damages which shall have accrued thereon, prior to such survey.

Rule to be observed in listing the Virginia army lands.

Bound for the payment of taxes, etc.

Sec. 25. *And be it further enacted*, That it shall be the duty of all non-resident proprietors of land in said district, by themselves or their agent, to enter their lands with the auditor, on or before the first Monday of July, agreeable to the provisions of the preceding section of this act; and if any person or persons shall neglect to enter his, her or their land, it shall be the duty of the auditor to enter as first rate, all land so neglected to be entered, in said district, which may come to his knowledge.

Nonresident proprietors in the Virginia military district to enter their lands with the auditor on or before the first Monday of July.

Sec. 26. *And be it further enacted*, That a collector of the taxes on the lands of non-resident-proprietors, in the Virginia military tract, shall be appointed by the governor, to continue in office

A collector to be appointed by the governor.

To give
bond.

for one year, and shall reside in the town of Chillicothe, who shall give bond in double the sum by him to be collected, in the manner as required of county collectors, and shall be subject to the same penalties and duties as other collectors, and shall be proceeded against in the same manner, if he shall be delinquent in the payment of the taxes by him to be collected, and shall conduct himself in his office in every respect as other collectors are by this act directed to conduct themselves, except as hereafter directed; and the said collector shall receive on all monies by him collected, four per cent. as his commission for such collection.

To receive
four per
cent. com-
mission for
collection.

To advertise
six weeks
prior to the
sale, etc.

The sale to
be in Chilli-
cothe on the
first Monday
of April,
yearly.

May be con-
tinued from
day to day.

Hours of
sale.

Collector
within thirty
days there-
after to
transmit to
the auditor
a list of lands
sold, etc.

Collector for
1803, his duty.

Sec. 27. *And be it further enacted,* That the collector for the Virginia military district shall, before he proceeds to sell any lands for taxes, advertise the day and place of sale, which shall be in the town of Chillicothe, on the first Monday of April, yearly, after the taxes shall have become due, at least six weeks, successively, in the Scioto Gazette; and all collectors of taxes, shall have power to continue the sales from day to day, by adjournment, until they shall have alphabetically exposed to sale all lands in their duplicates, that may be liable to be sold; and no collector shall expose to sale any lands but between the hours of nine in the forenoon and four in the afternoon. And the collector shall, within thirty days thereafter, make out and transmit to the auditor of public accounts, a list of all lands by him so sold, stating the quantity and particular part sold out of each tract, together with the names of the purchasers and person to whom the tax stood charged: *Provided,* That the collector of the Virginia military district for the year one thousand eight hun-

dred and three, shall make out and transmit to the auditor, by the first day of April next, in the manner and form herein described, a list of all lands by him sold for the taxes, for the year one thousand eight hundred and two.

Sec. 28. *And be it further enacted*, That the collector for the Virginia military district, shall, from and after the first Monday of August, annually, collect and receive all taxes of non-residents, charged with taxes upon his duplicate; and in case payment be not made by the first Monday of December, said collector shall charge all delinquents with a penalty of twenty-five per cent. on the taxes of all delinquents; and it shall be his duty, within ten days thereafter, to make out and deliver to the auditor, a schedule from his duplicate of all the taxes that shall not have been paid by the time aforesaid; and the auditor, on receiving the schedule, shall charge the collector with the said penalty on the amount of all the taxes contained in his schedule.

Collectors of the Virginia military district after the first Monday of August, annually, to collect taxes, etc.

If not paid by the first Monday of December, charged with twenty-five per cent.

Sec. 29. *And be it further enacted*, That the collector of each county shall, at least fifteen days before the first Monday of December, yearly, keep open an office for the receiving of taxes, at the seat of justice in the several counties, either by himself or his deputy, who shall, without fail, attend each and every day, from the hours of six in the morning until eight in the evening.

County collectors to keep open an office, etc.

Sec. 30. *And be it further enacted*, That it shall be the duty of the sheriff or collector in each county, to pay into the treasury of his county, one-third of the sum of the taxes collected by him for the use of the county, and the receipt of the

County collector to pay into the county treasury one-third of the taxes collected for county

purposes,
etc.

county treasurer, shall be received by the state treasurer, and the sheriff or collector shall be credited with the amount thereof, in the settlement of his account with the treasurer: *Provided*, That the collector of the taxes in the Virginia military district, shall pay over the aforesaid one-third part of the tax arising from the lands of non-resident proprietors within the district, to the treasurer of the state, who is hereby directed to pay the same to the several county treasurers, in such proportion as may be just and equitable, and which proportion shall be adjusted according to the quantity and quality of the aforesaid lands that shall be found to lie in each of the said counties respectively, as nearly as can be ascertained, and the receipt of the said county treasurer shall be received by the state treasurer, in settlement of the account of the said collector.

Proviso, in case of the collector of the Virginia military district.

Officers under this act refusing or neglecting to do their duty.

Sec. 31. *And be it further enacted*, That if any officer required to do and perform any service or duty by this act, shall refuse or neglect to do and execute such services and duties, according to the true intent and meaning of this act, he shall forfeit and pay a fine not exceeding one thousand dollars, at the discretion of the court, to be recovered by action of debt or indictment, in any court of record in the county where the offense shall have been committed, the one-half to the person suing, or the informer, and the other half shall be paid into the state treasury.

Penalty.

Auditor to have certain sections published.

Sec. 32. *And be it further enacted*, That it shall be the duty of the auditor to have published the first, second, fifth, ninth, twenty-eighth and twenty-ninth sections of this act, in the Virginia Argus, National Intelligencer and American Mer-

cury, for the term of three weeks, to commence on the first week of April next, and the expenses thereof shall be paid out of the state treasury.

Sec. 33. *And be it further enacted*, That it shall be the duty of the auditor forthwith to proceed against all the now delinquent collectors, in the same manner as he is directed to do by this act, against the collectors that may be hereafter delinquent; and all officers are hereby directed to conduct themselves accordingly.

To proceed
against de-
linquent col-
lectors.

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

February 18, 1804.

CHAPTER XXXIII.

An act, directing the mode of proceeding in the courts of chancery.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That the courts of common pleas in their respective counties, shall have original jurisdiction in all cases cognizable by a court of chancery, where the demand doth not exceed five hundred dollars, subject however to an appeal from their decision to the supreme court, in all cases where the title of land was in question, or where the sum or matter in dispute was more than one hundred dollars: *Provided*, That the appellant, within thirty days after such appeal, do give

Jurisdiction
of the courts
of common
pleas origi-
nal and final.

Party appealing, to give bond, etc.

bond with sufficient surety for prosecuting his appeal to effect, which bond shall be filed with the clerk of said court.

Jurisdiction of the supreme court, original and appellate.

Sec. 2. *And be it further enacted*, That the supreme court shall have original jurisdiction in all cases properly cognizable by a court of chancery, where the demand exceeds five hundred dollars, and appellate jurisdiction in all cases regularly brought before them from the chancery decisions of the courts of common pleas.

Application to the courts of chancery to be by petition: when to be filed, etc.

Sec. 3. *And be it further enacted*, That all applications to the courts of chancery shall be by petition, stating the nature and grounds of the demandant's claim; which petition shall be filed in the clerk's office of the proper court, on the first day of the term, and if it shall appear to the court, that the demandant hath not complete and adequate remedy at law, they shall order a subpoena or subpoenas to issue, requiring the defendant or defendants to appear at the next term, to answer to the matters and things contained in such petition; and in cases where any or all of the defendants reside out of this state, the court shall direct notice to be given of the filing of such petition, either by personal service, to be returned on oath, or by publication in such newspapers as will be most likely to convey information to all persons concerned, except such defendant or defendants have an attorney in fact, or an agent, residing in this state, in which case notice shall be given to such attorney or agent; and in all cases where the defendant or defendants reside in this state, such subpoena shall be served by leaving a true and attested copy thereof with such defendant or defendants, at his, her or their last usual place of

Subpoena, when to issue, etc.

When defendant or defendants reside out of the state, notice to be given.

