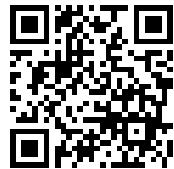

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ACTS

PASSED AT THE

FIRST SESSION

OF THE

SEVENTH GENERAL ASSEMBLY

OF THE

STATE OF OHIO,

BEGUN AND HELD IN THE TOWN OF CHILLICOTHE,

DECEMBER 5th, 1808.

AND IN THE SEVENTH YEAR OF THE SAID STATE.

VOL. VII.

PUBLISHED BY AUTHORITY.

CHILLICOTHE :

PRINTED BY J. S. COLLINS & Co.

.....
1809

L A W S, &c.

CHAPTER I.

AN ACT for disciplining the militia.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That each and every able bodied white male person of this state, who is or shall be of the age of eighteen and under the age of forty-five years, except as hereinafter excepted, shall severally and respectively, be enroled in the militia, by the captain or commanding officer within the bounds of whose company such person may reside, within twenty days next after he shall be informed of such residence, and at all times hereafter, such commanding officer shall enrol every such person as aforesaid; and also those who may from time to time, arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty-five, except as hereinafter excepted, who shall come to reside within the bounds of his company, and shall, without delay, notify such person of said enrolment, by a non-commissioned officer of the company, by whom such notice may be proven; and every person so enroled and notified shall, within twelve months after he shall have been a resident of this state, or sooner, if called into actual service, provide himself with a good musket, fusee or rifle, a knapsack and two spare flints, a pouch, with a box therein to contain not less than twenty-four cartridges, suited to the bore of his musket or fusee, each cartridge to contain a proper quantity of powder and ball, or pouch and powder horn, with twenty-four

Persons subject to perform militia duty.

Commanding officers of companies to enrol the persons coming to reside within their bounds.

And to notify them of such enrolment.

To arm within 12 months.

Arms and accoutrements.

balls suited to the bore of his rifle, and a quarter of a pound of powder; and every enrolled person shall so appear armed, accoutred and provided, when called into actual service, except when called on to exercise only, at which time he may appear without his knapsack or ammunition. The field officers shall each be armed with a sword or hanger, and the company officers with a sword, hanger or espontoon; and every person so enrolled, and providing himself with arms, ammunition and accoutrements, required as aforesaid, shall hold the same exempt from all suits, distresses, executions or sale for debt, damages or the payment of taxes.

Officers how
armed.

Arms, &c.
exempt
from execu-
tion.

Who are ex-
empt from
militia duty.

Sect. 2. *Be it further enacted,* That all ministers of the Gospel, licensed to preach according to the rules of their sect; all judges of the supreme court, and presidents of the courts of common pleas; all keepers of jails, and custom-house officers, with their clerks; all post-officers, and persons employed in the care and conveyance of the mail of the post-office of the United States; all ferry men employed at any ferry on the post-road, and all such other persons as are exempt by the laws of the United States; shall be, and they are hereby exempted from military duty.

State divided
into four di-
visions.

Sect. 3. *Be it further enacted,* That the state shall be divided into four divisions, as follows, to wit; the counties of Hamilton, Butler, Warren, Clermont, Montgomery, Green, Miami, Preble, Champaign and Dark, shall compose the first division; the counties of Adams, Scioto, Ross, Highland, Franklin, Delaware, Knox and Richland, shall compose the second division; the counties of Washington, Gallia, Athens, Fairfield, Muskingum, Licking, Tuscarawas and Belmont, shall compose the third division, and the counties of Jefferson, Columbiana, Wayne, Stark, Trumbull, Geauga, Portage, Ashtabula and Cuyahoga, shall

compose the fourth division. Each division shall be divided into brigades, as follows, to wit: in the first division the counties of Hamilton and Clermont, shall compose the first brigade; the county of Warren, shall compose the second brigade; the county of Butler, shall compose the third brigade; the counties of Green and Champaign, shall compose the fourth brigade; the counties of Montgomery, Miami, Preble and Dark, shall compose the fifth brigade: In the second division, the counties of Adams and Highland, shall compose the first brigade; the counties of Ross and Scioto, shall compose the second and third brigades; the counties of Franklin, Knox, Richland and Delaware, shall compose the fourth brigade: In the third division, the counties of Washington, Athens and Gallia, shall compose the first brigade; the counties of Fairfield and Licking, shall compose the second brigade; the county of Belmont, shall compose the third brigade; the counties of Muskingum and Tuscarawas, shall form the fourth brigade: In the fourth division, the county of Jefferson, shall compose the first brigade; the counties of Columbiana, Wayne and Stark, shall compose the second brigade; the counties of Trumbull, Geauga, Portage, Ashtabula and Cuyahoga, shall compose the third brigade: *Provided*, That when any entire brigade, regiment, battalion or company has been or may be set off, the officers, in such, brigades, regiment, battalion, or company, shall retain their command; and if the number of such brigade, regiment, battalion, or company, shall be changed by such alteration, from the number in which any officer therein was commissioned, or if the commission of any brigadier-general, colonel, major, or company officer, does not express or designate his proper command, agreeable to the provisions of this act, such officer shall apply to the commandant of the division.

Divisions divided into brigades.

Continue.]

Proviso.

Major-generals to endorse alterations on the back of commissions. on to which he belongs and have the necessary alteration endorsed on the back of his commission, and the commandant of the division shall, on due proof being made to him of the necessity of such alteration, make the proper endorsement, and certify the same, and shall keep a record of such endorsement and forward the same, with a rank roll of his division, to the adjutant-general, annually, and such endorsement shall vest such officer with the same authority as if he was re-commissioned ;

And keep a record of such endorsement. and where a new brigade, regiment, battalion, or company district has been, or may be set off, and composed of a part of two or more brigades, regiments, battalions, or companies, the officers residing within such district, shall retain their respective commands until other officers can be elected and commissioned ; and each brigade, regiment battalion and company, shall be numbered according to the time of their first organization, if practicable—if not, to be decided by lot, and a record of such number made in the adjutant-general's office ; and when in the field, or in the service of the state, each division, brigade, regiment, battalion and company, shall take rank according to their numbers, reckoning the first or lowest number, highest in rank. Each division shall consist of not less than two, nor more than four brigades ; each brigade not less than two, nor more than six regiments ; each regiment, of two battalions ; each battalion not less than four, nor more than eight companies, and each company shall consist of sixty-four privates ; *Provided always*, That if local circumstances should require it, a company may be formed of forty, or extended to eighty rank and file.

New brigade &c. set off.

Officers to retain their commissions till others are elected.

Each division, &c. to take rank according to their number.

Divisions, &c. what to consist of.

Proviso.

Officers to each division.

Sect. 4. *Be it further enacted*, That the militia of this state shall be officered as follows, viz : To each division there shall be one major-general, who shall be allowed two aids-de-camp and one

quarter-master general; aids-de-camp to be appointed by the major-general. To each brigade there shall be one brigadier-general, with one brigade-inspector, to serve as brigade-major, and one quarter-master of brigade, to be appointed by the brigadier-general. To each regiment, one colonel; to each battalion, one major; to each company, one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer, one fifer. The regimental staff shall consist of one adjutant, one quarter-master, one clerk, one paymaster, one surgeon, one surgeon's mate, one sergeant major, one quarter-master sergeant, one drum-major and one fife-major; to be appointed by the commandant of the regiments; and the governor shall forthwith make out and transmit a colonel's commission to each colonel who now holds the office of lieutenant-colonel, agreeably to the date of his former commission.

Staff.

Lieut. colonels to be made colonels.

Sect. 5. *Be it further enacted,* That when any new company is set off, or any vacancies shall happen in any company already set off, the major or commanding officer of the battalion to which such new company or vacancy belongs, shall within twenty days after being informed thereof, notify the electors of such company, by written notifications, set up in three public places within such company's district, at least ten days previous to the day of election, directing them to meet at a certain time and place, as near the centre of such company as may appear convenient, stating the officers to be elected, and for what station; and the qualified electors within such company district, shall meet at the time and place pointed out in such notice, and shall proceed to choose three judges of the election, and one clerk, by a plurality of the votes present; any one of the persons elected judges aforesaid, shall administer to the other two judges and clerk, and either of the

Mode of election.

Captain, &c.

Where the elections shall be held.

Form of oath &c. viz: " You do solemnly swear or affirm (as the case may be) that you will faithfully and impartially receive, count and make return of the votes legally given for a captain, lieutenant or ensign, (as the case may be) in the militia, for the district in which you are appointed judge, or clerk (as the case may be);" and the judges shall proceed to receive the ballots from the qualified electors of such district, between the hours of ten o'clock, A. M. and three o'clock, P. M. of said day, except to fill vacancies. The clerk shall write down the name of each elector, in a book prepared for that purpose; and at the close of the election, the judges and clerk shall count the ballots and compare them with the poll-book, and the person having the highest number of votes shall be declared duly elected, to the people present; and shall forthwith certify, under their hands and seals, to the commanding officer of the battalion, the name of the person or persons elected, to each their proper title of captain, lieutenant or ensign, with the number of the company, battalion, regiment, brigade and division to which they belong; and the commanding officer of such battalion shall, at the expiration of ten days from the day of election, certify the same to the governor, who shall forthwith commission each person so elected, and transmit the commission to the commandant of said battalion, who shall deliver the same to the person for which it is issued: *Provided*, That when any company in this state, shall neglect or refuse to meet and elect their officers, agreeable to the provisions of this act, such company may be attached to the next company, or companies, adjoining, by the next court of enquiry.

When the election shall be held.

The person elected to be named on the spot.

And the governor shall issue his commission.

In case of neglect, &c. of electors. Court of enquiry may attach the company to other companies.

Election of major.

judges to him, the following oath or affirmation, viz: " You do solemnly swear or affirm (as the case may be) that you will faithfully and impartially receive, count and make return of the votes legally given for a captain, lieutenant or ensign, (as the case may be) in the militia, for the district in which you are appointed judge, or clerk (as the case may be);" and the judges shall proceed to receive the ballots from the qualified electors of such district, between the hours of ten o'clock, A. M. and three o'clock, P. M. of said day, except to fill vacancies. The clerk shall write down the name of each elector, in a book prepared for that purpose; and at the close of the election, the judges and clerk shall count the ballots and compare them with the poll-book, and the person having the highest number of votes shall be declared duly elected, to the people present; and shall forthwith certify, under their hands and seals, to the commanding officer of the battalion, the name of the person or persons elected, to each their proper title of captain, lieutenant or ensign, with the number of the company, battalion, regiment, brigade and division to which they belong; and the commanding officer of such battalion shall, at the expiration of ten days from the day of election, certify the same to the governor, who shall forthwith commission each person so elected, and transmit the commission to the commandant of said battalion, who shall deliver the same to the person for which it is issued: *Provided*, That when any company in this state, shall neglect or refuse to meet and elect their officers, agreeable to the provisions of this act, such company may be attached to the next company, or companies, adjoining, by the next court of enquiry.

Sect. 6. *Be it further enacted*, That when the office of major shall become vacant, or a new battalion set off, the colonel or commanding offi-

cer. of the regiment shall forthwith notify the commissioned officers of such battalion by written notice, set up in at least two public places in each company district of such battalion, at least ten days previous to the day of election, directing them to meet at a certain time and place specified in said notice, for the purpose of electing a major for said battalion ; at which time and place the

Mode.

colonel or commanding officer of the regiment shall attend in person, and when met, shall take to his assistance two persons having the qualifications of electors at that election, who shall take the oath or affirmation pointed out in the fifth section of this act ; which oath or affirmation the colonel or commanding officer of the regiment is hereby authorised to administer, and the judges aforesaid shall proceed to receive the ballots between the hours of 11 o'clock, A. M. and four o'clock, P. M. of said day, except to fill vacancies ; and the commandant aforesaid shall keep a poll book, in which the name of each elector shall be written, and at the close of the election, the judges shall count the ballots and make out a statement of the votes given, which, together with the poll book, shall by the said commandant, be deposited with the clerk of the regiment, who shall file the same in his office, and the commandant of the regiment shall in presence of the judges and people present, declare the person having the highest number of votes duly elected, and if no notice of a contest is received within ten days, he shall certify officially to the governor, the name of the person thus elected, with the number of the battalion, regiment, &c. to which he belongs : and the governor shall issue a commission accordingly, and transmit the same to the commandant of the regiment, who shall deliver it to the person to whom it issued.

The colonel or commanding officer to be present.

Time of election.

Manner of declaring the election.

Manner of certifying to the governor, who shall issue the commission accordingly

Sect. 7. *Be it further enacted,* That when the

Election of colonel.

B

office of colonel shall become vacant, or a new regiment set off, the commanding officer of brigade shall cause an election to be held in each battalion agreeable to the provisions of the sixth section of this act : at which election he shall attend in person and perform the same duties required of a colonel in case of the election of major ; and when the office of general of brigade becomes vacant, or a new brigade set off, the commandant of division shall cause an election to be held in each regiment, agreeable to the provisions of the sixth section of this act ; at which election he shall attend in person, and perform the same duties required of a brigadier general, in case of the election of colonel : *Provided*, That in all elections held under this act, where two or more persons have the highest and equal number of votes, the judges of the election shall decide by lot who is duly elected ; and such person shall be declared duly elected and commissioned accordingly.

Of general of brigade.

Judges of election to decide.

Vacancy to be filled.

Notice by proclamation.

Electors present to fill.

Sect. 8. *Be it further enacted*, That in case of any vacancy which may take place by promotion or otherwise on the day of election, the officer whose duty it is to preside, or the judges of the election, shall give notice of such vacancy by proclamation ; and the electors present shall immediately proceed to fill such vacancy ; and when at any company, battalion or regimental muster or musters of officers, notice shall be given by proclamation as aforesaid of any vacancy which may have taken place, the qualified electors are hereby authorised forthwith to hold an election to fill such vacancy, which shall be conducted in every respect agreeable to the provisions of the preceding sections of this act : *Provided*, That the officer, whose duty it is to forward certificates of election returns to the governor, shall in no case forward such certificate until the expiration of ten days after the close of the election ; and in case of

a contest shall retain said return until after a decision is had thereon. **Contest.**

Sect. 9. *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 shall give notice thereof in writing to the officer who holds the election return, within ten days after such election; and shall in like manner within the same time, notify the person or persons whose election he means to contest (expressing the points on which he means to rely) and the officer holding the election returns, shall summon the parties to appear before three or more 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 and conclusive. **Notice to be given by the contestor.**

Sect. 10. *Be it further enacted,* That no person shall be eligible to a command in the militia, who is not a citizen of the United States, and has not resided within the proper county the time prescribed by the twenty-seventh section of the first article of the constitution of this state; and every officer commissioned under former acts, or by virtue of this act, shall previous to entering on the execution of his respective office, take an oath to support the constitution of the United States, and of this state, and also an oath of office; a certificate of which shall be endorsed on the back of the commission, by the person administering the same. **Before whom to appear.**

Sect. 11. *Be it further enacted,* That each battalion shall have a stand of colors, to be provided by the field officers of the regiment, with the number of battalion, regiment, brigade and division inserted thereon, and each company with a drum and fife, or bugle horn; to be provided by **Citizenship of the U. S. necessary to the eligibility of being elected, &c.**

Colours, &c. how to be provided.

the commissioned officers of the company, to be compensated therefor as herein after provided.