Subpoena, how to be executed.

abode, at least thirty days previous to the term to which it is returnable, and on such subpoena being returned executed, or on proof being made that such notice hath been given, if the defendant or defendants do not appear and file their plea or answer to such petition, by the second day of the term, the court shall proceed to hear and examine the evidence produced by the demandant, and shall decree as justice and equity may require.

Where plea or answer not filed, court may proceed to hear, examine and decree.

Sec 4. *And be it further enacted*, That the rules of evidence to be observed in courts of chancery, shall be the same as those in courts of law, excepting that the parties to and others interested in, any proceeding in a court of chancery, may be examined on oath, touching any matter or thing before such court depending, 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 supreme court or any court of common pleas ever thereafter delay or refuse justice or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting lands lying without the jurisdiction of such court, and also of infants and *femes covert*, when a cross-petition shall be exhibited, the defendant or defendants to the first petition shall answer thereto, before the defendant or defendants to the cross-petition shall be compelled to answer to such cross-petition; the complainant shall reply or file his exceptions within two calendar months after the answer shall have been put in, if he fails so to do, the defendant may give a rule to reply, with the clerk of the court, which being expired and no replication or exceptions filed, the suit shall be dismissed, with costs. If the complainant shall except against any answer

Rule to be observed in the pleadings.

The rule of pleadings continued.

as insufficient, he may file his exceptions and give a rule with the clerk, to make a better answer, within two months, and if within that time the defendant shall put in a sufficient answer, the same shall be received without costs, but if any defendant insists on the sufficiency of his answer, or neglects or refuses to put in a sufficient answer, or shall put in another insufficient answer, the plaintiff may set down his exceptions to be argued the next term in court; and if upon argument, the complainant's exceptions shall be overruled, or the defendant's answer adjudged insufficient, the complainant shall pay to the defendant, or the defendant to the complainant, such costs as shall be allowed by the court; and in case the defendant's answer shall be adjudged insufficient, he or she may be examined upon interrogatories, and if the defendant shall neglect or refuse to answer such interrogatories within the time ordered by the court, the matter of the complainant's petition, shall be considered as confessed and shall be decreed accordingly.

Where plea or demurrer is defective, how to proceed.

Sec. 5. *And be it further enacted,* That if the complainant conceives any plea or demurrer to be bad, either for the matter or manner of it, he may set it down with the clerk to be argued, or if he thinks the plea good but not true, he may take issue upon it and proceed to trial by jury, and if thereupon the plea shall be found false, the complainant shall have the same advantages as if it had been so found by verdict on trial at law, and if a plea or demurrer be overruled by the court, no other plea or demurrer shall be thereafter received, but the defendant shall answer the allegations of the petition, and if the complainant shall not proceed to apply to, or set for hearing, any plea or demurrer before the second day of the

term next after filing the same, the petition shall be dismissed of course, with costs; upon a plea or demurrer argued and overruled, costs shall be paid, and the defendant shall answer within two months after, but if adjudged good, the defendant shall have his costs, and if any defendant after plea or demurrer shall have been overruled, shall refuse to answer, the petition shall be taken as confessed and the matter thereof decreed.

Petition when taken as confessed.

Sec. 6. *And be it further enacted*, That the supreme court, or any court of common pleas in session, or any judge of the supreme court, or presiding 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 execution of judgments obtained in any of the courts of law: *Provided*, That writs of *ne exeat* shall not be granted but upon a petition filed and affidavits made to the truth of its allegations, which being produced to the court in term time, or the judge in vacation, such writ may be granted or refused as shall seem just, and if granted, he shall direct to be endorsed thereon in what penalty bond and security shall be required of the defendant, and 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: *And provided also*, That no injunction shall be granted to stay proceedings in any suit at law, unless the court in term time, or the judge in vacation, shall be satisfied of the plaintiff's equity, either by affidavit that the allegations in the petition are true, or by other means; and where any injunction shall be granted, the clerk shall endorse

Writs of ne exeat and injunction, by whom and when to be allowed, etc

Proviso.

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 in which the judgment to be enjoined shall have been obtained; and the party obtaining the injunction shall then enter into bond, with sufficient security, and file the same in the clerk's office of that court in which 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.

Petition for review and the proceedings thereon.

Sec. 7. *And be it further enacted,* That whenever a petition is filed for a review of the proceedings in which a decree shall have been made, if the court think it reasonable under the circumstances of the case, to stay proceedings on the 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, and the court shall direct such security to be given as is usual in cases of appeal or injunction.

Decrees in courts of chancery, how enforced.

Sec. 8. *And be it further enacted,* That all decrees in courts of chancery shall be enforced by sequestration of the property of the party against whom the decree is made, until such decree is complied with, or by execution against the goods, chattels, lands and tenements, of such party as the court may direct, and as the case may require; and in all cases where costs are given, the party entitled thereto may take out an execution for the same, in like manner as executions are awarded in courts of law.

Party entitled to costs, may take out execution.

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

February 17, 1804.

CHAPTER XXXIV.

*An act, providing for the erection of public build-
ings.*

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That there shall be erected and established in each and every county, not having the same already established therein, 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 bars, grates, bolts and locks, and also a pillory, whipping post, and so many stocks as may be necessary for the punishment of offenders; 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 the debtors, and the other shall be used for the safe keeping of persons charged with or convicted of crimes.

Court houses, jails, etc., to be erected by the commissioners.

Sec. 2. *And 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 plans as shall be directed by the commissioners of said county, who are

Materials, dimensions and plans to be directed by the commissioners.

hereby authorized 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.

To give notice of sale, etc.

Sec. 3. *And 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 of the most public places in said county, stating in such advertisements the day they will attend at the places of holding courts in said county, at which time and place the said commissioners shall proceed to set up the aforesaid buildings at public auction, 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 proceed again as in this section directed.

Lowest bidder to be the purchaser; to give bond.

Commissioners power to appropriate money, etc.

Sec. 4. *And 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 may be in the county treasury, not otherwise appropriated, for the erection and completion of said buildings; and said commissioners shall, in behalf of the county, enter into bond for the faithful discharge of said contract or contracts.

And enter into bond.

Sec. 5. *And be it further enacted,* That the act

directing the building and establishing of court houses and county jails, pillories, whipping posts and stocks, in every county, be and the same is hereby repealed; and this act shall take effect and be in force, from and after the passage thereof.

Repealing
clause.

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

February 17, 1804.

CHAPTER XXXV.

An act, allowing compensation to the associate judges, and for other purposes.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio,* That the associate judges of the courts of common pleas for the several counties, shall be entitled to receive two dollars for each and every day they shall be necessarily employed in holding, going to and returning from any court by them to be holden, which shall be paid out of the treasury of the proper county, upon the order of the commissioners.

Compensa-
tion.

Sec. 2. *And be it further enacted,* That it shall be the duty of each of the associate judges, at the end of each term, to obtain from the clerk of said court, a certificate of the number of the days each

Associate
judges to
obtain from
clerk a cer-
tificate.

Commissioners to issue an order on treasurer.

judge attended during said term, which, when presented to the commissioners, shall be a sufficient evidence of such claim; and the commissioners are hereby required to issue an order upon the treasurer for the sum so due, and such other sum in addition, as they shall be of opinion each associate judge is entitled to, for going to and returning from court.

Associate judges not entitled to fees.

Sec. 3. *And be it further enacted,* That the associate judges shall not receive any other fees of office as a compensation for holding court, other than as above directed; and it shall be the duty of the respective clerks of the courts of common pleas, to make out and charge, as costs, the fees allowed to the justices of the court of common pleas and general quarter session, by the act, entitled, "An act, regulating the fees of civil officers and for other purposes," in every case by the respective courts adjudicated; and it shall be his duty, within ten days after each term, to pay into the treasury of the county, all sums taxed as above, when collected and paid to him by the sheriff; and the treasurer is required to give his receipt to the clerk, for all money so by him paid.

Clerks, their duty.

Treasurer, his duty.

Attorney and counsellors in common pleas.

Sec. 4. *And be it further enacted,* That attorneys or counsellors at law, shall be entitled to receive, for every suit instituted and prosecuted or defended by them in the court of common pleas, the sum of four dollars, to be taxed as costs, which the party obtaining judgment shall recover of the party against whom judgment shall be given, and in the supreme court, eight dollars as aforesaid, and no more.

In the supreme court.

Sec. 5. *And be it further enacted,* That as a

compensation to the associate judges for services heretofore rendered in the counties where they have not received the fees allowed by the law aforesaid, they shall be entitled to have such sum as the commissioners of the county shall deem reasonable for such services, to be paid out of the county treasury.

Commissioners to allow associate judges compensation in certain cases.

Sec. 6. *And be it further enacted*, That so much of the act, entitled, "An act regulating the fees of civil officers and for other purposes," as relates to the judges of the court of common pleas, and attorneys and counsellors at law, be and the same is hereby repealed.

Repealing clause.

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

February 18, 1804.

CHAPTER XXXVI.

An act, for opening and regulating roads and highways.

Sec. 1. *Be it enacted by the general assembly of the state of Ohio*, That all roads or highways, established by law, shall be opened, amended and kept in repair, or vacated, agreeable to the provisions of this act; and the commissioners, or any two of them, in their respective counties, shall have authority, upon application, to make and enforce all orders necessary therefor, for which purpose

Public roads to be opened and kept in repair.

Commissioners to enforce orders, etc., to

meet on the second Monday of June, and first Monday of November, annually.

they shall assemble themselves at the place for holding courts in the several counties, on the second Monday of June and first Monday in November, annually, and shall continue by adjournment, from day to day, until the business before them be finished.

Application for any road to be by petition.

Sec. 2. *And be it further enacted*, That every application for any road, shall be by petition, specifying particularly where such road begins, the remarkable places by which such road is intended to pass, if any, and where the same shall end, signed by at least twelve landholders of the county, who shall be liable for the costs arising on such petition, survey and view, unless the road so petitioned for, shall appear to said commissioners, from the report of the viewers, to be of public and general utility to the citizens of the county at large, then the costs attending the same shall be paid out of the county treasury.

Costs, how paid.

Previous to an order for a new road.

Sec. 3. *And be it further enacted*, That previous to any application being made for an order to lay out any new road, or to alter an established road, such intended application shall be advertised in three public places in each township, through which such proposed road may be designed to run, for thirty days prior to the meetings of the said commissioners.

To be advertised thirty days.

Commissioners to appoint three viewers.

Sec. 4. *And be it further enacted*, That upon the presenting of a petition in the form as aforesaid, and the commissioners being satisfied that the petitioners have given the notice required by this act, the commissioners shall order such petition to be audibly read in open meeting, and thereupon shall appoint three disinterested landhold-

ers, who, or any two of whom, after having been duly sworn by any judge or justice of the peace, having had six days' previous notice from some one of the petitioners, shall proceed at the time directed by said commissioners, to view the ground along which said road is proposed to be conducted, and shall truly and impartially, take into consideration the utility and inutility, conveniences and inconveniences which will result, as well to individuals as to the public, if such road should be opened; and if a majority of said landholders shall be of opinion that such proposed road, if established, would not be useful nor of public convenience, they shall report accordingly; but if they shall be of opinion, that such proposed road will be useful and of public convenience, they shall repair to the place where such proposed road begins, and the said viewers shall, with diligence and attention, examine the ground and view out said road, as nearly to the prayer of the petitioners, as a good road can be obtained at a reasonable expense, having a special regard to continue the road in the same direction, as far as circumstances will admit; and the commissioners shall appoint a surveyor, whose duty it shall be, to take to his assistance two persons as chain-carriers and one marker, and he shall attend said viewers and survey such road, according to the view of said landholders, conspicuously marking the same throughout, and truly noting the courses and distances thereof, and at every mile's end, shall erect a monument, expressing the number thereof, and shall protract a survey of said road; which, together with the proceedings of the said viewers, shall be certified respectively and returned to said commissioners at their next session, to be

To be sworn.

Their duty.

Commissioners to appoint a surveyor.

To take to his assistance two chainmen and a marker.

Commissioners on receiving the return how to proceed.

held for said county, and the commissioners, on receiving such return, shall cause the same to be publicly read in open meeting, on two different days of the same meeting, and if no objections are made to such proposed road, on the second reading, it shall be the duty of said commissioners, to order the said road to be opened a necessary width, not exceeding sixty-six feet, and made in other respects convenient for the passage of travellers, and cause a record thereof to be made, which thenceforth shall be deemed a public road.

By whom and in what manner objections may be made to a proposed public road.

Sec. 5. *And be it further enacted,* That objections to any proposed public roads may be made by twelve landholders of that part of the county through which the same runs, if such objections are stated to the commissioners in writing, with their names thereto subscribed, at any time before such road is recorded and not afterwards, on account of the same being likely to be useless, prejudicial and burthensome to the inhabitants; and where such objections are made, the commissioners shall appoint five disinterested landholders of the county as aforesaid, who shall not be related to any of the parties interested in opening or objecting against such proposed road, and shall assign a day for such landholders to meet where such proposed road begins; it shall be the duty of such landholders respectively, having had six days previous notice from either party, to meet on the day and at the place assigned by the commissioners, and then having first taken an oath or affirmation, before some judge or justice of the peace, impartially to review such proposed road, and report whether such road, if opened and kept in repair by the public, will be useless, inconvenient and burthensome or otherwise, and if the

landholders, who reviewed the same, or any three of them, agree that the said proposed road is likely to be useless, inconvenient and burthensome, if it be opened and kept in repair by the public, then unless the petitioners will agree to open and keep in repair such proposed road, at their own private expense, all the proceedings shall be stayed, and the petitioners shall, in either case, pay the costs and charges which may have accrued; but if three of the said reviewers do not report against such road as likely to be useless, inconvenient and burthensome, then the objectors shall pay the costs and charges which shall have accrued on such review, and the said road shall be ordered to be recorded and opened as aforesaid, and shall thenceforth be deemed a public road. Continued.

Sec. 6. *And be it further enacted,* That if any person through whose land any proposed road may run, feels aggrieved thereby, such person may, at any time before such road is recorded, set forth his or her grievance, in writing, to the commissioners, whereupon the commissioners shall appoint five disinterested landholders as aforesaid, and shall assign a day for such landholders to meet on the objector's land, where such road crosses the same (having first taken an oath or affirmation before some judge or justice of the peace) truly and impartially to assess the damage or several damages which any such objector or objectors will sustain by reason of such road, in case the same should be opened and continued through his land, having had six days' previous notice by either of the parties, said landholders shall proceed to review said road, through the land of such objector or objectors, and take into their consideration how much less valuable the property of such ob-

Persons object-
ing to a
road passing
over their
lands, how
to proceed.

Commission-
ers to ap-
point five
freeholders.

To take an
oath.

Their duty.

jector or objectors will be rendered by reason of such road's being established, and shall assess the damage or damages, if any, report the same to the commissioners at their next meeting, and if a majority of such landholders agree in assessing damages to the amount of the costs accruing on such review, the commissioners may, if they consider it expedient, order the damages to be defrayed out of the county treasury, or if that may be considered inexpedient, and the petitioners will defray the same, then, in either case, such roads shall be ordered to be opened and a record made thereof, and the costs and charges having accrued in virtue of such review, shall be defrayed out of the county treasury; but if a majority of such landholders do not agree in assessing damages to the amount of the costs as aforesaid, then such objector or objectors shall pay the costs, and such road shall be ordered to be opened and recorded in like manner as though no such objections had been made.

To assess the damages.

Costs, how to be paid.

Any person desirous to change the road running through his land, how to proceed.

Commissioners to appoint three disinterested landholders, who shall proceed to view the ground on which the said road is designed to be turned, and measure the respective distances of that part of the road already established and of the proposed way, until it shall intersect the road

Their duty.

Sec. 7. *And be it further enacted,* That if any person through whose land any road shall run, shall be desirous of cultivating such tract of his land, such person or persons may petition said commissioners to permit him, her or them, at his, her or their own expense, to turn such road through any part of his, her or their land, on as good ground and without increasing the distance to the injury of the public; and upon such petition, the said commissioners shall appoint three disinterested landholders, who shall proceed to view the ground on which the said road is designed to be turned, and measure the respective distances of that part of the road already established and of the proposed way, until it shall intersect the road

established, and at the next meeting of the commissioners shall report the several distances, with their opinion, respecting the ground on which said proposed road is to run, and if it shall appear to the satisfaction of said commissioners, that the ground on which such new part of the road is designed to be run, is equally situated and that the difference in the distance will not injure the public, such commissioners shall permit him, her or them, to turn such road, and on receiving satisfactory assurances that such petitioner or petitioners have opened such proposed road equally convenient for travellers, shall vacate so much of the former road as shall lie between the different points of intersection, and record such alteration, which afterwards shall be a public road or highway.