Brigade districts may be altered and how.

Also regimental districts.

Also battalion districts.

&c.

&c.

Artillery & horse, &c. may be attached to regiments.

Sect. 12. *Be it further enacted,* That whenever it becomes necessary from an increase of population or other circumstances, to create new, or alter old brigade districts, the general and regimental officers of the division to which such brigade belongs, or a majority of them; in which the bounds are to be altered, shall meet under the direction of the commanding officer of the division; who shall attend such meeting, and make such alterations or create new districts as may be thought necessary, and transmit a copy of such alterations forthwith to the first aid-de-camp of the division who shall record the same. In like manner, the field officers of any brigade, or a majority of them shall have power to alter old, or create new regimental districts, who shall meet for that purpose under the direction of the commander of the brigade, who shall attend such meeting in person; and all alterations thus made, shall be recorded by the clerks of the respective regiments: Also, in like manner, the field officers and captains of a regiment, or a majority of them, may alter old, or create new battalion districts, to meet for that purpose, under the direction of the commanding officer of the regiment, who shall attend such meeting; and also the commissioned officers of a battalion, or a majority of them, may meet under the direction of the commanding officer of the battalion, for the purpose of erecting new, or altering old company districts; and all alterations thus made, shall be recorded by the clerk of the regiment.

Sect. 13. *Be it further enacted,* That there may be one company of artillery, and one troop of horse attached to each regiment, when either or both of said companies can, with convenience, be raised and equipped within such regiment, to

be raised by voluntary enrolment, in manner as shall be directed by the commandant thereof; and one company of riflemen, light infantry, or grenadiers, annexed to each battalion, when in the opinion of the commandant thereof, either of said companies can be raised without reducing the district companies below the number of forty privates, also to be raised by voluntary enrolment, in such manner as the commandant of the battalion shall direct; each of said companies to be composed of men between the age of eighteen and forty years; and the commanding officer of the regiment, or battalion, (as the case may be) shall direct elections to be held for company officers, as in other cases, agreeable to the provisions of this act, and shall return the names of the officers so elected, in like manner, to the governor, who shall commission them accordingly. And the said companies, when raised, shall wear, while on parade, such uniform as may be agreed upon by a majority of the company; and the officers, when commissioned and qualified, shall proceed to appoint their non-commissioned officers and musicians, and from time to time shall fill such vacancies as may happen in their companies: *Provided*, It shall not reduce the district companies in said battalion or regiment, below the number aforesaid. And when any captain of artillery, troop of horse, light infantry, grenadiers, or riflemen, shall enrol any person out of any company, he shall forthwith notify the commanding officer of the company from which such person was enrolled, in writing; and if it shall be made to appear, that such company was reduced below the number aforesaid, the commanding officer of such light company shall order the person so enrolled back to the company from which he was enrolled. The said companies shall, in all respects, be subject to the same rules, regulations

One company of riflemen, light infantry, or grenadiers annexed to each battalion.

Election of officers.

Uniform of companies.

Commandant to appoint non-commissioned officers.

Proviso.

and orders, as the rest of the militia, except as hereinafter excepted.

Artillery how officered. Sect. 14. *Be it further enacted,* That to every company of artillery, there shall be one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer, one fifer, and not less than twenty, nor more than thirty matrosses; the non-commissioned officers shall be armed with a sword or hanger, and each private or matross, shall be armed with a fusee, bayonet and belt, with a cartridge box to contain twenty-four cartridges, suited to the bore of his fusee; and one piece of artillery to each company. And to each troop of horse, there shall be one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, one trumpeter and not less than thirty, nor more than sixty privates; the commissioned officers shall furnish themselves with good horses, saddles and holsters, and shall be armed with a sword and a pair of pistols, and each dragoon shall provide himself with a serviceable horse, not less than fourteen and a half hands high, a good saddle and holsters, bridle, mail-pillion, a breastplate and crupper, a pair of boots and spurs, and armed with a sabre, a pair of pistols, and a cartridge box to contain twelve cartridges for pistols. And to each company of grenadiers, light infantry and rifle men, there shall be one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and one fifer, and not less than thirty, nor more than sixty-four privates; the commissioned officers of such companies to be armed with swords or hangers; and every company of grenadiers, or light infantry, shall be armed with sufficient muskets, or fusees, bayonets and belts, with a cartridge box to contain twenty-four cartridges suited to the bore of their muskets or fusees; and each company of rifle men shall be armed with good rifles, pouches and powder-horns.

Officers how armed.

Troop how officered.

Officers how equipped.

Privates how equipped.

Grenadiers, &c. how officered.

How many men to compose the company.

Commissioned officers how armed.

Privates how armed.

Sect. 15. *Be it further enacted,* That there shall be a muster of each and every company which now exist, or shall be created by the provisions of this act, on the first Saturday of April and September, in each and every year; and in like manner the first battalion of each first regiment shall meet on the second Tuesday of April; the second battalion of said regiment on the succeeding Thursday; the first battalion of the second regiment on the succeeding Saturday, and the second battalion of the second regiment on the succeeding Tuesday, in each and every year; and where there shall be more than two regiments to a brigade, the battalion musters shall be holden in succession, as aforesaid, leaving one day only between each muster, Sunday excepted: *Provided,* That where there may be an odd battalion to any brigade, the muster thereof shall be last held in like succession, and the first regiment of each brigade shall muster on the third Tuesday of September, in each and every year, and the second regiment shall meet on the succeeding Thursday; and if there should be more than two regiments to any brigade, such regiment shall muster according to their number, in succession, as aforesaid, leaving one day only between each muster, Sunday excepted: *Provided,* That if there should be an odd battalion to any brigade, it shall last muster in like succession; *provided, also,* That in cases of emergency, the commanding officer of each company, battalion or regiment, may call a meeting of their respective companies, battalions or regiments, at any time when they may think proper, or be directed so to do by their superior officers.

Sect. 16. *Be it further enacted,* That the commissioned officers and staff officers of the first regiment of each brigade, shall meet on the first Tuesday of August, in each and every year, and the said officers of the second regiment shall meet

Company musters how often and when holden.

1st. regiment 1st. battalion. Musters when.
2d. battalion, when.
2d regiments

Battalion musters.

Proviso.

Regimental musters how often and when.

Proviso.

Officer musters how often and when.

on the succeeding Friday; and if there shall be more than two regiments to any brigade, the officers as aforesaid shall meet according to the number of such regiment or regiments, on the succeeding Tuesday and Friday; and if there shall be an odd battalion to any brigade, the officers thereof shall last meet in like succession, and the said officers, when met, shall be under the command and direction of the commandant of the brigade, and shall continue to exercise, agreeable to the military discipline laid down by Baron Steuben, and such other evolutions as he may direct, from ten o'clock, A. M. of the day of meeting, until three o'clock, P. M. of the succeeding day. The officers to perform camp duty during the night.

Places of
muster by
whom ap-
pointed.

Sect. 17. *Be it further enacted*, That the commandants of companies shall each appoint the place for holding his company muster; the commandants of battalions shall each appoint the place of holding the muster of his battalion; the commandants of regiments shall each appoint the place of holding his regimental muster, and the commandants of brigades shall each appoint the place of holding officer musters in his brigade, which shall be as near the centre of the respective districts, as the ground and other circumstances will admit. *Provided*, That if the commandant of any division shall think fit to call the officers of any brigade together, for the purpose of having them exercised by brigade, they shall meet on the day fixed on by law for the meeting of the first regiment of such brigade, at such place as the commandant of such division may direct, where he shall attend and superintend their exercise, and in all cases the persons concerned shall have five day's previous notice of the first place of holding such muster.

Proviso.

Sect. 18. *Be it further enacted*, That the com-

mander in chief be authorised to appoint two aids-de-camp, to rank as colonels. The general and regimental staff officers shall rank as follows, to wit; the adjutant-general and quarter-master generals, as colonels; aids-de-camp, brigade inspectors and brigade quarter-masters, as majors; adjutant, quarter-masters, clerks and pay-masters, as lieutenants, and other regimental staff officers, as non-commissioned officers; and the officer appointing his staff, shall certify the same to the person appointed, giving him his proper title or rank, purporting that he is to be respected and obeyed as such; and the staff officer receiving such appointment, shall each, before he enters on the duties of his office, take an oath or affirmation, faithfully and impartially to discharge the duties enjoined on him by law, and the officer who administers such oath or affirmation, shall endorse the same on the back of said certificate.

Commander in chief to appoint two aids, their rank.
Rank of staff officers.

Officer appointing his staff to give him a certificate, &c.

To take an oath.

Sect. 19. *Be it further enacted*, That the commissioned officers of each company, after the company shall be enroled, shall appoint four sergeants, giving to each his rank, and also four corporals, giving to each his rank; and the captain shall certify to each non-commissioned officer, his appointment, directing therein that he is to be respected and obeyed as such, and notify the company of such appointment.

Commissioned officers of companies to appoint sergeants; &c.

Sect. 20. *Be it further enacted*, That every officer and soldier shall appear at their respective muster grounds, armed and equipped as the law directs, on the day appointed, at eleven o'clock in the forenoon, and at every muster each commandant of a company shall direct a sergeant of his company, in his presence, to call the roll of his company, at half past eleven o'clock in the forenoon, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof to the next court of en-

Hour of parade.

Roll call.

Delinquents noted and returned to the

next court of enquiry. **quiry to be holden for the purpose of assessment of fines, and at battalion or regimental musters, make return to the commandant of the battalion or regiment (as the case may be) of the strength of his company, the number of men on parade, and the number of rifles, muskets and fuseses, bayonets, cartridge boxes, powder-horns and pouches on parade, agreeable to such forms as are laid down in the twenty-seventh section of this act; and at each officer, regimental and battalion muster, court of enquiry, court-martial, or board of officers, the officer highest in command, present, shall at one hour after the time appointed for such meeting, call the names of the officers whose duty it is to attend, note down delinquents and make return thereof to the next court of enquiry and assessment of fines.**

Strength of company. **with the number of arms on parade returned.**

Officer highest in rank to call names of officers. **Delinquents noted.**

Fines, &c. **Sect. 21. *Be it further enacted,* That the following forfeitures and penalties shall be incurred for delinquencies, to wit : by the commandant of a division, for neglect of any of the duties enjoined on him by this act, not less than twenty, nor more than two hundred dollars ; by the commandant of a brigade, for neglect of any orders of his superior officer, or any of the duties enjoined on him by this act, not less than fifteen, nor more than one hundred and fifty dollars ; by the commandant of a regiment, for neglect of any orders of his superior officer, or any of the duties enjoined on him by this act, not less than ten, nor more than one hundred dollars ; by the commandant of a battalion, for neglect of any orders of his superior officer, or of any of the duties enjoined on him by this act, not less than eight, nor more than eighty dollars ; by the commandant of a company, for neglect of any orders of his superior officer, or any of the duties enjoined on him by this act, not less than five, nor more than fifty dollars ; by a subaltern officer, for neglect of any orders of his superior officer, or**

By gen. of division.

By com'dt of brigade.

By com'dt of regiment.

By com'dt of battalion.

By com'dt of company.

By subalterns

the duties enjoined on him by this act, not less than four, nor more than forty dollars ; by an adjutant-general, or quarter-master general, or either of the aids-de-camp to the commandant in chief, for the neglect of any orders of his superior officers, or any of the duties enjoined on him by this act, not less than ten nor more than one hundred dollars ; by an aid-de-camp to the major-general, brigade-inspector, or brigade quarter-master, for neglect of any orders which he may receive from his superior officers, or any of the duties enjoined on him by this act, not less than eight, nor more than eighty dollars ; by an adjutant, quarter-master, clerk or pay-master, for neglect of any orders of his superior officers, or any of the duties enjoined on him by this act, not less than four, nor more than forty dollars ; by a non-commissioned officer, or any of the regimental staff-officers, not enumerated in this section, for neglect of any of the orders of his superior officers, or any of the duties enjoined on him by this act, not less than two, nor more than twenty dollars ; by a private man, failing or neglecting to attend a regimental or battalion muster, during the whole time the same is on parade, one dollar ; to attend a muster of his company, in like manner, at the time and place appointed, seventy-five cents ; for attending a regimental or battalion muster, without a sufficient rifle, musket or fusee, fifty cents ; for attending a muster of his company, without a sufficient rifle, musket or fusee, thirty-seven and one half cents ; for attending at any muster, without either cartridge-box or powder-horn and bullet pouch, twelve and one half cents. Fathers shall be bound for the payment of fines incurred by their sons under the age of twenty-one years ; guardians for the payment of fines incurred by their wards, and masters for the payment of fines incurred by their apprentices, to be

By staff officers.

By a non-commissioned officer or regimental staff.

By a private.

Fathers, guardians & masters, bound for fines; &c.

Proviso. charged and collected by the collectors of fines accordingly. *Provided,* That when distress and sale of property is made to satisfy fines incurred by the provisions of this act, and the person from whom the same is collected, refuses to accept of the overplus, if any, it shall be paid by the officer collecting the same, to the pay-master of the regiment, and remain as a credit to the person from whom it was collected, until the same is expended at the rate aforesaid.

Persons refusing to accept overplus to be paid to pay-master of reg't.

Company courts of enquiry when held.

Sect. 22. *Be it further enacted,* That the commissioned officers of each company shall meet at ten o'clock, A. M. on the Saturday next succeeding their respective September company musters, at the place where the said musters were held, for the purpose of holding a court of enquiry and assessment of fines for such delinquencies as may have occurred in their respective companies since the last regimental muster; and shall keep a fair record of their proceedings, and make out therefrom, two certified lists of the names of the persons fined, annexing to each name the amount of fines assessed for delinquencies at each muster; one of which lists shall be posted up at the place of holding such court of enquiry, and the other laid before the next regimental court of enquiry, to which court any person who may think himself aggrieved, may appeal, and said regimental court, of enquiry may, for good causes shewn, remit such fines.

Appeal to regimental court allowed.

Battalion courts of enquiry, &c. when held.

Sect. 23. *Be it further enacted,* That the commandants of battalions, together with the commandants of companies, in their respective battalions, shall meet on the Saturday next succeeding their respective battalion musters, at the place where such muster was held, and said officers, or a majority of them, shall hold a court of enquiry and assessment of fines, at which time and place the clerk of the regiment shall attend, who shall

keep a record of the proceedings of said court, and make out two lists of the names of the persons fined, with the amount of fines assessed on each, one of which lists shall be posted up at the place of holding such court of enquiry, and the other shall be laid before the next regimental court of enquiry, by the commandant of the battalion, to which regimental court any person who may think himself aggrieved, may appeal, which court may, for good cause shewn, remit such fines; and the commanding officer of each regiment, together with the commandants of battalions and companies, shall meet on the Friday next succeeding their respective regimental musters, at the place where such muster was held, and the said officers, or a majority of them, shall hold a regimental court of enquiry and assessment of fines, and also a court of appeals, at which court all commissioned officers and staff officers, below the rank of brigadier-general, residing within the bounds of said regiment, shall be tried, either for neglect of duty, or on an arrest; which board may fine or cashier any officer, as a majority of the officers present may think proper to direct. In all courts of enquiry and courts-martial, the officer highest in rank shall preside. The commander in chief shall order general courts of enquiry and courts-martial, where a major-general shall preside: Division court of enquiry and court-martial shall be ordered by a major-general, where a brigadier-general shall preside. Commandants of divisions shall be tried by general courts of enquiry or courts-martial, and brigadier-generals shall be tried by a division court of enquiry or courts martial; each general and division court of enquiry or courts martial shall consist of at least five members, and none below the rank of field officers: *Provided*, That in all cases where it is necessary to administer an oath or affirmation to carry into operation any of

Appeal allowed to regimental courts of enquiry, &c.