When and how to report.

Sec. 8. *And be it further enacted,* That when any public road shall be considered useless and the repairing thereof an unreasonable burthen, any twelve landholders may make application in writing, subscribed by themselves, setting forth their reasons wherefore they wish such road vacated, which shall, during the meeting to which it is presented, be publicly read in open meeting, and no further or other proceedings shall be then had thereon, but the same shall be continued to the next meeting, where the same shall again be read as aforesaid, when, if objections are not made thereto in writing, signed by twelve landholders, said commissioners shall, on any day in the same meeting, other than the first, proceed to vacate such public road, and the costs and charges shall be paid by the county; but if objections are made in form aforesaid, the commissioners shall proceed in like manner, by appointing viewers thereof, as

Public roads becoming useless, etc., how to be discontinued.

Costs how to be paid.

If objections are made, commissioners to appoint viewers, etc

Proviso.

Streets or highways, etc. in town, not to be vacated.

they are authorized to do in laying out roads: *Provided*, That nothing in this section contained, shall be understood to give authority to said commissioners to vacate any street or highway, in any town which hath been or may be laid out by the proprietors thereof, or by any other person or persons, and given for public use, nor to vacate any road laid out by law, which is not repairable at public charge, nor any road or passage claimed by private right.

Appeal to the court of common pleas allowed.

Sec. 9. *And be it further enacted*, That an appeal from the proceedings of the commissioners, under this act, shall lie and be allowed to the courts of common pleas: *Provided*, such appeal be entered with the clerk of the commissioners within ten days after the proceedings were had before said commissioners, by the appellant or appellants entering into bonds, with freehold security, for the the payment of the costs and charges of such appeal, and the courts of common pleas are hereby required and empowered, on every such appeal, to order and appoint another view of such road, and proceed thereon in like manner as the commissioners are enabled by this act to proceed.

Private cartways, how to be laid out and opened.

Sec. 10. *And be it further enacted*, That if any person or persons shall, for the convenience of themselves or neighbors, wish to have a private cartway laid out, from or to the plantation or dwelling place of any person or persons, or to any public road, or from one to intersect another, the person or persons applying for the same, shall advertise their intentions as by this law is required in case of public roads, and shall petition the trustees of the proper township, who shall proceed in every respect in like manner, as is by

this act provided in case of public roads: *Pro-* **Proviso.**
vided, That no private cartway laid out in pur-
 suance of this act shall exceed thirty-three feet in
 breadth, and that the petitioner or petitioners
 shall defray every expense and charge of laying
 out the same, and said private cartway shall be
 opened and kept in repair by the person or per-
 sons petitioning therefor.

Not to ex-
 ceed thirty-
 three feet in
 breadth.

Sec. 11. *And be it further enacted,* That all
 male persons of the age of eighteen years and
 not exceeding fifty, who have resided thirty days
 in any township within this state, who are not a
 town charge, shall be liable yearly and every year,
 to do and perform three days' work on the public
 roads, under the direction of the supervisor, with-
 in whose limits they shall be respectively resident;
 and it shall be the duty of every supervisor to call
 out every such resident as aforesaid, when it may,
 in his opinion, be expedient to work on the public
 road within his district; and if any such resident,
 having had three days' notice thereof from the
 supervisor, shall neglect or refuse to attend by
 himself or substitute, to the acceptance of the
 supervisor, on the day and at the place for working
 on the public road, with such necessary and com-
 mon articles of husbandry as the said supervisor
 shall have directed him to bring wherewith to
 labor, or having attended, shall refuse to obey the
 directions of the supervisor, or shall spend the
 day in idleness or inattention to the duty assigned
 him, every such delinquent shall forfeit, for every
 such neglect or refusal, the sum of one dollar; if
 not paid when demanded by the respective super-
 visors, to be recovered at the suit of the super-
 visors respectively, before any justice of the
 peace, to be appropriated towards repairing the

Male persons
 of the age
 of eighteen
 and not ex-
 ceeding fifty
 to work
 yearly three
 days on the
 highways.

Supervisor
 to give three
 days notice.

Penalty on
 persons fail-
 ing, etc.

Proviso. public roads within such supervisor's district: *Provided*, That in case any person removing from one district into another, who shall, prior to such removal, have performed the whole or any part of the labor required by this act, and shall produce a certificate from the supervisor of such district, such certificate shall be a complete discharge for the like requirement for that year.

Supervisors to call out or hire hands to work on the roads when necessary.

Sec. 12. *And be it further enacted*, That the supervisors of the public roads in their respective districts, are hereby required and enjoined, as often as the said several roads within their districts may be out of repair, or as often as any new road shall be laid out and ordered to be opened by law, to call out or to hire with the fines he may have collected, a sufficient number of hands to work upon, clear and amend the same, in the most effectual manner, and to oversee the said laborers, keep them close to their business and take care that the said roads be effectually cleared and repaired, according to the intent and meaning of this act; and the supervisors respectively, shall have full authority to enter upon any unimproved lands, near or adjoining the public roads, to dig or cause to be dug, any gravel, sand or stone, or to gather any loose stones, or to cut down and carry away any timber that he or they may think necessary for the purpose aforesaid: *Provided*, The same be done with as little damage as may be to the owner of such land.

Empowered to dig gravel, cut timber, etc., on unimproved lands.

Supervisors, when to enter private property and open ditches, drains, etc.

Sec. 13. *And be it further enacted*, That it shall be lawful for the supervisors or any other person or persons, by his or their order, to enter upon any lands adjoining or lying near to the public roads within their respective districts, to

make such drains or ditches through the same as he or they may conceive necessary to draw the water from such roads: *Provided*, The same be done with as little injury and damage as may be to the owner of such lands; which drains and ditches so made, shall be kept open by such supervisors, if necessary, and shall not be stopped up by the owners of such lands or any other person or persons, under the penalty of ten dollars for every such offense, to be recovered and appropriated in manner aforesaid.

Penalty
for filling
up ditches.

Sec. 14. *And be it further enacted*, That it shall be the duty of each supervisor, in his district, to erect and keep up a post at the forks of every leading public road, containing an inscription in legible characters, directing the way to the next town or known places on each road; and if any person or persons shall demolish any such post, deface or alter any such inscription thereon, with an intention to destroy the utility of such design, he, she or they, so offending, shall, for every such offense, forfeit and pay to the supervisor of such road, twenty dollars, to be recovered and appropriated as before directed.

Posts to
be erected
at the forks
of public
roads.

Penalty for
destroying
the same.

Sec. 15. *And it further enacted*, That every supervisor shall receive, for every day he shall be necessarily engaged in superintending the hands, not less than ten on each day on the roads, over and above three days, the sum of seventy-five cents, and such further compensation as the trustees shall think reasonable.

Compensa-
tion to be
allowed su-
pervisors
for their ser-
vices.

Sec. 16. *And be it further enacted*, That it shall be the duty of the trustees of the respective townships, to meet at the place of holding the annual

Trustees to
meet the
first Monday
of March,
annually.

to settle
with the
supervisors.

Account to
be exhibited
on oath.

When
moneys re-
main in the
hands of su-
pervisors.

When in ad-
vance, how
reimbursed.

Penalty on
supervisors
neglecting
to settle
their ac-
counts.

township elections, on the first Monday of March, annually, at which time and place the supervisors of the townships shall attend and produce an accurate account of all fines collected, as well such are due, and all sums by him or them expended on the roads, and shall be attested on oath or affirmation, by such supervisor or supervisors, and the trustees are empowered to adjust and settle accounts so produced to them as aforesaid, and to allow such charges and sums as they or a majority of them shall think just and reasonable; and if there shall appear to be any money remaining, after deducting such sum or sums as shall be allowed to such supervisor or supervisors, then the trustees shall, by an order, direct the same to be paid to the succeeding supervisor or supervisors; but in case any supervisor shall be found to be in advance for labor or money expended, and shall have carefully collected the fines assessed by this act, then the trustees or any two of them shall, in like manner, order the succeeding supervisor or supervisors, to repay the same as soon as a sufficient sum shall have come to his or their hands; and if any supervisor or supervisors shall neglect to make up and produce his accounts aforesaid, or having produced such accounts, shall neglect forthwith to pay the monies which he or they shall be ordered as aforesaid, or shall not deliver up such accounts to their successors, it shall be the duty of any court having cognizance thereof, on application made to them by the trustees or a majority of them, upon satisfactory proof of such neglect being made, to fine such delinquent in any sum not exceeding forty dollars; and if any supervisor shall think himself aggrieved by the settlement of his accounts as aforesaid, or by any

judgment of any justice as aforesaid, he may appeal to the next meeting of the commissioners of said county, who shall take such order therein and give such relief as to them shall appear just and reasonable, and the same shall conclude and bind all parties.

When ag-
grieved may
appeal.

Sec. 17. *And be it further enacted,* That all and every supervisor of the public roads, who shall refuse or neglect to do and perform his or their duty, as directed by this act, may be fined in any sum not exceeding ten dollars for every such offense, to be recovered by any person or persons prosecuting for the same, before any justice of the peace within the county, the one-half to be applied towards repairing the roads within the district where such fines were incurred, the other half to the person prosecuting: *Provided,* That if any supervisor or supervisors, shall conceive himself or themselves injured by the judgment of such justice, he or they may appeal, on giving sufficient security for the payment of the costs, to the next court of common pleas, who shall make such order therein as to the said court may appear just and reasonable.

Penalty on
supervisors
who refuse
or neglect
to do their
duty.

How re-
covered and
disposed of.

When ag-
grieved, may
appeal.

Sec. 18. *And be it further enacted,* That if any person or persons shall obstruct any public road or highway, laid out or that hereafter may be laid out, or to be kept in repair by law, and shall suffer such obstruction to remain to the hindrance of travellers, every person or persons so offending, shall, for every such offense, forfeit and pay a sum not exceeding twenty dollars, nor less than two dollars, to be recovered by an action of debt, at the suit of any person, before any court having cognizance thereof, in the county in which the

Penalty on
persons ob-
structing
high ways.

How recov-
ered and dis-
posed of.

offense shall have been committed, the one-half to the person prosecuting and the other half to be appropriated in manner aforesaid.

Penalty for taking down or destroying advertising advertisements.

Sec. 19. *And be it further enacted*, That if any person shall take down, obliterate or destroy, any advertisement or written notice necessary to be put up under this act, he, she or they, so offending, shall, for every such offense, forfeit and pay ten dollars, to be recovered in an action of debt, at the suit of any person prosecuting before any court having cognizance thereof, to be held in the county where such offense was committed, the one-half to the person prosecuting and the other half to be appropriated in manner aforesaid.

Persons prosecuted, how to plead.

Sec. 20. *And be it further enacted*, That if any person or persons shall be sued under the provisions of this act, he, she or they may plead the general issue, and give this act and the special matter in evidence, and no such suit or action shall be brought or maintained, unless it shall have been commenced within three months after cause given.

Surveyors, etc., how compensated.

Sec. 21. *And be it further enacted*, That all persons hereafter mentioned, appointed to render services under this act, shall receive as a compensation for each day allowed by the commissioners, the following sums: Viewers, one dollar; chain carriers and markers, seventy-five cents, and surveyors one dollar and fifty cents, to be charged as costs and expenses, and to be paid according to the provisions of this act.

Repealing clause.

Sec. 22. *And be it further enacted*, That all acts and parts of acts, coming within the purview of this act, be and they are hereby repealed, and that

this act shall commence and be in force, from and after the tenth day of March next.

ELIAS LANGHAM,
Speaker of the house of representatives.

NATH. MASSIE,
Speaker of the senate.

February 17, 1804.

LAWS

Directed to be Printed by their Title Only.

An act, to alter the boundary line between the counties of Jefferson and Washington.

An act, to empower the trustees named in the last will and testament of doctor William Burnet, the elder, to dispose of certain lands.

An act, authorizing the town of Marietta to preserve the banks of the rivers in said town.

An act, to incorporate the town of Cincinnati.

An act, authorizing Zaccheus Biggs and Zaccheus A. Beatty, to erect a bridge over Wills' creek.

An act, for the relief of Lucy Petit.

An act, for the relief of Sally Mills.

An act, for the relief of Jane Wilson.

An act, for the relief of Isaac Helmich.

An act, to incorporate the owners and proprietors of half million acres of lands, lying south of Lake Erie, in the county of Trumbull.

An act, incorporating the trustees of the Erie literary society.

An act, incorporating the subscribers of the Miami exporting company.

An act, for the relief of Hannah Willis.

An act, establishing an University in the town of Athens.

An act, to incorporate the town of Chillicothe, in the county of Ross.

An act, to incorporate the town of Marietta.

An act, to provide for the locating a college township, in the district of Cincinnati.

An act, allowing compensation to the commissioners for appraising the college lands, in the county of Washington.

An act, for establishing the permanent seat of justice, in the county of Adams.

An act, to establish the seat of justice, in the county of Belmont.

An act, allowing compensation to James Denny.

An act, appropriating money for the payment of debts due from the state of Ohio, and for making appropriations for the year one thousand eight hundred and three.

An act, to provide for organizing and disciplining the militia.

An act, making appropriations for the year one thousand eight hundred and four.

RESOLUTIONS.

A resolution on the subject of distributing the laws and journals of the present session.

Resolved, by the general assembly of the state of Ohio, That when the volume containing the laws of the present session is printed, the secretary of state shall immediately transmit to the clerks of the court of common pleas of the several counties, the number of copies following (to-wit):

To the clerk of the county of Trumbull, thirty-two copies; to the clerk of the county of Columbiana, sixteen copies; to the clerk of the county of Jefferson, forty-eight copies; to the clerk of the county of Belmont, thirty-two copies; to the clerk of the county of Washington, twenty-one copies; to the clerk of the counties of Muskingum, Galia and Athens, each nine copies; to the clerk of the county of Fairfield, thirty-two copies; to the clerk of the county of Franklin, twelve copies; to the clerk of the county of Highland, nine copies; to the clerk of the county of Ross, forty-three copies; to the clerk of the county of Adams, thirty copies; to the clerk of the county of Scioto, nine copies; to the clerk of the county of Clermont, twenty-five copies; to the clerk of the county of Hamilton, forty-eight copies; to the clerk of the county of Warren, thirty-two copies; to the clerk of the county of Butler, thirty-two copies; to the clerk of the county of Montgomery, sixteen copies;

to the clerk of the county of Green, ten copies; to the clerk of the county of Champaign, six copies. And whenever the thousand volumes directed to be bound, shall be completed, the secretary of state shall immediately transmit to the clerks of the several counties, their just proportion, agreeable to the above ratio; and also such number of the journals of both houses, as will be in proportion to the number of the laws; one of which, together with one copy of the laws, shall be given to each member of the legislature, and the balance to be distributed among the several officers within the respective counties, agreeable to the directions of the associate judges of the court of common pleas.

Resolved also, That the secretary of state be directed to furnish the following persons with the laws of the present session: To the secretary of state of the United States, one copy; to the governor, the judge of the district of Ohio, the judges of the supreme court, the presidents of the courts of common pleas, the auditor, treasurer and clerks of the general assembly, each one copy; and shall also, retain one copy for his own use, together with twenty copies for the use of the general assembly: *Provided,* That where there shall be no clerks in any counties, the laws and journals as aforesaid, shall be left with one of the associate judges of the court of common pleas.

And resolved also, That the governor of this state be authorized to transmit to the executives of the several states, one volume of the laws of the present session; and the secretary of state, at the same time, shall distribute the laws of the United States, now in his office, among the sev-

eral counties, in proportion to the above ratio, reserving two copies for the use of the general assembly.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

A resolution on the subject of printing, etc.