Regimental courts of enquiry, &c. when holden

Powers of said court.

Gen. courts-martial, &c. by whom ordered.

Divis. courts of enquiry, &c. by whom ordered, &c.

Number of officers necessary to form courts of enquiry, &c.

Officers to administer an oath, &c.

the provisions of this act, any officer duly commissioned and qualified, is hereby authorised to administer such oath or affirmation.

Fines.

Sect. 24. Be it further enacted, That the fines assessed at all regimental courts of enquiry, for delinquencies, either at officer musters, any board of officers, or at the regimental musters, and also all fines assessed at company or battalion courts of enquiry, which are not remitted at said regimental court of enquiry, shall be collected as follows :

How collected.

The presiding officer at each regimental board, shall cause the clerk of the regiment to keep a record of the proceedings of the board, and make out therefrom a certified list or lists of the names of the persons fined, with the amount of each fine or fines, annexed to each name, which list or lists, when certified by the presiding officer, shall be by the clerk of the regiment, delivered to such constable, or constables, as the board may direct ; and any such list shall be a sufficient warrant to such constable, to enable him to collect the sum due from each delinquent, in the same manner, and be entitled to the same fees, that he would be

By whom collected.

Fees for collection.

To be paid over to the paymaster of regiment

authorised to receive on an execution for the like amount ; and any constable collecting any fines under the provisions of this act, shall forthwith pay the same over to the paymaster of the regiment, which paymaster shall receipt for all monies so paid ; and the clerk of each regiment shall in like manner make out and forward to the paymaster of his respective regiment, a certified copy of the fines put into each constable's hands for collection ; and if the constable who is directed to collect any fines, does not pay the same over to the paymaster of the regiment, within the time directed by law for recovering and paying over sums of the like amount, the paymaster shall, before the proper justice of the peace, proceed against such constable, or his securities, as in other cases. and the said constable and his secu-

Proceedings had against constable.

rities shall only be exonerated from the payment of the amount of such fine or fines, by shewing to the satisfaction of the justice, that there was no property to be found whereof such fine or fines could be made. All fines, collected as aforesaid, shall be drawn from the paymaster and disposed of as the regimental board of officers may direct. All fines assessed on and collected from general officers, shall be collected and disposed of as the board assessing the same may direct : *Provided*, That for good cause shewn, the next regimental court of enquiry may remit and direct the paymaster of the regiment to pay back any fines assessed at the last regimental court of enquiry.

Fines how appropriated

Sect. 25. *Be it further enacted*, That every officer, who hereafter accepts a commission in the militia, shall serve five years, unless sooner dismissed by a court martial for disobedience of orders, contempt or ungentlemanly behaviour : *Provided*, That for good cause shewn, the commander in chief, may receive the resignation of a field officer : and in like manner, the commandant of a regiment may receive the resignation of a company officer, and in all cases, the officer accepting a resignation, shall endorse on the back of the commission, the cause for which such resignation was accepted ; and return the commission to the person so resigned, and at the same time take proper measures for filling the vacancy.

Persons accepting commissions to serve 5 years

Proviso.

Sect. 26. *Be it further enacted*, That a superior officer may, at his own discretion, arrest any officer under him, or should any other commissioned officer lodge a complaint with such superior officer, which in his opinion is good grounds for an arrest, such superior officer shall cause the officer against whom such complaint is made, to be arrested : and when any officer is arres-

Arrest of commissioned officers

Proceedings thereon.

ted as aforesaid, the officer whose duty it is made so to arrest, shall notify the officer arrested, in writing, that he is suspended from command, until acquitted from such arrest; stating the grounds of arrest, and the time and place of trial, and at the same time notify the officer next in command, that in consequence of such arrest, that he is required to perform the duties which were enjoined on the officer so arrested.

~~ted as a special the office where it is~~

NOTE.

A. Return of rifle company.

B. Returns of either an infantry, light-infantry or grenadier company.

C. Return of a cavalry company.

D. Return of an artillery company.

A, B and E, Return of a battalion.

A, B, C, D, E and F. Return of a regiment.

A, B, C, D, E, F and G. Return of a brigade.

A, B, C, D, E, F, G and H. Return of a division.

References.

And all officers shall make their returns accordingly.

The commandants of companies shall make returns to the majors, on the days of the battalion and regimental musters, and the majors shall make out complete returns of their battalions and deliver the same to the commandant of their regiment, at their next regimental court of enquiry, to be holden after each regimental muster, and the commandants of regiments shall cause complete returns of their regiment to be made out, under their inspection, and a copy thereof forwarded to their brigadier-generals, on or before the first day of November, annually; and the brigadier-generals shall, in like manner, cause returns of their brigades to be made out, under their inspection, and certified copies thereof delivered to the major-general of their division, on or before the first of December, annually; and the majors-general shall, in like manner, make returns to the adjutant-general, on or before the first day of January, annually, and the adjutant-general shall make proper abstracts from such returns, and lay the same, annually, before the commander in chief: *Provided, always, That the adjutant-general shall be inspector-general.*

Commandants of companies to make return of their companies. &c.

Brig. generals to make return to maj. gen.

Maj. gens. to make return to adjutant-general.

Adjutant-general to make return to commander in chief
Duty of adj'te. gen.

Sect. 28. *Be it further enacted,* That the adjutant-general shall distribute all orders from the

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commander in chief to the several corps; attend all public reviews when the commander in chief shall review the militia, or any part thereof; obey all orders from him, relative to carrying into execution and perfecting the system of military discipline established by this act. The brigade inspectors shall attend all musters of officers with in his brigade, to exercise and examine them; to note delinquents and return the same to the commanding officer of the regiment to which they belong; to attend all regimental and battalion musters of the militia composing their brigade, during the time of their being under arms, to inspect their arms, ammunition and accoutrements, superintend their exercise and manœuvres, and obey such orders as they shall, from time to time, receive from the commander in chief, or commandants of divisions or brigades to which they belong; and shall in all respects, attend to the delivering of general orders, and making out returns of their brigades; and the adjutants of regiments shall, in like manner, attend all musters of officers in their respective regiments, all battalions and regimental musters; deliver all general or regimental orders; attend to making out and delivering regimental returns, and obey such orders as they shall, from time to time, receive from the commandants of their respective regiments. The paymaster of each regiment, shall attend their regimental courts of enquiry, and lay before the board, an accurate account of the state of the finances of the regiment, stating particularly all monies received and paid out, with his several proceedings, relative to the duties of his office, which shall be compared with the books of the regiment.

Brigade Inspector, his duty.

Adj'ts. of regiments, their duty.

Regimental paymasters, their duty

Detachment of militia called into actual service.

Sect. 29. Be it further enacted, That whenever it may be necessary to call into actual service, any part of the militia of this state, on an actual or threatened invasion of this state, or any of the

neighbouring states or territories of the United States, the commander in chief shall forthwith demand from each division, a detachment in proportion to the strength thereof, which orders shall be delivered by a special messenger to the several commandants of divisions, specifying the numbers required from each division, the time and place of rendezvous, if ordered to march. And the several commandants of divisions, after receiving such notice, shall proceed forthwith, agreeable to the provisions of this act, to detach the same : *Provided*, That on an actual invasion or any extreme emergency, the commander in chief, commandants of divisions, brigades, regiments, battalions or companies, may call out the whole or any part of the militia under their respective commands, as the nature of the case may require ; and all manner of persons so called, and refusing to serve, shall be liable to the same penalties, as if they had been regularly called to serve in their proper classes ; and the service of the person so called out, shall be accounted a part of their tour of duty.

Sect. 30. *Be it further enacted*, That each infantry company of the militia of this state, shall be divided into eight classes, preserving to each man his original class, and when called into service, shall be regulated accordingly—the first class serving on the first tour of duty, and so on in succession, agreeable to their numbers. All companies of artillery and troops of horse, shall be called into service by companies, under their own proper officers, in the following manner, viz : The first or oldest company in the state, shall serve on the first tour, and so on in succession, agreeable to their rank, reckoning the same from the date each company were first raised and organized, and all companies of light infantry grenadiers and riflemen shall also be called into service by companies under their own proper officers, to be ranked throughout the several divisions to which they

Gov'r. to demand of each maj. gen. for his proportion, &c.

Duty of com'dts. of divisions.

Proviso. Actual invasion, &c. Power of officers.

Infantry companies divided into 8 classes.

How called into actual service. Artillery & horse companies, how called into service.

Light infantry, grenadiers, or riflemen, how called into service.

belong, the first flank company in each division serving on the first tour of duty, and so on in succession throughout the divisions, agreeable to their ranks, reckoning the same from the date each company was first raised and organized.

Militia men moving from one company to another to receive a certificate on application to his commanding officer.

Sect. 31. *Be it further enacted*, That any militia man moving from one company district to another, in this state, may apply to the commanding officer of the company to which he belongs, who shall certify the number of the class to which he did belong, and on producing such certificate, he shall be enroled in the same class, but all men coming into a district, and not producing a certificate as aforesaid, shall be enroled by the captain of such district, in the first class to be called into service, and such person shall be bound to serve accordingly.

Maj. gen. to serve agreeable to the dates of their commissions.

Brigadier gen's. in like manner.

Colonels and majors also.

When two commissions bear the same date to be determined by lot.

First maj. to rank as lieutenant, colonel.

Sect. 32. *Be it further enacted*, That for the purpose of having the militia, when called by classes, properly officered, the following order is hereby enjoined, that is to say; all major-generals shall serve on tours of duty, agreeable to the dates of their respective commissions, if the detachment required from the state amounts to a major-general's command, and the brigadier generals shall also serve agreeably to the dates of their respective commissions, successively, throughout the state; and all colonels and majors of each division, shall be called into service agreeably to the dates of their respective commissions—the oldest colonel and two oldest majors in each division, to serve on the first call, and so on successively, throughout the divisions, agreeably to the dates of their commissions; but in case the commissions of any two or more officers of the same grade in the state, should bear the same date, the commander in chief and adjutant-general shall determine by lot, which of said officers shall first command, and notify them accordingly; and the first major in each regiment shall serve and rank as

lieutenant-colonel, and all captains and subalterns in each regiment, shall be classed as follows, that is to say : Commissioned officers classed.

For the 1st draft, 1st captain, 2d lieut. 4th ensign.

2d, do.	2d, do.	1st, do.	3d, do.
3d, do.	3d, do.	4th, do.	2d, do.
4th, do.	4th, do.	3d, do.	1st, do.
5th, do.	5th, do.	6th, do.	8th, do.
6th, do.	6th, do.	5th, do.	7th, do.
7th, do.	7th, do.	8th, do.	6th, do.
8th, do.	8th, do.	7th, do.	5th, do.

Provided, That where there may be an odd battalion in any brigade, the company officers shall be classed in like manner. All staff officers to take tours of duty with the respective field officers; and non-commissioned officers and musicians, with the commissioned officers of companies;— all of which officers and privates shall serve, when called into actual service, six months, if not sooner dismissed, from the time they arrive at the first place of rendezvous, and no longer, and to be relieved by the class next in numerical order; the second to arrive at least two days before the expiration of the tour of the class to be relieved. Proviso.
Staff officers to take tours with field officers.
To serve 6 months when called into actual service.

Sect. 33. *Be it further enacted*, That when any detachment of militia shall be called into service, the captain or commandant of each company shall take care that his proportion of men are assembled and marched to the proper place of parade or rendezvous, under the care of a commissioned officer or sergeant, with a list of the men; which list shall be delivered to the adjutant of the regiment, and he shall make out a roll of the whole, the rank of the officers and name of the non-commissioned officers and privates; and when the detachment shall be completed and placed under the proper officer, he shall attend them to the place appointed for the meeting of the detachment of the brigade, when the several adjutants shall deliver to the bri- Detachment marched to place of rendezvous, by whom
List of names to be delivered to adjutant.
Ad'jts. to deliver to bri-

grade major complete roll.

Duty of officer commanding detachment.

Persons drafted may serve by substitute.

Detachment on arriving at the place of rendezvous.

Their arms, &c. to be appraised.

grade major, or the officer appointed to command the whole detachment, a complete roll containing the names of the commissioned and non-commissioned officers and privates, comprising the detachment from each regiment or battalion, noting such remarks as circumstances may require; and it shall be the duty of the officer appointed to the command of such detachment, to cause two complete rolls to be made out and certified under his hand, one of which rolls he shall transmit forthwith to the adjutant general, and the other to the brigade inspector.

Sect. 34. *Be it further enacted,* That any person called on to do a tour of duty, may serve by a sufficient substitute: *Provided,* Such substitute be approved by the captain or commanding officer of the company to which he may be offered to serve in; but if such substitute should be called in his own turn into actual service, before the term expires which he was to serve for his employer, the person employing such substitute shall march, or find a person to march in his substitute's turn, to be accepted as aforesaid, or be liable to all the penalties incurred by persons refusing to serve when called on tours of duty.

Sect. 35. *Be it further enacted,* That if any detachment of militia shall be drafted, or shall volunteer their service, under a call of this state, when they arrive at the place of rendezvous, the commandant shall appoint three persons who shall on oath or affirmation, appraise the arms, accoutrements, horses and equipage, which may belong to such detachment; and said appraisers shall give to such person, a certificate of the property for him appraised, with the amount of appraisment, and the said commandant shall transmit a certified statement of such appraisment to the office of the secretary of state. And if any

of said property shall be lost, (the owner using due diligence to preserve the same) the amount of such appraisment shall be paid to such person, his heirs, or assigns, out of the state treasury.

Property lost to be paid for out of state treasury.

Sect. 36. *Be it further enacted.* That the commandant of each regiment, from which detachments are drawn, shall, if not otherwise to be obtained, cause to be procured by impressment for each company, a waggon, team and driver, or a sufficient number of pack-horses, six axes and six camp kettles or pots of convenient size, all which shall be delivered to the commanding officer of the company; and the colonel or commanding officer of such regiment, shall cause all property by him impressed, to be appraised by three free-holders on oath, before the same shall be sent away, and shall give the owner a receipt for the same, stating the quantity, quality and value of the property impressed, together with a certificate of the appraisers: the valuation thereof, shall be allowed; and the said allowance shall be certified by the colonel or commanding officer to the auditor of public accounts, who shall issue his order to the person or persons entitled to the same; and the treasurer of state shall, on the receipt of such order, pay the amount thereof, out of any money in the treasury not otherwise appropriated; and the property so impressed, shall become the property of the state; and the officer receiving the same, shall be accountable for all losses sustained by his misconduct or neglect; and the adjutant general is hereby authorised to prosecute a suit against such offender, to recover damages for the use of the state, and all such property shall be disposed of under the directions of the governor, after the public shall have no further necessity for the same, and pay over all monies raised therefrom to the state treasurer, and take his receipt therefor.