Resolved, by the general assembly of the state of Ohio, That there be a further time given to the public printer, for printing the laws, resolutions and journals of the present session, proportioned to the number of pages which will be printed over and above his contract, as specified in his bond: Provided, the whole is completed by the 22d day of May next.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

A resolution respecting post-offices and post roads.

WHEREAS a direct communication between the eastern and western parts of this state, is an object of the first importance to the citizens thereof: Therefore,

Resolved, by the general assembly of the state of Ohio, That the senators in Congress from this state, be and they are hereby instructed, and the representative in Congress from this state is also requested, to use their best endeavors, to have a post-office established at the bridge over Wills' creek, in the county of Muskingum, and the road between that place and Steubenville, declared a post road; and also, to have a distributing post-office established at Steubenville.

Resolved also, That the governor of this state, be and he is hereby requested, to forward to each of the senators and the representative of this state in the Congress of the United States, a certified copy of the foregoing resolution.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 25, 1805.

A resolution on the subject of instructing the printer to print certain laws in the Scioto Gazette.

Resolved by the general assembly of the state of Ohio, That the public printer is hereby directed to publish, in the Scioto Gazette, previous to the fifteenth day of March next, the following acts, to-wit: "An act, for the relief of certain landholders." "An act, regulating county levies." "An act, to amend an act, entitled, 'An act, establishing boards of commissioners.'" And "An act, to amend an act, levying a state tax."

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

Resolution directing the secretary of state to deliver one thousand copies of the laws, to Thomas G. Bradford.

Resolved, by the general assembly of the state of Ohio, That the secretary of state shall direct Nathaniel Willis, printer, to deliver unto Thomas G. Bradford, one thousand copies of the laws of the present session and others which are directed to be printed and bound, as soon as they are printed, in sheets, first having a reasonable time to dry the said sheets.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Seaker of the senate.

February 21, 1805.

Resolution on the subject of depositing the articles purchased by the present legislature.

Resolved, by the general assembly of the state of Ohio, That the clerk of the senate and clerk of the house of representatives, be directed to furnish

the secretary of state, with an inventory of the articles purchased for the use of their respective houses, and which have not already been disposed of, and that the secretary be requested to file the same, and that Adam Betz be directed to take charge of said articles, and deliver them to the next general assembly.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

A resolution on the subject of appointing commissioners of roads.

Resolved, by the general assembly of the state of Ohio, That the following persons be and they are hereby appointed commissioners, to lay out the following roads, agreeable to the provisions of the act appropriating part of the three per cent. granted for laying out, opening and making roads within this state: From Zanesville by Newark to Franklinton, John Blair. From Chillicothe to the college township west of the great Miami, Thomas Irvin. From Lancaster to Chillicothe, Jehiel Gregory. From Chillicothe to Springfield, Simon Kenton. For the road in Columbiana county, Lewis Kenney.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

A resolution instructing the clerks to deliver to the secretary of state, certain bonds.

Resolved, by the general assembly of the state of Ohio, That the clerks of the senate and house of representatives deliver to the secretary of state, the bonds of Nathaniel Willis and Thomas G. Bradford, for printing and binding the laws of this state.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

A resolution appointing trustees of the Ohio University.

Resolved, by the general assembly of the state of Ohio, That William Creighton, junior, Joseph Buell, Benjamin Tupper, Jacob Linley and Michael Baldwin, be and they are hereby appointed trustees of the Ohio University.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

WHEREAS, it has been represented to this legislature, that the inhabitants of the county of Trumbull suffer many inconveniences for want of a port of delivery, in said county: Therefore,

Resolved, as the opinion of the general assembly of the state of Ohio, That the convenience of the people of said county of Trumbull, would be greatly promoted by having a port of delivery established at the mouth of the Cuyahoga river, and also, that the executive of this state be requested to transmit a copy of this resolution to the president of the United States.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

A resolution on the subject of directing the printer, etc.

Resolved, by the general assembly of the state of Ohio, That the public printer be and he is hereby directed, to print so much of the report of the auditor and treasurer of state, as relates to the receipts and expenditures of the year one thousand eight hundred and four, which shall be attached to the volume of the laws of the present session, also to print, by the first of August next, five hundred copies of the act, to amend the act, entitled, "An act, to provide for organizing and disciplining the militia," which the secretary of

state is hereby directed to distribute among the majors general of the several divisions, in the manner following, to-wit: to the major-general of the first division, one hundred and sixty-five copies; to the major-general of the second division, one hundred and fifteen copies; to the major-general of the third division, one hundred and ten copies, and to the major-general of the fourth division, one hundred and ten copies.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

A resolution on the subject of appointing commissioners for the county of Highland.

Resolved, by the general assembly of the state of Ohio, That James Grubb, Joseph McCoy and William Seymore, be appointed commissioners to establish the seat of justice in the county of Highland, conformably to the act establishing seats of justice.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

A resolution applauding the motives of the legislature of the state of Kentucky, expressed in their resolution, relative to removal of the obstructions to the navigation of the rapids of the river Ohio.

Resolved, by the general assembly of the state of Ohio, That this legislature view with much pleasure the laudible motives and friendly intention of the legislature of the state of Kentucky, communicated in their resolution, dated 9th of December, 1803, relative to the removal of the obstructions to the navigation of the rapids of the Ohio river, and that this legislature regret the inability of the state of Ohio (owing to the present state of its revenue) to co-operate, at this time, with the state of Kentucky, in a measure so highly interesting to the two states and of so much importance to the community generally.

Resolved, That the governor be requested to transmit a copy of the above resolution, to the governor of the state of Kentucky.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JOSEPH KERR,
Speaker pro tempore of the senate.

December 24, 1804.

A resolution on the subject of directing the printer to print certain laws.

Resolved, by the general assembly of the state of

Ohio, That the public printer be and he is hereby directed to print fifteen hundred copies of the laws and resolutions of the present session, and one hundred and eighty copies of the journals of each house, to be distributed as the legislature shall direct, and that he be directed to print the following laws by their title only, to-wit: An act, to alter the boundary line between the counties of Jefferson and Washington. An act, to empower the trustees named in the last will and testament of Doctor William Burnet, the elder, to dispose of certain lands. An act, authorizing the town of Marietta to preserve the banks of the rivers in said town. An act, to incorporate the town of Cincinnati. An act, authorizing Zaccheus Biggs and Zaccheus A. Beatty, to erect a bridge over Wills' creek. An act, for the relief of Lucy Petit. An act, for the relief of Sally Mills. An act, for the relief of Jane Wilson. An act, for the relief of Isaac Helmich. An act, to incorporate the owners and proprietors of half million acres of lands lying south of Lake Erie, in the county of Trumbull. An act, incorporating the trustees of the Erie literary society. An act, incorporating the subscribers of the Miami exporting company. An act, for the relief of Hannah Willis. An act, establishing an University in the town of Athens. An act, to incorporate the town of Chillicothe, in the county of Ross. An act, to incorporate the town of Marietta. An act, to provide for the locating a college township, in the district of Cincinnati. An act, allowing compensation to the commissioners for appraising the college lands, in the county of Washington. An act, for establishing the permanent seat of justice, in the county of Adams. An act, to establish the seat of justice,

in the county of Belmont. An act, allowing compensation to James Denny. An act, appropriating money for the payment of debts due from the state of Ohio, and for making appropriations for the year one thousand eight hundred and three. An act, to provide for organizing and disciplining the militia. An act, making appropriations for the year one thousand eight hundred and four.

Resolved, That the public printer be directed to print the following laws in the volume of the laws of the present session, that are hereafter mentioned, to-wit: An act, to provide for the commissioning of certain officers. An act, to establish the county of Scioto. An act, for the division of the counties of Hamilton and Ross. An act, allowing compensation to the members of the convention who formed the constitution, to their officers and to the members of the general assembly. An act, for erecting a part of the counties of Jefferson and Washington, into a separate county, by the name of Columbiana. An act, establishing seats of justice. An act, regulating marriages. An act, for the division of the county of Washington. An act, to establish the county of Franklin. An act, regulating the mode of petitioning the legislature, in certain cases. An act, empowering the treasurer of the state to receive from the secretary of the treasury of the United States, monies granted for opening roads within the state. An act, to provide for the leasing of certain lands therein named. An act, providing for the election of sheriffs and coroners, in certain cases. An act, regulating the mode of taking the enumeration of the white male inhabitants, above twenty-one years of age. An

act, to regulate elections. An act, creating the office of county surveyor and defining the duties thereof. An act, establishing the salaries of certain officers therein named. An act, providing for the recording of deeds, mortgages and other conveyances of land. An act, declaring the assent of the general assembly of the state of Ohio, to an amendment proposed by the congress of the United States, in lieu of the third paragraph of the first section of the second article of the constitution of the United States. An act, for the limitation of actions. An act, to regulate black and mulatto persons. An act, to establish the county of Muskingum. An act, to provide for the election of a representative in congress. An act, to provide for the incorporation of townships. An act, regulating the public salt-works. An act, to provide for the partition of real estates. An act, authorizing aliens to hold lands in this state by purchase or otherwise. An act, to regulate the admission and practice of attorneys and counselors at law. An act, appropriating part of the three per cent. granted for laying out, opening and making roads within this state. An act, fixing the ratio of representation throughout the state. An act, establishing boards of commissioners. An act, levying a state tax. An act directing the mode of proceeding in courts of chancery. An act, providing for the erection of public buildings. An act, allowing compensation to the associate judges and for other purposes, and an act, for opening and regulating roads and highways.

Resolved, That the public printer be directed to print the constitution of the United States, the ordinance for the government of the territory of

the United States, northwest of the river Ohio; the act of congress, entitled, "An act, to enable the people of the eastern division of the territory northwest of the river Ohio, to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states, and for other purposes." The constitution of the state of Ohio. The act, entitled an act in addition to and in modification of the propositions contained in the act, entitled, "An act, to enable the people of the eastern division of the territory of the United States, northwest of the river Ohio, to form a constitution and state government and for the admission of such state into the Union on an equal footing with the original states, and for other purposes;" and also the act of congress, entitled, "An act, respecting fugitives from justice and persons escaping from the service of their masters."

MICHAEL BALDWIN,

Speaker of the house of representatives.

JAMES PRITCHARD,

Speaker of the senate.

February 22, 1805.

State of Ohio.

In General Assembly.

WHEREAS the governor of this state hath transmitted to this assembly a resolution of the legislature of the commonwealth of Massachusetts, instructing their senators in the congress of the United States, to take all proper and legal measures to obtain an amendment to the constitution of the United States, so that representatives may be apportioned among the several states according

to the number of their free inhabitants respectively, accompanied with a request that similar measures may be adopted by this legislature.

The general assembly aforesaid, considering that the constitution of the United States in some of its leading features, is the result of compromise and mutual balancing of interests between the several states, particularly that clause which admits a partial representation of slaves; that the inequality in point of representation complained of, when we consider that those states possessing the largest number of slaves, also hold the comparative rank of large states, and are entitled only to an equal representation with the small states in the senate, does not exist at present; and that to interfere, at this time, with that part of the constitution which may be viewed as securing privileges to particular states, would tend to excite state jealousies, destroy that confidence and good understanding which now prevails, and endanger the union of the states: Therefore,

Resolved, That the said amendment to the constitution of the United States, is inexpedient, and does not meet the approbation of this legislature.

Resolved, That the governor of this state be requested to transmit to the governor of the commonwealth of Massachusetts, a certified copy of the above resolution.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JOSEPH KERR,
Speaker pro tem. of the senate.

December 26, 1804.

A resolution on the subject of appointing commissioners, to establish seats of justice in Highland and Champaign counties.

Resolved, by the general assembly of the state of Ohio, That the persons hereinafter named, be and they are hereby appointed commissioners, agreeable to the provisions of an act, entitled, "An act, establishing seats of justice," viz: For the county of Champaign, Ichabod B. Halsey and George Harlin, of the county of Warren, and William McClelland, of the county of Butler.

MICHAEL BALDWIN,
Speaker of the house of representatives.

JAMES PRITCHARD,
Speaker of the senate.

February 22, 1805.

Resolution respecting post-offices, etc.

WHEREAS a direct communication, between the eastern and western parts of this state, is an object of the first importance to the citizens thereof: Therefore,

Resolved by the general assembly of the state of Ohio, That the senators and representative in congress, from this state, be and they are hereby instructed and requested, to use their best endeavors, to have a post road established from Zanesville to Springfield, in Green county, by way of Newark, in Fairfield county; Franklinton, in Franklin county, and from the Yellow Springs, in Green county, to Dayton, in Montgomery county,

also from the Round Bottom, on the Little Miami, by way of Whitehaven, in the county of Clermont, to West Union, in the county of Adams, and from the town of New Market, in the county of Ross, to the town of Whitehaven in the county of Clermont, and post-offices to be established at each of the aforesaid points.

Resolved also, That the governor of this state, be and he is hereby requested, to forward to each of the senators and representative of this state, in the congress of the United States, a certified copy of the foregoing resolution.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

January 28, 1805.

State of Ohio. In General Assembly.

WHEREAS his excellency the governor of this state, hath laid before this legislature, certain resolutions of the state of Kentucky, proposing an amendment to the constitution of the United States, whereby the judiciary powers of the United States will be confined to cases in law and equity, arising under the constitution and laws thereof, and treaties made or which shall be made under their authority, cases affecting ambassadors, other public ministers and consuls, cases of admiralty and maritime jurisdiction, controversies to which the United States shall be a party, to controversies between two or more states.

The general assembly aforesaid, viewing the constitution of the United States to be founded on the principle of the general interest of the union, and that the several states, ratifying the same, have mutually agreed to surrender a part of those rights which they possessed as individual states, in order to promote the interest of the whole, and notwithstanding the peculiar situation of one state may be such, that an alteration of that constitution, as it respects the judiciary powers, might operate to its advantage, yet the general interest of the union forbids such an alteration, in as much as we conceive that part of the constitution of the United States, which secures to the citizens of different states the right of having their causes tried before a court entirely independent and wholly free from the influence of any particular state, to be one of its most important provisions.

For these reasons and because we conceive that too frequent alterations of the constitution of the United States, may tend to unhinge the principles on which it is founded: Therefore,

Resolved by the general assembly of the state of Ohio, That the amendment proposed by the state of Kentucky, to the constitution of the United States, is inexpedient and does not meet the approbation of this legislature.

Resolved also, That the governor be and he is hereby requested, to forward a certified copy of the foregoing resolution, to each of the senators and the representative from this state, in the congress of the United States, and to the chief magistrate of the state of Kentucky.

MICHAEL BALDWIN,
Speaker of the house of representatives.

DANIEL SYMMES,
Speaker of the senate.

February 20, 1805.

*Resolution on the subject of the resolution sent from
the state of North Carolina.*

State of Ohio. In General Assembly.

WHEREAS his excellency the governor of this state hath laid before the legislature thereof, certain resolutions of the state of North Carolina, proposing an amendment to the constitution of the United States, whereby congress will be empowered to pass a law to prevent the further importation of slaves or people of color into the United States.

The general assembly aforesaid, considering the existence of slavery in the United States as an evil of the most alarming nature, on the gradual abolishing of which, in a great measure, depends our future prosperity and happiness as a nation; and well aware that any additional importation of that unhappy race of men will, independent of the outrage committed on them, entail a lasting curse on the community, therefore view the sentiments expressed in the resolution of the state of North Carolina, as reflecting the highest honor on that state; but as that period will shortly arrive, when congress will possess the power to act as they may think proper on this subject; and notwithstanding

that this inhuman practice is impolitic in the extreme, and altogether repugnant to the principles on which our government is founded, yet, as it was a mutual agreement between the states forming the federal compact, that congress should not possess the power of preventing any of the states, then existing, from carrying on a traffic of this kind for a given period; and whereas the fifth article of the constitution of the United States expressly declares, that no alteration of that constitution shall take place during that period, so as to affect this provision: Therefore,

Resolved, by the general assembly of the state of Ohio, That the amendment proposed by the state of North Carolina to the constitution of the United States, is inexpedient at this time.