Waggons, &c. to be impressed.

To be delivered to the commanding officers of companies, after being appraised.

Appraisment to be certified to the auditor

Treasurer to pay the amt.

Officer accountable for property lost Ad'jt. gen. to sue for the same.

Property sold, &c.

Sect. 37. *Be it further enacted,* That if any suit or suits, shall be brought or commenced a-

Persons sued to plead the gen. issue, and give this act in evidence.

Certain persons exempt from militia duty, by paying three dollars and fifty cents annually.

A company of volunteers authorised to elect officers.

Election how conducted.

Persons elected to receive a certificate thereof.

gainst any person or persons, for any thing done in pursuance of this act, the defendant may plead the general issue, and give this act and the special matter, in evidence.

Sect. 38. *Be it further enacted,* That when any person or persons, conscientiously scrupulous of bearing arms, shall be desirous of being excused from attending and bearing arms at any muster of the militia, he may be entitled to receive a certificate from the commanding officer of the regiment, exempting such person from militia duty, in time of peace : *Provided,* That such person applying for such certificate, shall, annually, produce to such officer, a receipt from the paymaster of the regiment, purporting that the applicant hath paid, for the use of the regiment, the sum of three dollars and fifty cents ; but if he shall not produce such certificate, as before required, the commanding officer shall cause the same to be collected in the same manner as fines of the militia in other cases.

Sect. 39. *Be it further enacted,* That when any detachment of militia shall be called for, with a view to their actual service, either under the authority of this state, or the United States, if a number of men sufficient to form a company, to consist of from fifty to eighty, shall volunteer their services from one battalion or regiment, they are hereby authorised to choose, by ballot, officers for said company, at such time and place as the commanding officer of such battalion or regiment shall direct ; at which time and place the commanding officer aforesaid shall attend, and take to his assistance two persons, who, together with himself, shall be judges of such election ; who shall certify to the person having the highest number of votes, that they were duly elected and chosen officers of said company ; and, in like manner, when a sufficient number of companies shall so volunteer within any brigade, or division, to

form a battalion or regiment, the company officers thus chosen, are hereby authorised to choose, in like manner, their major; and if two battalions shall so volunteer, the company officers, with the majors, in like manner, shall choose their colonel, at such time and place as shall be appointed by the general of division, who shall superintend the election; and, in like manner, if two complete regiments shall volunteer their services, as a part of the detachment required of the state, they are, in like manner, authorised to choose their general of brigade, at such time and place as the commander in chief may direct, under the superintendance of such person or persons as he may appoint, and the certificate of the officer and judges who preside at such election, shall be sufficient authority to the officers thus selected, and shall supersede the necessity of his being commissioned for said tour of duty.

Battalion volunteering to elect a major.

2 battalions volunteering to elect a colonel.

2 reg'ts. volunteering to elect a brigadier general.

Election how conducted.

Person performing a tour of duty to have credit for the same.

Sect. 40. *Be it further enacted,* That when any person shall volunteer his service, and perform a tour of duty, such service shall be recorded by the clerk of the regiment, and credited to such person as a tour of duty in the proper class to which he belonged at the time he entered on said tour of duty.

Sect. 41. *Be it further enacted,* That the adjutant-general shall be allowed the sum of fifty dollars, annually, and each brigade-inspector the sum of ten dollars, annually, for each battalion in the brigade to which he belongs, on the certificate of the brigadier-general; and the state treasurer is hereby authorised and directed to pay the same, on the certificate of the auditor of public accounts. The adjutants, clerks, provost-marschals, the drum and fife-majors, and other drummers and fifers of each regiment, shall receive such compensation for their services, as the regimental courts of enquiry may, from time, to time think proper.

Ad'jt. gen. his compensation. Brigade inspector his compensation.

Adjutants, clerks, provost-marschals, and musicians how compensated.

Regimental

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clerk, his duty.

Sect. 42. *Be it further enacted,* That the clerks of regiments shall attend all courts of enquiry and courts martial held in their respective regiments, take minutes of the proceedings, receive all returns from the commandants of battalions and independent companies in his regiment, and record the same in a book by him provided for that purpose ; he shall also record the class-rolls of each company in his regiment, and shall furnish the person or persons appointed to collect fines, with a list of delinquents in his regiment, stating the court at which they were fined, and shall record the date of the officers' commissions in his regiment, the time of all resignations, and such other records as may be directed by the commandant of the regiment, under the provisions of this act.

Persons unable to equip themselves exempt from fines.

Sect. 43. *Be it further enacted,* That if any militia man shall make it appear to the satisfaction of the officers of the company to which he belongs, that he is unable to furnish or equip himself as by this act required, the said officers shall exempt such militia man from the fines imposed by this act, for want of such arms and accoutrements, until in the opinion of the officers of the company to which he belongs, he is able to furnish and equip himself agreeable to law ; and the commandant of the company shall report the same to the commandant of the battalion.

Bystanders molesting officers or soldiers on parade, how punished.

Sect. 44. *Be it further enacted,* That if any by-stander, at any muster, or at any meeting of officers necessary by this act, do insult, or otherwise molest any officer or soldier, the commanding officer may order such person to be put under guard, for any time not exceeding six hours.

Company of artillery to exercise with battalion.

Sect. 45. *Be it further enacted,* That at battalion musters, each company of artillery and cavalry shall meet and exercise with such battalion

Invalide:

as the commandant of the regiment to which they belong may direct.

How to apply.

Sect. 46. *Be it further enacted,* That all persons wishing to be excused from military duty, as invalids, shall first apply to the surgeon of the regiment to which he belongs, whose duty it is hereby made to examine such person or persons, and if, in his opinion, the person or persons thus applying is unable to perform military duty, he shall certify to the next regimental court of enquiry, the names of the persons applying, together with the nature of the complaint; at which court, the person or persons applying as invalids, together with the surgeon, shall attend, and the persons applying shall be examined by the surgeon, in presence of the court; and if in the opinion of the court, the person or persons thus examined, is unable to perform military duty, the president of the court shall give such person or persons a certificate, individually, excusing them from military duty.

Rules.

Sect. 47. *Be it further enacted,* That the following articles, rules, and regulations, shall govern the militia of this state, when in actual service, and in cases of courts-martial, to wit:

Article 1. If any field or other commissioned officer, at any regimental review, or any other occasion, when the regiment, battalion or company to which he may belong, or in which he may hold a command, is paraded in arms, shall misbehave or demean himself in an unofficer like manner, he shall for such offence be cashiered or punished by fine, at the discretion of a general court-martial, as the case may require, in any sum not exceeding sixty dollars; and if any non-commissioned officer, musician or private shall, on any parade of the company to which he belongs, misbehave or disobey orders, or use any reproachful or abusive language to his officer, or any of them, or

Commissioned officers misbehaving how punished.

Non-commissioned officers, musicians or privates misbehaving &c.

shall quarrel, or promote any quarrel among his fellow-soldiers, he shall be disarmed and put under guard by the commanding officer or officers present, until the company is dismissed, and shall be by a regimental court martial, fined in any sum not exceeding twenty dollars, nor less than one dollar.

Colonel or majors refusing to give orders, &c.

How punished.

Commissioned officers of a company refusing, &c.

Non-commissioned officers offending how punished.

Penalty on captains failing to make out a list of persons noticed for a tour of duty, &c.

Article 2. If the colonel or commanding officer of any regiment or battalion, shall neglect or refuse to give orders for assembling his regiment or battalion, at the direction of the commander of the brigade to which he belongs, or in case of an invasion of the county or district to which such regiment or battalion belongs, he shall be cashiered or punished by fine not exceeding six hundred dollars, at the discretion of a general court martial; and if a commissioned officer of any company shall, on any occasion, neglect or refuse to give orders for assembling the company to which he belongs, or any part thereof, at the direction of the colonel or commanding officer of the regiment to which such company belongs, he shall be cashiered and punished by fine, not exceeding two hundred dollars, at the discretion of a regimental or general court martial, and a non-commissioned officer offending in such case, shall be fined at the discretion of a regimental court martial, in any sum not exceeding twenty dollars.

Article 3. If any commanding officer of a company shall refuse or neglect to make out a list of the persons noticed to perform any tour of duty, and send or convey the same to the colonel or commanding officer of the regiment to which such company may belong, or if he shall fail to call forth such officers and men as shall, from time to time, be legally called from his company, upon any call from the governor, or on invasion or insurrection in the county or district, or

requisition from an adjacent county or district, or failing on any such occasion to repair to the place of rendezvous, for such neglect or refusal, he shall be cashiered or fined, at the discretion of a general court martial, in any sum not exceeding one hundred dollars, nor less than five dollars.

Article 4. If any militia man shall desert while he is on a tour of duty, he shall be fined not exceeding one hundred dollars, and be obliged to march on the next tour of duty, under the same penalties as the first: if a non-commissioned officer shall so desert, he shall be degraded and placed in the ranks, and shall pay a fine not exceeding two hundred dollars, and be obliged to serve another tour as a private.

Desertion
how to be
punished.

Article 5. Every general court martial shall consist of thirteen members, exclusive of the judge advocate, all of whom shall be commissioned officers not under the rank of captain, and the officer highest in rank shall preside.

General
court-mar-
tial.

Article 6. Every regimental court-martial shall be composed of five members, all commissioned officers; one of their members president, not under the rank of captain.

Regimental
court-mar-
tial.

Article 7. All members of a court-martial are to behave with decency and calmness, and in giving their votes, are to begin with the youngest in commission.

Members
how to vote.

Article 8. No commissioned officer shall be tried but by a general court-martial, nor by officers of an inferior rank, if it can be avoided, nor shall any proceedings or trials be carried on except between the hours of eight o'clock in the morning and three o'clock in the afternoon, but courts martial may adjourn from day to day, except in cases where the militia shall be in actual service in time of war, and when in the opinion of the officer appointing the court, an immediate example is required,

Commis-
ioned officers
to be tried
by a general
court-mar-
tial.

May adjourn
from day to
day.

Judge advocate how to prosecute, &c.

Article 9. The judge advocate shall prosecute in the name of the state, but shall so far consider himself as counsel for the prisoner, as to object to any leading question to any witness or any witnesses, or any question to the prisoner, the answer to which might lead to criminate himself.

Proceedings when persons are put under guard.

Article 10. When a non-commissioned officer, musician or private, is confined under guard, a statement of his crime shall be lodged with the officer of the guard within twelve hours after the prisoner's confinement, otherwise the prisoner shall be set at liberty.

Court-martial two thirds must agree.

Article 11. In every court-martial not less than two-thirds of the members must agree in every sentence for inflicting punishment, otherwise the person charged shall be acquitted.

Witnesses to give testimony on oath, &c.

Article 12. The president of each and every court-martial, whether general or regimental, shall require all witnesses in order to the trial of offenders, to declare on oath or affirmation, that the evidence they shall give is the truth, the whole truth and nothing but the truth. And the members of all such courts shall take an oath or affirmation as follows, to wit: "I do solemnly swear or affirm (as the case may be) that I will hear and determine according to evidence, to the best of my understanding, and the custom of war, in such like cases, between the state of Ohio and

Form thereof.

now to be tried; that I will not disclose the opinion of this court until approved or disapproved by the commanding officer or commander in chief (as the case may be) and that I will not at any time discover or disclose the opinion of any particular member, unless called upon to give evidence thereof, by a court of justice, in due course of law:" which oath or affirmation shall be administered by the judge advocate to the president and members.

By whom administered.

Article 13. The judge advocate shall be appointed by the officer ordering the court-martial, and shall take the following oath or affirmation, which shall be administered by the president, to wit: "I do swear or affirm (as the case may be) that I will faithfully execute the office of judge advocate to this court, now met for the trial of to the best of my abilities and understanding and the custom of war in like cases, and that I will not disclose nor discover the opinion of this court-martial until approved or disapproved by the commanding officer, and that I will not at any time disclose or discover the vote or opinion of any member, unless called upon by a court of justice to give evidence thereof, in due course of law." It shall be the duty of the judge advocate to keep a record of the whole proceedings of the court, taking into view the depositions of all witnesses that may be introduced.

Judge advocate how appointed.

To take an oath.

Form thereof.

His duty.

Article 14. Courts-martial shall appoint a provost marshal, whose duty it shall be to summon all witnesses, having received process for that purpose from the president of the court, to execute the orders of the court, and keep by-standers from interrupting the court whilst sitting.— All persons called as witnesses in any case before a court-martial, who shall refuse to attend and give evidence, shall be censured or fined at the discretion of the court, in any sum not exceeding fifty dollars.

Provost marshal's duty.

Witnesses refusing to attend, how punished.

Article 15. No officer or private being charged with transgressing these rules, shall be suffered to do duty in the regiment, company or troop to which he belongs, until he has had his trial by court-martial, and every person so charged shall be tried as soon as a court-martial can conveniently be assembled.

Officers, &c. transgressing, not suffered to do duty until tried.

Article 16. If any non-commissioned officer or private shall think himself injured by his colonel or commanding officer of the regi-

Proceedings had when a non-commissioned

officer or private is injured by his colonel.

ment, and shall upon due application made to him, be refused redress, he may complain to the brigadier-general, who shall direct three commissioned officers to enquire into the nature of the complaint; and if they report that the person complaining, in their opinion, has been injured, the brigadier-general shall then direct the brigade inspector, at a certain time and place, to summon a general court-martial, for the purpose of doing justice to the person complaining, and shall also direct the brigade inspector to give the person complained of, at least eight day's previous notice of the time and place of the meeting of any such court-martial, together with a copy of the charges exhibited against him.

If injured by a captain, &c. how to proceed.

Article 17. If any non-commissioned officer or private, shall think himself injured by his captain, or other superior, in the battalion, troop or company to which he belongs, he may complain to the commanding officer of the regiment, who shall cause his adjutant to summon a regimental court martial, for doing justice according to the nature of the case.

The person tried entitled to a copy of the sentence.

Article 18. The party tried by a general court-martial, shall be entitled to a copy of the sentence, and proceedings of such court-martial, after the decision on the sentence, upon demand thereof made by himself, or any person or persons in his behalf, whether such sentence be approved or not.

Court-martial its powers.

Article 19. No penalty shall be inflicted at the discretion of a court-martial, other than degrading, cashiering, or fining.

Of pardons and mitigation of fines, &c.

Article 20. The commanding officer for the time being, shall have full power of pardoning or mitigating any censures or penalties so ordered to be inflicted, on any private or non-commissioned officer for the breach of any of those articles, by a general court-martial; and every offender convicted as aforesaid, by any regimental court-martial, may be pardoned, or have the penalty miti-

gated, by the colonel or commanding officer of the regiment, excepting only where such censures or penalties are directed as satisfaction for injuries received by an officer or private from another; but in case of officers, such sentence to be approved of by the commander in chief of the militia, who is empowered to pardon or mitigate such sentence, or disapprove of the same.

Article 21. If any commissioned officer shall at any time, or upon any occasion, behave in an unofficer-like or ungentlemanly manner, the commander in chief, if the person accused be a major-general; the major-general, if a brigadier-general; the brigadier-general, if a field officer; or the colonel or commanding officer of a regiment, if an inferior officer (as the case may be) upon the application of a commissioned officer, may appoint a board of officers to enquire into the matter of complaint—and if upon their report, it shall appear to him deserving of trial, then and in such case he shall direct a court martial, whose proceedings therein shall have the same effect, as if the offence had been committed when on actual duty.

Commissioned officers misbehaving &c. how proceeded against.

Article 22. The militia on the days of training, may be detained under arms on duty, in the field, any time not exceeding six hours, provided they are not kept above three hours under arms at any one time, without being allowed to refresh themselves.

Hours of parade, &c.

Article 23. All fines that shall be incurred by any breach of these rules, shall be paid to the paymaster of the regiment in which the offender resides (whose receipt shall be a sufficient discharge for the same) within sixty days after they become due; but in case of neglect or refusal to pay any of the said fines, they shall be levied and collected in manner herein before directed.

Fines paid to the paymaster of the regiment, &c.

Article 24. The militia of this state, whilst in

Militia in 1784.

actual service subject to the rules, &c. of the federal army.
Proviso.

actual service, shall be subject to the same rules and regulations as the federal army, and shall receive the same pay and rations, as is allowed by the United States to the militia when in actual service: *Provided*, That upon any transgression or offence of a militia man, whether officer or private, against the rules and regulations of the federal army, the cause shall be tried and determined by a court-martial of the militia of this state, if the same can be convened.

Rules of discipline established by congress, 29th March 1779, to be observed.

Article 25. The rules of discipline approved and established by congress, in their resolution of the twenty-ninth of March, one thousand seven hundred and seventy-nine, shall be observed by the militia of this state, except such deviations from said rules as may be necessary by the requisitions of the acts of congress or some other unavoidable circumstances. It shall be the duty of the commanding officer at every training, whether by regimental, battalión, or single company, to cause the militia to be exercised and trained, agreeable to the said rules and discipline; and the instructions laid down by the Baron Steuben, and annexed to the said rules of discipline, pointing out the respective duties of the officers, non-commissioned officers and privates, are recommended and enjoined upon the militia of this state, as particularly and fully as if the said instructions were repeated and expressed in this act at length; and it shall be the duty of every captain to instruct his non-commissioned officers accordingly.

And Baron Steuben's institutions, &c.

On a call for a tour of duty to what notice.

Article 26. If any militia man on receiving notice thereof, shall neglect or refuse to be in readiness to march on any tour of duty, armed and equipped, as directed by this act, he shall forfeit and pay a sum, not more than one hundred dollars nor less than eight dollars, for every month he is required by law to serve on such tour, to be assessed (on proper proof thereof made) by a re-

Penalty for neglect.

gimental court-martial : *Provided always*, That **Proviso**, if any militia man shall be sick, or make any other just or satisfactory excuse to the court-martial, such fine shall not be assessed, but such militia man shall be obliged to perform a tour of duty on the next call of the militia.

Sect. 48. *And be it further enacted*, That **Repealing** all laws and parts of laws heretofore passed for clause. the organizing and disciplining the militia, shall be and the same are hereby repealed. This act to **Commence-** take effect and be in force, from and after the pas- ment. sage thereof.

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 14th, 1809.

CHAPTER II.

AN ACT defining the duties of justices of the peace and constables, in criminal and civil cases.

Sect. 1. *Be it enacted by the general assembly* **Justices ju** of the state of Ohio, That the jurisdiction of jus- **isdiction co-** tices of the peace in criminal cases, within this **extensive** state, shall be co-extensive with the counties where **with the** they may be respectively chosen and reside ;— **county.** and they shall be conservators of the peace through out the same ; and each justice of the peace is au- **Justices' du-** thorised and required, on view or complaint made **ty on view or** on oath, to cause any person charged with a crime **complaint.** 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 offence may require, conditioned, that such witness shall attend on the first day of the court next to be holden in the county, before which the offender is to be tried, to give testimony, and not depart the court without leave.

Forms.

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

Form of an affidavit, on which to issue a state warrant.

The state of Ohio, } *ss.*
county,

Form of affidavit.

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 offence) 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, } *ss.*
county,

Warrant for an assault.

To any constable of greeting :
(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 afore-said, 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, or some other justice, 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: Search war-
(L. S.) Whereas it appears to me, A B, one of the justices of the peace in and for said county, 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 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 authorise 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,

Form of a warrant, for the peace or good behavior.

The state of Ohio, }
county, } ss.

To any constable of, &c.
(L. S.) Whereas A K, of

Warrant for
hath the peace or

good beha-
vor.

this day made oath before me, that he hath been threatened by C D, et, &c. 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 mean time to keep the peace, especially towards the said A K.

Given under my hand and seal, this

Form of a recognizance.

State of Ohio, }
county, } ss.

Recogni-
zance.

(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 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 bound A B, shall personally appear at the next court of common pleas, to be holden in and for the county aforesaid, 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. &c.

Form of a summons.

The state of Ohio, }
county, } ss.

To any constable, &c.

Summons.

(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 offence) 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.

The state of Ohio, }
county, } ss.

To the keeper of the jail of the county aforesaid, greeting : Mittimus or commitment.

(L.S.) 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 offence, 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 jail of the county aforesaid, there to remain until he be discharged by due course of law. Given under my hand and seal.

Sect. 3. *Be it further enacted,* That if any person or persons shall challenge another to fight or box at fisticuffs, or shall endeavor to provoke any other person or persons to commit an affray, every per- Challenging to fight or box.

How punish- ed. son so offending shall, on conviction thereof, forfeit and pay for every such offence, a sum not exceeding five dollars, nor less than one dollar, to be collected as other fines are ; and every justice of the peace of the county where the offence shall have been committed, shall have cognizance thereof : *Provided, however,* That such prosecution be commenced within four days from the time the offence 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 and penalty shall be imposed, for the use of said township.

Proviso.

Fines to be paid into the township treasury.

Duty of constables.

To give bond.

Sect. 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 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 co-extensive 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 appear before the clerk of the township, and give bond with one or more sureties, resident in the township, such as the trustees thereof shall approve, in a sum not exceeding one thousand 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.

Sect. 5. *Be it further enacted,* That the powers of justices of the peace in this state, shall, in civil cases, be co-extensive 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 herein after provided, to any sum not exceeding seventy dollars; *provided,* 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 co-extensive with the county; *provided also,* that in any case any person or persons shall 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 two hundred dollars, from which judgment there shall be no appeal.

Power of justices extend- ed to seventy dollars.

Proviso.

Persons may confess judgment for 200 dollars, no appeal.

Sect. 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.

Sect. 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 *ca-pias ad respondendum*, (as the case may require) on which process shall be endorsed, by the justice, the precise sum demanded by the plaintiff, together with the costs that have accrued: and the summons shall be issued in every case, under this act, where the defendant is a house-holder 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

First process summon or warrant.

Sum in demand with cost, to be endorsed on the same:

Process to be served three days before appearance — 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,

Form of service. 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 fourteen years or upwards, who shall be informed of the contents thereof, and the constable serving such summons shall endorse thereupon, the time and manner of service, and shall subscribe his name thereto : *Provided*, In every case in which

Proviso. the summons is made the proper process by this act, if it shall be sufficiently proved, on oath or affirmation 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 or county, 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, any thing herein contained to the contrary notwithstanding : *Provided also*, That every person who is a house-holder, or free-holder, shall not be bound to answer unto any summons, issued by a justice of the peace in any other township except in the township in which such defendant actually resides, unless there is no magistrate within said township who can legally issue said summons.

Where a warrant is the proper process. Sect. 8. *Be it further enacted*, That in every case where the 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, till 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.

How to proceed.

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 a recognizance of bail.

county, township, ss.

Whereas A B, hath been arrested and is in 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 be deposited with the justice. 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*, That if either party, or material witness, shall live in another state or county, the party may, on good cause shewn, have the trial of the cause postponed for any term not exceeding four months.

Justices to give judgment, &c. trial may be adjourned
 Proviso.

Persons agreeing to go before justice without process. Sect. 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

Proviso.

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.

Sect. 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 defendant had been plaintiff in the cause.

Justice may give judgment against plaintiff.

Sect. 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 shewn for his or her non-attendance, the justice may, at the request of the plaintiff, hear and determine the cause and enter judgment.

Defendant failing to appear, justice may proceed to trial.

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

New trial granted on payment of cost.

Proviso.

Sect. 14. *Be it further enacted,* That where there is no justice resident in the same township with the defendant, or the justice shall be a father, son, 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, son, or brother to either party,

Where no justice in a township, how to proceed.

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 and suits had been instituted before him.

Persons may submit to arbitrators. Sect. 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, 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 the plaintiff and defendant, unless it be made to appear on the oath or affirmation of two or more disinterested persons before the court of common pleas, that the arbitrators misbehaved, and that such award was obtained by fraud, corruption, or other undue means.

Justice to issue subpoenas.

Make entry on docket.

Persons may appeal to court of common pleas by giving security. Sect. 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 fifteen days next af-

ter rendering such judgment, by entering into recognizance, with at least one sufficient surety, in the full amount of the debt and costs, and costs that may accrue in the court of common pleas; 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 the said justice 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 shall be had to the proceedings in the court below no farther than to include the judgment to be rendered, and 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 also*, If the person or persons in whose favor judgment shall be rendered, shall appeal, and shall not recover more than was recovered before the justice, in such case the appellant shall pay the costs accruing on such appeal. Proviso.

Sect. 17. *Be it further enacted*, That in all cases where the proceedings of a justice of the peace are taken up before the court of common pleas or supreme court, by a writ of *certiorari*, the clerk of such court shall require and take from the person requesting such writ, previous to his granting Clerk to take bond on granting certiorari.

the same, a bond with sufficient security, resident within his county, conditioned for the payment of all costs and charges which have, or may accrue upon the same, together with the amount of judgment that may be rendered, as hereinafter directed, *provided* he shall fail upon trial to obtain a verdict and judgment in his favor: *Provided, however,* That no justice of the peace shall obey any writ of *certiorari*, unless such writ shall bear date within fifteen days from the day on which such judgment was rendered, any law or usage to the contrary notwithstanding;—*Provided, also,* That the person applying for such writ, shall notify the other party in the suit, or his, her or their agent or attorney, by leaving a written notice at his, her or their dwelling-house, or last place of abode, or by advertising the same in three of the most public places within his township, at least ten days previous to the sitting of the court, *provided* that number of days shall accrue previous to the sitting of the court.

Proviso.

Appeal to be taken in fifteen days.

Proceedings of the justice reversed.

Court how to proceed.

Proviso.

Persons removing,

Sect. 18. *Be it further enacted,* That in all cases where the proceedings of a justice of the peace are brought up before the court of common pleas in manner aforesaid, and the judgment of such justice shall be set aside or reversed, by such court, the judges of said court shall cause the same to be tried by a jury at that session of said court in which the judgment of such justice was reversed, or set aside; which trial shall be had, in every other respect, as other cases of a similar nature, and tried and determined in said court: *Provided,* That if it shall be made appear, on oath or affirmation, or other good cause shewn, to the satisfaction of the court, that right and justice cannot then be had, the court may continue the same to the next term, and no longer.

Sect. 19. *Be it further enacted,* That every person in whose favor judgment is rendered, shall

have all his costs, as well such costs as accrued judgment to before the justice of the peace, as those in the court in which such judgment and determination was had, and shall moreover be entitled to execution, service and return thereof, under the same rules and regulations, as in cases of other judgments rendered in said court. recover cost.

Sect. 20. *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 the amount of said judgment, interest and costs, and have the same entered on the docket of the justice, such person shall have stay of execution for two months, 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 four months; and for any sum exceeding twelve dollars, and not exceeding twenty-five dollars, execution shall be stayed for eight months; and for any sum exceeding twenty-five dollars, execution shall be stayed for twelve months, and no longer; and if the person against whom judgment was rendered, shall refuse or neglect to enter such bail, if required, or shall fail to pay to the person or persons recovering such judgment, or his agent, the full amount of debt, together with costs of suit, 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 convey him, her or them to the jail of the county, and the sheriff, Above two \$ stay of execution, two months.
Above 5 dollars, stay of execution 4 months-
Above 12 \$ stay of execution eight months.
Executions returnable in 30 days.
For want of goods the defendant to be committed to jail.

H

or keeper of such jail, is hereby required to receive the person or persons so taken in execution, and him, 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: *Provided, always,* Where bail is entered for the payment of the debt and costs, the first process shall be an execution against the goods and chattels of the defendant, and if goods and chattels cannot be found of the defendant, sufficient to satisfy the execution, and a return be made thereof by the constable, the justice, if required by the plaintiff, his, her or their agent, shall issue a *scire facias* against the bail; the same shall be served and returned by the constable, in the same manner as a summons is served and returned, and upon return thereof the justice shall, unless for good cause shewn, enter judgment and issue execution against the bail, for the amount of such judgment and costs, or such part thereof as shall remain unsatisfied, to be returned in the same manner as executions are in other cases.

Sect. 21. *Be it further enacted,* That in all cases where execution shall issue against any person or persons, on any judgment rendered against such person or persons, and goods and chattels cannot be found to discharge the same, in case it shall be made known to the justice who issued such execution, that the person is possessed of lands and tenements, the justice shall, on application of the person, or his, her or their agent that recovered such judgment, forward a transcript

Sheriff liable for escapes.

Before sale of property to be advertised 10 days.

Proviso.

Scire facias against bail.

Proceedings thereon.

No goods or chattels.

Justice, how to proceed.

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 term of the court of common pleas, and shew cause why execution should not issue; and in case such person neglects to attend, or does not shew 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 such court.

Scire facias to issue from court.

Proceedings thereon.

Sect. 22. *Be it further enacted*, That in all cases where a transcript of the judgment of any justice of the peace within the state, is duly certified and signed by the justice rendering such judgment, and delivered to another justice of the peace for the purpose of enforcing the execution of the same, the justice to whom the same is delivered, shall make an entry thereof on his docket, and shall issue a *scire facias* against the apparent defendant in such transcript, requiring such person to appear and shew cause (if any there be) why execution shall not issue against him for the amount of the judgment and costs as stated in said transcript, which shall be served by the constable of the proper township, and returned in the same manner as *scire facias* is served and returned in other cases: and at the return of such writ, if the defendant is found, and cannot prove to the satisfaction of the justice, that he has paid the whole amount of the debt and costs as stated in the transcript, the justice shall hold him to bail, or issue execution for the same, or such part thereof as shall appear to remain unsatisfied, in the same manner and under the same regulations, as the justice before whom the proceedings were originally had, might or could have done, had the defendant remained within his township.

Transcript from one justice to another.

Scire facias to be issued thereon.

Proceedings thereon.