Resolved, That the senators from this state in the congress of the United States, be and they are hereby instructed, and the representative in congress from this state, is also requested to use their best endeavors to have a law passed, laying a tax of ten dollars on every slave imported into the United States, and also to prohibit their importation into any of the territories thereof.

Resolved also, That the governor of this state, be and he is hereby requested, to forward to each of our senators and representatives in congress, and also to the governor of the state of North Carolina, a certified copy of the foregoing resolution.

MICHAEL BALDWIN,

Speaker of the house of representatives.

JAMES PRITCHARD,

Speaker of the senate.

February 22, 1805.

AUDITOR AND TREASURER'S REPORT

Dr.	Appropriations for	
To amount paid to the members of the legislature.....		\$8,363 15
To Nathaniel Willis, the balance of his account for printing list of non-residents' lands, taxed for 1803.....		41
To James Denny, for services exploring the Salt-lick township, and other purposes,		41
To George Renick, for stationery supplied the legislature.....		112 92 5
To Robert Parish, for firewood, do. do.....		57
To Edward Sherlock, for candles, do. do....		1 50
To amount paid the commissioners, for their services appraising the college townships of Athens.....		90
To amount paid David Abbot, his appropriation.....		7 60
To the secretary of state, paid him for stretching the map of the state.....		7
To amount paid William Ludlow, for his services locating the Miami college townships		22
To John Carlisle, amount of his appropriation for paper supplied the legislature...		1 17
To amount paid Arthur St. Clair, his appropriation.....		18 34
To amount paid Thomas Gibson, for stationery and postages.....		34 87
		\$8,797 55 5

ON RECEIPTS AND EXPENDITURES, 1804.

	Cr.
By the following appropriations made by the legislature for the year, 1804, viz:	
For the governor, judges of the supreme court, president of the courts of common pleas, secretary of state, treasurer and auditor	7,350
For Nathaniel Willis, printing the laws and journals, and other printing done for the general assembly, amount of his account.....	2 123 12 5
For the members and officers of the general assembly	9,000
For George Renick, stationery, not to exceed	112 92 5
For the secretary of state, distributing the laws and journals, not exceeding.....	250
For Adam Betz, firewood and candles.....	3 25
For the secretary of state, stretching the map of the state.....	7
For the auditor of public accounts, postage...	14 87
For the secretary of state, transporting books from Cincinnati to Chillicothe, and receiving and transporting box of books, from the mouth of Scioto to Chillicothe, and also, for two seals to be furnished the county of Muskingum.	

	\$18,861 17 0

Dr.	
To amount brought forward.....	\$8,797 55 5
To amount paid Adam Betz, for candles supplied the legislature.....	3 25
To amount paid the secretary of state, for stationery.....	40
To amount paid Gabriel Nourse, for abstract of the refugee lands, and the reserved sections in the military district.....	20
To amount paid John S. Willis, attorney at law, to prosecute sheriffs.....	20
To amount paid Nathaniel Willis, printing the laws, journals, etc., of the late legislature.....	2,123 12 5
To amount paid the secretary of state, for distributing laws.....	250
To amount paid Henry Brush, attorney at law, to prosecute the sheriff of Fairfield	5
To amount paid the governor from the 30th September, 1803, to the 30th Septem- ber, 1804	900
To the judges of the supreme court paid them from the 30th of September, 1803, to the 30th September, 1804, their re- spective salaries,.....	2,700
To amount paid R. J. Meiggs, a late judge of the supreme court, the fractional part of his salary, ending on the 10th of November, 1804,.....	100
To amount of payments to the presidents of the courts of com-	
	\$14,958 78 0

	Cr.
By amount of appropriations brought forward.....	\$18,861 17 0
For James Wells, Samuel Carpenter and Henry Abrams, appraising college townships, to each, \$30.....	90
For the agent of the salt-works, his salary...	150
For Robert Parish, for firewood,.....	57
For John Carlisle, stationery.....	1 17
For David Abbot, postage of duplicate.....	7 60
For James Denny, exploring Salt-lick township, etc.....	41
For the adjutant-general and brigade-majors	600
For the secretary of state, stationery.....	40
For the auditor of public accounts, do.....	20
For Arthur St. Clair, late attorney general	18 34
For Nathaniel Willis, balance of printing non-resident list of taxes, for 1803.....	41
Auditor of public accounts, postages.....	14 60
William Ludlow, locating the Miami college township.....	22
Edward Sherlock, candles for the senate.....	1 50
Auditor of accounts for prosecuting collectors	100
Auditor of accounts to delray the expenses of procuring certified copies of lands entered in the United	

\$20,065 38 0

Dr.	
To amount brought forward.....	\$14,958 73 0
mon pleas, their respective salaries, from 30th September, 1803, to the 30th September, 1804.....	2,250
To amount of payments to the secretary of state, his salary from the 30th of Sep- tember, 1803, to 30th September, 1804	400
To amount paid the treasurer, salary from the 30th September, 1803, to the 30th September, 1804.....	400
To amount paid the auditor, his salary from 30th September, 1803, to the 30th Sep- tember, 1804.....	700
To amount paid James Denny, late agent for salt-works, his salary, ending the 1st of May, 1804.....	150
Balance	1,356 45
	<hr/>
	\$20,215 28 0

	Cr.
To amount of appropriations brought forward.....	\$20,065 38 0
States military districts, the refugee tract, lands sold in this state by the United States, prior to the 30th June, 1802, not to exceed.....	150

	\$20,215 38 0

Dr.

Contingencies for

1804

February 18. To amount paid Nathaniel Willis for printing of bills on the treasury	\$19 74
September 30. To amount paid the governor,	25
October 1. To N. Willis for printing bills,	6
November 1. To amount of postages paid Jos. Tiffin.....	11 95
November 3. To amount paid Samuel H. Smith, printer, in the city of Washington, for publishing certain extracts of the revenue law.....	20 40
To amount paid James Denny for surveying and laying off certain lots in Salt-lick township.....	104 88
Balance.....	812 03
	<hr/>
	\$1,000 00

the year 1804.	Cr.
By amount appropriated for contingent expenses, subject to the order of the governor.....	\$1,000 00
	<hr/>
	\$1,000

THE TREASURER OF THE STATE OF OHIO, Dr.

To cash on hand at the time of making his report to the legislature, on the 7th of December last.....	\$738 53 4
To taxes, etc., received from the time of making his report on the 7th of December to the examination of his books by the committee, on the 9th of February following.	10,356 52 5
To taxes, etc., received since the 9th of February	5,312 9 7
	<hr/>
	\$16,407 15 6
To balance of cash as per contra.....	4 57 5

Contra,	Cr.
By audited certificates redeemed with cash, from the 7th of December last, to the 9th of February, including interest.....	\$1,877 70
By audited certificates received in part pay- ment of taxes, from the 7th of Decem- ber to the 9th of February, including interest.....	9,216 52 3
By audited certificates received in part pay- ment of taxes, since the 9th of Febru- ary, including interest.....	5,001 98 2
By audited certificates redeemed with cash, since the 9th of February, including interest.	306 37 6
By balance of cash on hand.....	4 57 5
	<hr style="width: 100%; border: 0.5px solid black; margin-bottom: 5px;"/> \$16,407 15 6

*To the honorable the Senate and House of Repre-
sentatives of the State of Ohio.*

The treasurer begs leave to observe, that although the accounts are not footed up in this order, in order to give an accurate statement of the receipts and expenditures of the public money from time to time, he conceived it necessary to state them thus.

The committee appointed on behalf of the last legislature, having reported only from the treasurer's report made on the 7th of December, and not from the situation of the books, at the time

the examination took place, which was on the 9th of February.

All which is respectfully submitted.

WM. McFARLAND,
State Treasurer.

Treasurer's Office Chillicothe,

December 5, 1804.

Secretary of State's Office.

Chillicothe, Ohio.

I hereby certify, that the foregoing laws and resolutions of the general assembly of the state of Ohio, are correct copies of the rolls in my office.

*Given under my hand, the thirtieth day of July,
one thousand eight hundred and five, and of
the independence of this state the third.*

WILLIAM CREIGHTON, JR.

Secretary of State.

*To the legislature }
of the state of Ohio. }*

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