Sect. 23. *Be it further enacted,* That in all cases where the plaintiff shall not reside within the township in which he intends to bring suit, the justice before whom he intends to have the same entered, may, previous to his issuing process or entering the same, cause such plaintiff to enter sufficient bail, resident within his proper township, conditioned for the payment of all costs which may accrue upon such suit, which bail shall be by such justice entered on his docket and signed by the bail; which bail shall be accountable for all such costs.

Persons not residing in township, to enter bail before he brings suit.

Constable making false return.

How dealt with.

Sect. 24. *Be it further enacted,* That in case the constable fails to make return as provided by this act, or makes a false return, the said justice shall, on application of the person or persons in whose favor execution is issued, his, her or their agent, issue a *scire facias* against said constable, directed to any person he may think proper, commanding said constable to appear before him, to shew cause why execution should not issue against him; and if the constable either neglects to appear within five days, or does not shew 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 by this act are bound to do, together with such costs as constables receive for similar services.

Sect. 25. *Be it further enacted,* That when any constable, by virtue of execution to him directed, shall levy on property claimed by any person or persons other than the person against whom execution issued, such claimant or claimants, upon

Right of property, contested,

giving three day's notice to the plaintiff or his agent, or by leaving a written notice at his usual place of abode, of the time and place of proof, may prove the property on oath or affirmation, 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 any judge of the court of common pleas, or justice of the peace of the county, the judge or justice, as the case may be, shall cause the constable to restore the property so levied on, to the person or persons claiming the same; but in case the claimant or claimants shall fail to make such sufficient proof as aforesaid, the constable shall not be liable to such claimant or claimants, for such property so taken and sold.

Sect. 26. *Be it further enacted*, That it shall be the duty of all constables to pay over to the justice, from whom the execution or executions issued, all monies by them collected, or to the justice a receipt from the plaintiff, or his agent, for the amount of such execution or executions, within six days after collecting the same; and every justice of the peace shall give his receipt for any money by him received, in his official capacity, to the person from whom he shall have received the same, if required.

Sect. 27. *Be it further enacted*, That it is hereby made the duty of justices of the peace, to receive from the constables all monies by them collected, and pay the same over to the person or persons entitled thereto, also all other sums of money by them collected without execution, or received for the use of any person or persons, in their official capacity; and if any justice shall fail to pay over any money by him so collected, or received, when thereto demanded at the office of the said justice, he being present, by the person or persons entitled to the same, or by his her, or their agent, it shall be lawful for such proceeding in case of failure.

son or persons, as aforesaid, to complain to some justice of the peace of that township in which the delinquent justice acts, if any there be ; and if no justice resides in the township capable of acting, then to some justice of an adjoining township, whose duty it shall be immediately to issue his summons to the constable of his township, commanding him to summons such delinquent justice forthwith to appear before him, and shew cause, if any there be, why judgment should not be rendered against him for the amount of money by him so collected and not paid over ; and if said delinquent justice shall not shew good cause, the justice issuing the summons shall render judgment against him for the amount of money so collected and not paid over, together with five per centum damage thereon, and in which case there shall be no stay of execution.

Constable prevented from levying.

Second execution to issue.

Persons failing to attend when sum'd.

Sect. 28. *Be it further enacted*, That in all cases where the constable shall make it appear to the satisfaction of the justice that he has been deprived of an opportunity of levying an execution directed to him, within the time prescribed by this act, or otherwise prevented from making the whole of the money therein required to be made, and make a return to the justice who issued the same to that effect, such justice is hereby authorised and required to issue a second execution (if thereto required) for the balance of such execution remaining unsatisfied ; which shall be served and returned in all respects as other executions are under this act.

Sect. 29. *Be it further enacted*, That when any person or persons shall be lawfully subpoena'd 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 fine not exceeding eight dollars, at the discretion of the justice, and moreover be liable to the party injured, for such damages as the person or persons may sustain for want of such witness, to be recovered before any court having cognizance of the same ; and every justice of the peace before whom any cause is pending, or may be decided, shall issue an attachment for every person so failing, on the application of the person who may be injured thereby : *Provided however,* That if any person shall order a subpoena for more than two witnesses to prove any one fact, the person ordering the subpoena, shall pay such witness or witnesses, or in case any witness shall be subpoena'd, and not called to examination by either of the parties, the party ordering such subpoena, shall pay such witness.

Sect. 30. *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 offence has been committed.

Fines to be paid into township treasury.

Sect. 31. *Be it further enacted,* That the forms of recognizance shall be as follows, to wit :

IN CASES OF APPEAL.

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 pay the debt and costs that may accrue in the court of common pleas.

Form of recognizance in case of appeal.

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 myself 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.

Sect. 32. *Be it further enacted, That* the form of a *scire facias*, against bail where execution has been issued against the principal, and the money is not paid, shall be as follows, to wit :

The state of Ohio, }
county, } *ss.*

Scire facias
against bail.

To constable of township, greeting :
(L.S.) Whereas A B recovered judgment against C D, for the sum of dollars debt, and costs, on the day of last, as appears of record ; and whereas E F, on the day of become security, in behalf of 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 shew 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.

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

Sect. 33. *Be it further enacted, That* the following shall be the forms of process in civil cases :

FORM OF A SUMMONS.

The state of Ohio, }
county, } *ss.*

Summons.

To constable of township, greeting :
(L. S.) You are hereby required to summons 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 CAPIAS.

State of Ohio, }
county, } *ss.*

To constable of township, greeting :

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

EXECUTION.

State of Ohio, }
 county, } ss.

To constable of township, greeting: **Execution.**

(L. S.) Whereas A B obtained judgment against
 C D, before me, a justice of the peace of said town-
 ship, for a debt of dollars, and
 costs, on the day of last. You
 are therefore commanded to levy the said debt, and
 costs that may accrue, of the goods and chattels of
 the said C D, by distress and sale thereof, return-
 ing the overplus, if any, to the said C D; but for
 want of such property whereon to levy, then take
 the said C D 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 he otherwise le-
 gally discharged; and of this writ make legal ser-
 vice and due return.

Sect. 34. *Be it further enacted,* That no suit
 shall be quashed for want of form of the writ, in
 case it contains the substance. **No suit quashed for want of form.**

Sect. 35. *Be it further enacted,* That nothing
 in this act shall be construed, or understood to ex-
 tend to actions of trespass on real property, or
 trespass with force and arms for assault and batte-
 ry, or actions of ejection brought to obtain pos-
 session of lands and tenements; actions of reple-
 vin; actions of detinue; actions of slander; acti-
 ons on real contract, for the sale or conveyance of
 lands and tenements, or when the title of land is
 called in question. **Actions of trespass, &c. not cognizable before magistrate.**

Sect. 36. *Be it further enacted,* That if any
 person or persons shall commence or prosecute
 recovering **Persons not recovering**

70 dollars, any suit, for any debt or demand, by this act made not to recover cost before court. cognizable before a justice of the peace, in any other court than is authorised 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 seventy dollars, or more; he, she or they so prosecuting, shall not recover any costs in such suit, any law to the contrary notwithstanding.

Constable levying on live property to be allowed compensation by the justice for keeping.

Sect. 37. *Be it further enacted*, That whenever any living creature is taken on execution, it shall be the duty of the justice who issued the said execution, to make such allowance to the constable for the keeping of the same to the day of sale, as he will think just and reasonable; and all sales of property to be made by virtue of this act, shall be made between the hours of ten o'clock, A. M. to four o'clock, P. M. at the house where such property is executed; or at one of the most public places within said township—and the justice who issued the execution in such case, or the constable making such sale, shall neither purchase directly or indirectly, any of the property so sold, and any justice or constable so offending, shall forfeit and pay, for every such offence, the sum of twenty dollars, to be recovered by action of debt, in any court having competent jurisdiction, one half to the person prosecuting for the same, and the other half for the use of the proper township, and shall moreover be liable to the action of the party aggrieved.

Repealing clause.

Sect. 38. *And be it further enacted*, That an act defining the duties of justices of the peace and constables, in criminal and civil cases, passed the twelfth day of February, 1805, and an act amendatory thereto, passed the twenty-second day of January, 1806, and an act amendatory to the same, passed the thirtieth day of February, 1808, and all laws and parts of laws as come in the purview of this act, be, and the same are hereby repealed.

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

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 18th, 1809.

CHAPTER III.

AN ACT requiring the treasurer of Muskingum county to pay certain monies to the treasurer of Tuscarawas county.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That the treasurer of Muskingum county be, and he is hereby authorised and directed to pay to the order of the treasurer of Tuscarawas county, on demand, the sum of three hundred and eleven dollars and eighty-seven cents; which said sum of three hundred and eleven dollars and eighty-seven cents, shall be deducted from the proportion of tax payable to the treasurer of Muskingum county: *Provided nevertheless,* That nothing in this act be so construed as to compel the treasurer of Muskingum county to pay over to the treasurer of Tuscarawas county, a sum greater than may have been, by him received, in payment of tax on lands lying within the bounds of Tuscarawas county, for the year one thousand eight hundred and eight.

Directing the treasurer of Muskingum county; to pay to the treasurer of Tuscarawas county, certain monies. Proviso.

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

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

December 27th, 1808.

CHAPTER IV.

'AN ACT supplementary to the act, entitled " An act to incorporate the stock-holders of the bank of Chillicothe."

Be it enacted by the general assembly of the state of Ohio, That there shall be nine directors elected by the stock-holders of the bank of Chillicothe, on the first Monday of January next ; and at each succeeding annual election, in the same manner which they are authorised to elect seven directors by the provisions of the above recited act, and each proxy now commissioned, or which may be commissioned by any stock-holder, to vote for seven directors, are hereby authorised by virtue of such commission to vote for nine directors.

Authorising the stock-holders to elect 9 directors instead of 7.

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

Commencement.

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

December 31, 1808.

CHAPTER V.

'AN ACT authorising the proprietors of the town of Boardman, in the county of Trumbull, to alter or vacate the same.

Sect. 1. Be it enacted by the general assembly of the state of Ohio, That the proprietors of the town of Boardman, in the county of Trumbull, are authorised to alter, amend, correct or vacate all, or part of the plat of said town ; provided it will be

Proprietors of the town, authority to alter or va-

by and with the consent of all persons owning any part thereof: *Provided, also,* That their proceedings thereon be acknowledged before a proper officer, and recorded in the recorder's office of the county of Trumbull, within one year from the passage of this law.

cate part of the plat of said town.

Proviso.

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

Commencement.

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

January 3d, 1809,

CHAPTER VI.

AN ACT to establish the county of Dark.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That so much of the county of Miami as lies west of the middle of the fourth range of townships, east of the meridian drawn from the mouth of the Great Miami, be, and the same is hereby erected into a separate county, by the name of Dark.

Boundaries.

Attached to Miami county.

Sect. 2. *Be it further enacted,* That the said county of Dark be, and remain attached to the county of Miami, until the legislature shall think proper to organize the same.

Sect. 3. *Be it further enacted,* That there shall be commissioners appointed agreeable to the act, entitled "An act establishing seats of justice," who shall report to the court of common pleas to be holden in the county of Miami, which court shall take such order on the same as is directed by the aforesaid act, which commissioners shall be paid out of the treasury of Miami county, out of any money which has or may have been

Commissioners appointed.

raised in that district of country by this act erected into the county of Dark.

Duty of director.

Sect. 4. *And be it further enacted*, That if a purchase of land be made by a director agreeable to the fourth section of an act establishing seats of justice, the first proceeds of the sale of lots shall be applied to the payment of the lands and defraying the necessary expences of the commissioners and laying off the lots, the residue shall be paid into the treasury of the county of Miami, to be paid over to the treasurer of the county of Dark, so soon as it shall be organized : *Provided*, That not more than one half of the lots shall be sold previous to the county being organized.

Proviso.

Commencement.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

January the 3d, 1809.

CHAPTER VII.

AN ACT making a temporary appropriation of money for certain purposes.

Seven thousand dollars appropriated.

Be it enacted by the general assembly of the state of Ohio, That the sum of seven thousand dollars 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, on the certificate of the speakers of the respective houses ; also, any sum not exceeding seven hundred dollars, to be paid to the public printer, on the certificate of the secretary of state, agreeable to contract ; and the auditor of public accounts is hereby directed to issue bills,

payable at the treasury of state, to the amount of said certificates.

This act shall take effect, from and after the ^{Commence-} passage thereof. ^{ment.}

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

January the 10th, 1809.

CHAPTER VIII.

AN ACT vesting the legal title to certain lands, in Henry Lee, executor of the last will and testament of Arthur Fox, deceased.

WHEREAS it has been represented to this ^{Preamble.} general assembly, that Arthur Fox, late of Mason county, of the state of Kentucky, departed this life in the year one thousand seven hundred and ninety-four, leaving four children, viz. Elizabeth Fox, who has since been married to Richard Graham, Mary S. Fox, who has since been married to Lawson Dobyns, Arthur Fox and Matilda Fox, the said Arthur and Matilda being yet infants, under the age of twenty-one years; that the said Arthur Fox, deceased, by his last will and testament, appointed Henry Lee, Alexander D. Orr and Francis Taylor, the executors thereof, and amongst other matters therein contained, full power and authority was vested in the said executors, to sell and dispose of any of the lands belonging to the deceased, in the state of Ohio, for certain purposes therein mentioned; that most of the lands owned by the deceased, were obtained for services rendered in locating and surveying, in the Virginia military district, the legal titles to which were

not then completed, but have since been obtained by the original proprietors, and by them conveyed, improvidently, to the heirs of the said Arthur Fox, whereby it is put out of the power of the executors to comply with the requisitions of the said will: Therefore, in order that the last will and testament of the said Arthur Fox, may be carried into effect,

The title to certain lands vested in Henry Lee, executor. Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That the legal title to one thousand four hundred acres of land, situated in Adams county, on waters of Straight creek, being survey, No. 1287, patented to Samuel Hopkins, and by him conveyed to the heirs of the said Arthur Fox, generally, by deed, bearing date the twenty-seventh day of May, eighteen hundred: Also, one other tract, of one thousand acres of land, situated in the county of Adams aforesaid, on waters of the Cherry fork of Brush creek, being survey, No. 1024, patented to John Winston, and by the heirs of the said Winston conveyed, specially, to the heirs of the said Arthur Fox, by deed, bearing date the thirteenth of April, eighteen hundred and eight, be, and the same is hereby vested in Henry Lee, executor of the last will and testament of the said Arthur Fox, deceased, *in trust*, for the uses and purposes expressed in the said last will and testament, so far only as respects the right of Arthur Fox and Matilda. infants under the age of twenty-one years.

Acts, &c. to be valid in law. Sect. 2. *And be it further enacted,* That all acts and deeds, conveyances and transactions, done and executed by the said Henry Lee, by virtue of the trust herein granted, and in compliance with the last will and testament of the said Arthur Fox, deceased, shall be good and valid in law, to all intents and purposes.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
 THOMAS KIRKER,
Speaker of the senate.

January the 24th, 1809.

CHAPTER IX.

AN ACT respecting crimes and punishments.

Sect. 1. *Be it enacted by the general assembly* ^{Levying war} *of the state of Ohio,* ^{&c. treason.} That if any person belonging to, or 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 the 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, ammunition, 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 combination, plot, or conspiracy for betraying the state of Ohio into the hands or power of any foreign 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 by voluntary confession, in open court, shall be deemed guilty of treason, and shall ^{Punished by} suffer death.

Sect. 2. *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

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Murder punished by death. or implied, such person being thereof legally convicted, shall suffer death.

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

How punished.

Ravishment &c. Sect. 4. *Be it further enacted,* That if any person 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.

Death.

Attempt to commit a rape. Sect. 5. *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 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 one year, and be fined in a sum not exceeding five hundred dollars, at the discretion of the court.

Whipping & fine.

Arson, if life be jeopardized. Sect. 6. *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. **Death.**

Sect. 7. *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 other 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 five thousand dollars, and imprisoned not exceeding two years, and be perpetually disabled from being a juror in any court of law in this state.

Arson, with out prejudice to life.

Fine, &c.

Sect. 8. *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 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 be whipped not exceeding one hundred and fifty stripes on his naked back, and be fined in a sum not exceeding five thousand dollars, at the discretion of the court, and be imprisoned not exceeding two years, and moreover, be liable to the person injured, and be forever disabled from being a juror or witness in any court.

Intentional meaning with malice.

Whipping, fine, &c.

Sect. 9. *Be it further enacted,* That if any person shall, without malice aforethought, expressed or implied, knowingly and with intent to injure, 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 offend,

Meaning without malice, &c.

ing, shall be fined in a sum not exceeding one thousand dollars, and imprisoned not exceeding two years, at the discretion of the court.

Perjury. Sect. 10. *Be it further enacted,* That if any person, lawfully called upon to give evidence before any court, 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 within this state, being a juror, or sustaining any office, civil or military, in this state: *Provided,* That nothing in this section contained, shall be so construed, as to compel any person to criminate him or herself.

How punished.

Proviso.

Sect. 11. *Be it further enacted,* That if any person, legally called upon to give testimony before any court, or other authority in this state, authorised to administer oaths and affirmations, shall refuse to take an oath or affirmation, such court or authority 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, may moreover punish such person, for such refusal, by a fine not exceeding one hundred dollars, or by imprisonment not exceeding six months.

Refusal to take oath, &c.

How punished.

Sect. 12. *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. Subornation
of perjury,

Sect. 13. *Be it further enacted,* That if any judge, or other 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 a reward, with 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 exceeding five thousand dollars, and imprisoned not exceeding twelve months, at the discretion of the court, and be perpetually disabled from giving testimony in any court, being a juror, or holding any office of honor or profit in this state. Bribery in a
judge, &c.

Fined & im-
prisoned, &c.

Sect. 14. *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 wise 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 Forgery in
writing.

Engraving. engrave any plate, or make any instrument to be used for the purpose aforesaid, such person so offending shall, on conviction thereof, be whipped not exceeding 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 being a juror, or sustaining any office of trust.

**Counterfeit-
ing.** Sect. 15. *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 the state, or shall utter and put off any such counterfeit coins, knowing them to be base and counterfeit, or shall make any instrument for counterfeiting any of the coins aforesaid, or shall aid or assist therein, the person so offending shall, on conviction thereof, be whipped not exceeding thirty-nine stripes, on his naked back, and be fined in a sum not exceeding five thousand dollars, and imprisoned not exceeding two years, at the discretion of the court.

**Burglary
with intent
to injure per-
sons.** Sect. 16. *Be it further enacted,* That if any person or persons shall, in the night season, break open and enter any mansion house, shop, store, or vessel, in which any person or persons shall dwell or reside, and shall commit or attempt to commit any personal abuse, force, or violence, or shall be so armed, with any dangerous weapon, as to indicate a violent intention, the person or person so offending, shall, on conviction thereof, before any court of this state having competent jurisdiction, be fined in a sum not exceeding three thousand dollars, and imprisoned not exceeding twelve months, at the discretion of the court ; and if any person or persons shall break open any

mansion house, shop, store, or vessel, as aforesaid, and actually steal and purloin therefrom, the person or persons so offending, shall, on conviction thereof, be whipped not exceeding fifty stripes, on his naked back, and be fined in a sum not exceeding four fold the value of the property stolen, and shall restore to the owner the thing stolen, or the value thereof, with damages in either case, and be imprisoned not exceeding twelve months, at the discretion of the court.

And to steal.

How punished.

Sect. 17. *Be it further enacted,* That if any person shall, in the day time, break open and enter any mansion house, shop, store or vessel, in which any person or persons dwell or reside, and shall commit or attempt to commit, any personal abuse, force, or violence, the person so offending, shall, on conviction thereof, be fined in a sum not exceeding one hundred dollars, and imprisoned not exceeding three months, at the discretion of the court.

House breaking, &c.

Punishment.

Sect. 18. *Be it further enacted,* That if any person by putting in fear, or by force, shall unlawfully take from the person of another, any money, goods or chattels, the person so offending shall be deemed guilty of robbery, and on conviction thereof, shall be whipped not exceeding thirty-nine stripes on his naked back ; and on the second conviction of the like offence, shall be whipped not exceeding one hundred stripes, and in either case shall be fined in a sum not exceeding five thousand dollars, and imprisoned not exceeding two years, at the discretion of the court, and shall be forever after the first offence rendered incapable of holding any office of trust, of being a juror, or giving testimony in any court in this state, and shall moreover make restitution to the party injured.

Robbery.

How punished.

Aiders as principals.

Sect. 19. *Be it further enacted,* That all aiders and abettors, in any robbery as aforesaid, shall be punished as principals.

Horse, &c. stealing.

Sect. 20. *Be it further enacted,* That if any

person shall steal 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 offence be whipped not exceeding one hundred, and not less than fifty stripes, on his naked back, and on conviction of each succeeding offence of the like nature, shall be whipped not exceeding two hundred, nor less than one hundred stripes, on his naked back; for the third offence, shall have both ears cropped, and in either case, shall restore to the owner the property stolen, or pay him the value thereof, with damages, in either case, and be imprisoned not exceeding two years, and fined not exceeding one thousand dollars, at the discretion of the court, and be ever after the first offence, rendered incapable of holding any office of trust, of being a juror, or giving testimony in any court in this state.

1st. offence.

2d do.

3d. do.

Punishment.

Receivers &c. of stolen horses, &c.

Principals & harborers of thieves.

Punishment.

Thieves, how punished.

Sect. 21. *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, such person shall be deemed an accessory, and punished as a principal. 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 one thousand dollars, and be imprisoned, at the discretion of the court, for any term not exceeding two years.

Sect. 22. *Be it further enacted,* That if any person shall steal the personal goods or chattels of another, such person so offending, shall be deemed guilty of larceny, and upon conviction thereof, shall be whipped not exceeding thirty-nine stripes, on the naked back, and on a second conviction of a like offence, shall be whipped not exceeding fifty stripes, at the discretion of the court, and in either case, shall restore to the owner the thing stolen, or the value thereof, if the thing stolen be not

restored, with damages, and shall in ~~either~~ case be fined in a sum not exceeding three fold the value of the property stolen, and be imprisoned not exceeding three months, at the discretion of the court, and in all cases where damages are allowed by this act to any person who shall have property stolen, the petit jury who are elected to try the offender shall, if they find a verdict of guilty, at the same time assess the damages. Petit jury to assess damages.

Sect. 23. *Be it further enacted,* That in all cases where stolen goods are not returned to the owner, and compensation for the damage which may be sustained, agreeably to the judgment of the court, where the same may be tried, it shall and may be lawful for such court to grant an execution against the goods, chattels, lands and tenements of such person, which shall authorise the officer to whom it is directed, to levy and sell either the personal or real property of such person, sufficient to satisfy such execution, and the costs that may accrue thereon, in the same manner that personal property is directed to be sold by the provisions of an act, entitled "An act regulating judgments and executions." Execution may issue against the goods, &c. of thieves.

Sect. 24. *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.

Sect. 25. *Be it further enacted,* That if any person shall fight or challenge another, or accept a challenge to fight at sword, pistol, rapier or other dangerous weapon, the person so fighting, challenging, or accepting, shall on conviction thereof, be fined in the sum of one thousand dollars, and find surety for his good behavior for the term of two years, and be forever disabled from holding any office of profit or trust, or being a juror, and be stripped naked to the waist, and Giving or receiving a challenge, how punished.

tied to the whipping post, for the term of one hour, and exposed to the public view, in the day time.

Carrier of a challenge, how punished. Sect. 26. *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 punishments prescribed in the twenty-fifth section of this act, saving the finding sureties for good behavior.

Conspiracy, or movement there-to, how punished. Sect. 27. *Be it further enacted,* That if 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 do any other unlawful act against the peace and to the 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 each, on conviction thereof, be fined in a sum not exceeding two hundred dollars, and find surety for their good behavior, respectively, for twelve months; and stand committed till sentence be performed; and whenever three or more persons shall be assembled as aforesaid, and proceed to commit any of the offences aforesaid, it shall be the duty of all judges, justices of the peace and sheriffs, and all ministerial officers, immediately upon actual view, or as soon as may be on information, to make proclamation in the hearing of such offenders, commanding them, in the name of the state of Ohio, to disperse and depart to their several homes, or lawful employments; and if, upon such proclamation, such persons shall not disperse and depart as aforesaid, it shall be the duty of such judges, justices of the peace and sheriffs, and all other

Duty of judges, &c. on such occasions.

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 other persons 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 such neglect or refusal.

Sect. 28. Be it further enacted, That if any of the persons so unlawfully assembled, shall be killed, maimed, or otherwise injured in consequence of resisting the judges or others in dispersing and apprehending, or in attempting to disperse and apprehend them, said judges, justices of the peace, sheriffs, and other ministerial officers, and others acting by their authority, or the authority of either of them, shall be holden guiltless.

Sect. 29. Be it further enacted, That if any person or persons shall forcibly obstruct any of the authorities aforesaid, or if any three or more persons shall continue together after proclamation 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 two hundred dollars, and imprisoned not exceeding twelve months, and find surety for good behavior and the peace for a time not exceeding one year, at the discretion of the court.

Sect. 30. Be it further enacted, That if any man, being lawfully married, shall hereafter marry a second wife, during the life of his first wife, or if any single man shall hereafter marry a woman, knowing her to be the lawful wife of another man, such second marriage shall be null and void ;

and the person so offending, shall forfeit and pay a sum not exceeding one thousand dollars, at the discretion of the court having cognizance thereof, and be ever after incapable of holding any office of profit or trust in this state.

Corruption of jurors, &c.
how punished.
Sect. 31. *Be it further enacted,* That if any person or persons shall attempt to corrupt or influence a jury or juror, legally summoned, by promises, threats, letters, money entertainments, or other undue means, either directly or indirectly, such person so offending, shall be fined in a sum not exceeding one hundred dollars, and be imprisoned not exceeding three months, at the discretion of the court.

Jurors corrupted,
how punished.
Sect. 32. *Be it further enacted,* That if any juror shall corruptly take or receive any money, goods, chattels, or other reward, either directly or indirectly, from the plaintiff or defendant in any action or suit instituted before any court having jurisdiction thereof, such juror so offending, shall, on conviction thereof, be fined in a sum not exceeding two hundred dollars, and imprisoned not exceeding six months—and moreover be ever after disqualified from serving as a juror, or being a witness in any court in this state.

Criminals to be in close confinement.
Penalty of sheriff.
Sect. 33. *Be it further enacted,* That if any sheriff, coroner, jailor, constable or other person who shall have in legal custody, any prisoner or offender charged with violating the penal laws of this state, and who shall voluntarily permit or suffer such prisoner or offender to escape and go at large, such sheriff, coroner, jailor, constable or other person so offending, shall on conviction thereof, be fined in a sum not exceeding one thousand dollars, and imprisoned not exceeding one year, at the discretion of the court.

Oppression, &c. of sheriff, &c.
Sect. 34. *Be it further enacted,* That if any sheriff, coroner, recorder, jailor, clerk or constable, by color of his office, shall designedly, wil-

fully or corruptly attempt to injure defraud, or oppress any person or persons—or if any sheriff, coroner, recorder, jailor, clerk or constable shall designedly, wilfully or corruptly injure, defraud or oppress any person or persons in the execution of his office, such sheriff, coroner, recorder, jailor, clerk or constable shall be deemed guilty of a misdemeanor and malfeasance in office, and on conviction thereof, shall be fined in a sum not exceeding one thousand dollars, and be disqualified from holding any office of profit or trust in this state, for any time not exceeding one year, at the discretion of the court. how punish-

Sect. 35. *Be it further enacted,* That if any judge, justice of the peace, clerk of any court, sheriff, constable, attorney or counsellor at law shall encourage, excite and stir up any suit, quarrel or controversy between two or more citizens of this state, whereby such citizens shall be injured and defrauded in said suit, quarrel or controversy, such judge, justice of the peace, clerk of any court, sheriff, constable, attorney or counsellor at law shall be fined in a sum not exceeding five hundred dollars, at the discretion of the court. Fomenters of quarrels, if judge, &c.

Sect. 36. *Be it further enacted,* That if any person or persons shall wilfully, unlawfully or maliciously cut down, demolish or otherwise damage or destroy, any fruit trees, fence, doors, windows, house or houses, stable or other building; or destroy any crib or stack of hay, corn, wheat, rye, barley, oats, grain or other property; or shall unlawfully and maliciously kill or destroy any neat cattle, horse or horses, sheep, or live stock of any person or persons, such person or persons so offending shall on conviction thereof, be fined in treble the value of the property so destroyed—and shall moreover be liable to the suit of the party injured. Destruction of fruit trees, &c. Horses, live stock, &c. how punish-

Swindling, and fraudulent transfers,
how punish- ed.
Sect. 37. *Be it further enacted,* That if any person or persons, by any false pretence or pretences, shall obtain from any other person or persons, any money, goods, merchandize or effects whatsoever, with intent to cheat and defraud such person or persons of the same, or shall fraudulently make and transfer any bond, bill, deed of sale, gifts, grants or other conveyances, to defeat creditors of their just debts and demands, such person or persons so offending, shall be fined in a sum not exceeding one hundred dollars, at the discretion of the court.

Assault and threatenings
how punish- ed.
Sect. 38. *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 five hundred dollars, and the court before whom such conviction shall be had, may, at their discretion, cause the offender to enter into a recognizance, with surety, for the peace and good behavior for a time not exceeding one year, and moreover be liable to the suit of the party injured.

Abuse of judges, &c. and resistance to sheriff, &c.
how punish- ed.
Sect. 39. *Be it further enacted,* That if any person or persons shall abuse any judge, justice of the peace, resist or abuse any sheriff, constable or other officer in the execution of his office, the person or persons so offending shall be fined in a sum not exceeding two hundred dollars, to be recovered by indictment in any court having competent jurisdiction thereof, and find sureties for the peace and good behavior for a term not exceeding one year, and on neglect or refusal shall be committed to the common jail of the county.

Rescuing,
how punish- ed,
Sect. 40. *Be it further enacted,* That if any person or persons shall, forcibly and knowingly rescue or free from arrest or imprisonment, any person lawfully arrested or imprisoned, the person so offending shall, on conviction thereof, be fined

in a sum not exceeding one thousand dollars, and imprisoned not exceeding twelve months, at the discretion of the court.

Sect. 41. *Be it further enacted,* That if any person shall take upon himself to exercise or officiate in any office or place of authority in this state, without being lawfully authorised ; or if any person, by color of his office, shall wilfully and corruptly oppress any person or persons, under pretence of acting in his official capacity, the person so offending shall, on conviction thereof, be fined in a sum not exceeding five hundred dollars, at the discretion of the court.

Sect. 42. *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.

Sect. 43. *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, shall be the executioner, and shall execute the other corporal punishments incurred under this act.

Sect. 44. *Be it further enacted,* That if any person or persons shall cut, fell, deface, alter or remove any landmark, corner or bearing tree, established by the proper authority, with intent to injure any proprietor or possessor of adjoining lands, the person or persons so offending, shall, on conviction thereof, be fined in a sum not exceeding one hundred dollars, to be recovered by indictment before the court of common pleas, of the county where the offence may have been committed, and moreover to be liable to the party injured.

Executions may be issued for fines, **and sold agreeable to an act, &c.**

Sect. 45. *Be it further enacted,* That in all cases, where a fine shall be inflicted agreeably to the provisions of this act, it shall be the duty of the court, before whom the offender was tried, to issue an execution against the body, goods, chattels, lands and tenements of such offender, for the amount of such fine and the costs of prosecution; which execution may either be levied on the goods and chattels, lands and tenements or body of the offender: *Provided always,* That where such execution is levied on goods, chattels, lands, and tenements, the officer levying the same, shall proceed to sell such property, whether real or personal, in the same manner that personal property is directed to be sold by the provisions of an act, entitled "An act regulating judgments and executions;" and the officer levying such execution, shall be liable to the same rules and regulations as in civil cases, except as herein before provided.

Governor may remit fines on application of county commissioners.

Sect. 46. *Be it further enacted,* That where any person shall be confined in jail for the payment of any fine, inflicted agreeably to the provisions of this act, the county commissioners may, if it is made to appear to their satisfaction, that the person thus confined, cannot pay any part of such fine, petition the governor to remit the same, or such part thereof as in their opinion cannot be paid; and the governor may thereupon remit such fine.

Repeal.

Sect. 47. *And be it further enacted,* That an act respecting crimes and punishments, passed the fifteenth day of January, in the year one thousand eight hundred and five, and the several acts, amendatory thereto, and all laws and parts of laws relating to any of the crimes before mentioned, be, and the same are hereby repealed: *Provided nevertheless,* That all crimes committed, or prosecutions pending, for any criminal offence be-

Proviso.

fore the taking effect of this act, shall be prosecuted to final judgment and execution, in the same manner as if this act had never been passed.

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

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 20th, 1809.

CHAPTER X.

AN ACT to incorporate the Boardman turnpike road company.

Sect. 1. *Be it enacted by the general assembly* President of the state of Ohio, That Elijah Wadsworth, and directors, Harman Canfield, Elisha Whitescy, Richard J. Elliott, Eli Baldwin, Turhand Kirtland, Jared Kirtland and their associate, be, and they are hereby created into a body corporate and politic, in deed and in law, by the name, style and title of "The president and directors of the Boardman turnpike road company," and by the said name they and their successors shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding capital stock to the amount of ten thousand dollars, and the increase and profits thereof, and of enlarging the same from time to time, by new subscriptions, in such manner and form as they shall think proper; if such enlargements shall be found necessary to fulfil the intent of this act; and of purchasing, taking and holding to them, their successors and assigns, in fee simple or for any lesser estate, any such lands, tenements,

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Common seal. hereditaments and estates, real and personal, as shall be necessary to them in the prosecution of their works, and of suing and being sued, and of doing all and every other matter and thing a corporation or body politic may lawfully do, and shall have a common seal which they may alter when, and at such time as they may think proper.

Commissioners, duty of the same. Sect. 2. *Be it further enacted,* That Elijah Boardman and Judson Canfield, of the state of Connecticut, Elijah Wadsworth, Eli Baldwin and Jared Kirtland, of the county of Trumbull, be, and they are hereby appointed commissioners, to do and perform the several duties herein after enjoined, that is to say, they shall, on or before the first day of May next, procure three books, and in each of them enter as follows : “ We whose names are hereunto subscribed, do promise to pay to the president and directors of the Boardman

Form of subscriptions. turnpike road company, the sum of twenty-five dollars for every share of stock set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the president and directors of said company, pursuant to the provisions of an act, entitled “ An act to incorporate the Boardman turnpike road company,” witness our hands, this

Public notice when the books are opened, day of ;” and shall thereupon give public notice of the times and places, when and where said books shall be open to receive subscriptions for the stock of said company ; at which time and place one of the said commissioners shall attend, and shall permit and suffer all persons of lawful age, who shall offer to subscribe in said books in their own names or names of any other persons who shall duly authorise the same, for any number of shares in the said stock—the said books shall be

and where. opened at the following places, in the township of Boardman, Poland and Canfield, in the

county of Trumbull; and the books when opened shall be kept open until one hundred shares are subscribed for.

Sect. 3 *Be it further enacted*, That when one hundred shares are subscribed for as aforesaid, it shall be the duty of the commissioners to give notice, in three of the most public places in the county of Trumbull, by advertisement, to the stock-holders to meet at such time and place as directed in said advertisements; and shall then and there proceed to the election of a president, six directors, a treasurer and such other officers as they shall think necessary to conduct the business of said company, for one year and until other such officers shall be chosen, and shall or may make such by-laws, regulations and rules, not inconsistent with the constitution and laws of this state, as shall be necessary for the well ordering the affairs of said company: *Provided always*, That no person shall have more than ten votes at any election or determining any question arising at such meeting, whatever number of shares he may be entitled unto; and that each person shall be entitled to one vote for ever share by him held under the said number.

When 100 shares are subscribed,

Stock-holders may meet and choose their officers.

Provido, as to number of votes,

Sect. 4: *Be it further enacted*, That the said company shall meet on the second Monday of January in each year, at such place as shall be fixed by their by-laws, for the purpose of choosing other such officers as aforesaid, for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the president and directors, in such manner and form as shall be prescribed by their by-laws, at which annual or special meetings they shall have full power and authority to make, alter or repeal, by a majority of votes in manner aforesaid, all such by-laws, rules, orders and regulations as aforesaid, and to do and perform any other corporate act.

Annual meeting when and where.

Special meetings

Certificates to be delivered to stock-holders, on paying \$ 3 per share.

How transferable.

Five members a quorum.

Minutes to be regularly kept.

Surveyors, &c. appointed.

Sect. 5. *Be it further enacted,* That the president and directors first to be chosen as aforesaid, shall procure certificates to be written or printed for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president and counter signed by the treasurer, and sealed with the common seal of the said corporation, to each person for every share by him subscribed and held, he paying to the treasurer in part of the sum due thereupon, the sum of three dollars for each share, which certificate shall be transferable at his pleasure, in person or by attorney, in the presence of the president or treasurer—subject, however, to all payments due and to grow due thereon, and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for that purpose, shall be a member of the corporation; and for every certificate by him held, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Sect. 6. *Be it further enacted,* That the said president and directors shall meet at such times and places, and be convened in such manner as shall be agreed on, for transacting their business : at which meeting five members shall form a quorum, who in the absence of the president may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book ; and a quorum being met, they shall have full power and authority to agree with and appoint all such surveyors, superintendants, artists and officers as they shall judge necessary to carry on the intended works, and to fix their salaries or wages, to ascertain the times, manuer and proportions, when and which the stock-holders shall pay the money due on their respective shares, in order to

carry on the work ; to draw orders on the treasurer for all monies necessary to pay the salaries or wages of persons by them employed, and for the labor done and materials provided in the prosecution of the work, which orders shall be registered and entered in their book of minutes, and shall be signed by the president, or in his absence by a majority of a quorum, and countersigned by their secretary ; and generally to do all such other acts, matters and things as by the by-laws, rules, orders and regulations of the company shall be committed to them.

Disbursements.

Sect. 7. *Be it further enacted*, That if any stock-holder, whether original subscriber or assignee, after thirty day's notice of the time and place appointed for the payment of any proportion of instalment of the said capital stock, in order to carry on the work, shall neglect to pay such proportion at the place appointed, for the space of sixty days after the time appointed for the payment thereof, every such stock-holder shall, in addition to the instalment so called for, pay at the rate of five per centum per month for every delay of such payment ; and if the same and the said additional penalty shall remain unpaid for such space of time as that the accumulated penalty shall become equal to the sums before paid in part and on account of such share, the same may be forfeited by and to the said company, and may be sold by them to any other person or persons willing to purchase, for such price as can be obtained therefor, or in default of payment by any stock-holder of any such instalment as aforesaid, for the space of sixty days as aforesaid, the said president and directors may, at their election, cause suit to be brought in any court having competent jurisdiction for the recovery of the same, together with the penalty aforesaid : *Provided always*, That the recovery in any such suit shall in no case exceed the amount

Forfeiture of 5 per cent. per month, for default.

Final forfeiture, how disposed of.

Proviso.

of such instalment or instalments as may be due on such share, together with such accumulated penalty at the rate aforesaid, as shall equal the sums before paid on the same share : *And provided also*, That no stock-holder, whether original subscriber or assignee, shall be entitled to

Delinquents,
no vote

vote at any election, or at any general or special meeting of the said company, unless the whole sum due and payable as aforesaid on the share or shares by him held at the time of such election or general or special meeting of the said company, shall have been fully discharged as aforesaid.

Surveyors,
&c. may enter upon any lands, &c. and other duties.

Sect. 8. *Be it further enacted*, That it shall and may be lawful to and for the said president and directors, their superintendants, surveyors, engineers, artists and chain bearers to enter into and upon all and every the lands, tenements and enclosures, in, through and over which the said intended turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone or gravel and other materials in the vicinity, that will be necessary in making and constructing the said road, and to survey, lay down, ascertain, mark and fix such route or tract for the said road, as in their judgment and skill will combine shortness of distance with the most practicable ground, from the south line of the township of Poland to the west line of Canfield, in the county of Trumbull : *Provided*, The road aforesaid shall be completed in the term of five years from the passage of this act.

Proviso,

Sect. 9. *Be it further enacted*, That it shall and may be lawful to and for the said president and directors, by and with their superintendants, engineers, artists, workmen and laborers, with their tools and instruments, carts, waggons and other carriages, and beasts of draft or burden, to enter upon the lands, in, over, contiguous and near to

Notice to be given to proprietors, before entry is made.

which the route and track of the said intended road shall pass, first giving notice of their intention, to the owners or occupiers thereof, and doing as little damage thereto as possible, and repairing any breaches they may make, in the enclosures thereof, and making amends for any damages that may be done to any improvements thereon, upon a reasonable agreement, if they can agree, or if they cannot agree, then upon an appraisement to be made upon oath or affirmation, by three indifferent free-holders, any two of them agreeing, mutually to be chosen, or if the owners, upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace in the county of Trumbull, not interested therein, and upon tender of the appraised value, to cut down, dig, take and carry away any timber, stone, gravel, sand, earth or other materials there, being most conveniently situated for making or repairing the said road.

Damages to be paid for,

on tender of appraisement.

Sect. 10. *Be it further enacted,* That the said president, directors and company, shall have powers to erect permanent bridges over all the waters crossed by the said route or track whenever the same may be found necessary, and shall cause a road to be made out, not exceeding sixty feet in width, from the south line of Poland, to the west line of the town of Canfield, unless in such places where the nature of the ground may render a greater width expedient, and then only with the consent of the owners of the contiguous land, and shall cause twenty-two feet thereof in breadth, at least to be made an artificial road, which shall be bedded with wood, stone, gravel, or other proper and convenient material, well compacted together, a sufficient depth to secure a solid foundation for the same; and the said artificial road shall be faced with gravel and stone pounded, or other

Bridges may be erected. Road not to exceed 60 feet.

Without consent of the owners of the land.

Road to be of a firm and even surface, &c. small hard substance, in such manner as to secure a firm, and as nearly as the nature of the country and materials will admit, an even surface, rising towards the middle with a gradual arch, and shall forever hereafter maintain and keep the same in perfect order and repair.

Every 8 miles to be surveyed by persons appointed by court of common pleas. Sect. 11. *Be it further enacted,* That so soon as the said president, directors and company shall have perfected the said road from Poland along the intended route, for the distance of eight miles, and so from time to time, any distance not less than eight miles, progressing towards Canfield, they shall give notice thereof to the court of common pleas of Trumbull county, who shall thereupon forthwith nominate and appoint, three skilful and judicious persons, to view and examine the same, and report whether the road is so far executed in a competent and workman-like manner, according to the true intent and meaning of this act, and if their report shall be in the affirmative, then the said court shall, by license under their hands, permit and suffer the said president, directors and company, to erect and fix such and so many gates or turnpikes upon, or across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons travelling in the same with horses, cattle and carriages: *Provided,* That said gates or turnpikes shall not be less than eight miles from each other.

Who may license the company to erect turnpike gates, &c. and collect toll.

Proviso.

May appoint toll gatherers, if the road is approved. Sect. 12. *Be it further enacted,* That the said company, having perfected the said road, or such part thereof from time to time as aforesaid, and the same being examined, approved and licensed as aforesaid, it shall and may be lawful for them to appoint such, and so many toll-gatherers as they shall think proper, to collect and receive of, and from all and every person and persons, using the said road, the tolls and rates, hereinafter

mentioned, and to stop any person riding, leading or driving any horse, cattle, hogs, sheep, sulky, chair, chaise, phaeton, cart, waggon, sleigh, sled, or other carriage of burthen or pleasure, from passing through the said gates or turnpikes, until they shall have respectively paid the same, that is to say, for every eight miles in length of the said road, it shall and may be lawful to demand and receive the following tolls, to wit : For every waggon, drawn by two horses, twelve and a half cents, **Rates of tolls.** if drawn by more than two horses, at the rate of four cents for every such additional horse ; for every waggon or cart drawn by one yoke of oxen, twelve and a half cents, if drawn by more than one yoke of oxen, at the rate of six cents for every additional yoke ; for every coach, phaeton, or other four wheeled carriage of pleasure, twenty cents ; for every sulky, chair, chaise, or other two wheeled carriage of pleasure, twelve and a half cents ; for every sled or sleigh, drawn by horses or oxen, **Continued,** eight cents ; for every score of sheep or hogs, ten cents, and so in proportion for a greater or lesser number ; for every head of neat cattle, one cent each ; for every horse and rider, or led horse, six cents, and for every single horse, mule or jack, one cent each : *Provided always,* That all **Proviso,** persons attending public worship or funerals, or jurymen going to or from court, with their horses or carriages, and the armies and troops of this state and of the United States, and all electors going to and returning from any election, shall pass free from paying toll. **Exemption.**

Sect. 13. *Be it further enacted,* That if any person or persons owning, riding in, or driving any carriage of burthen or pleasure as aforesaid, or owning, riding, leading, or driving any horse, mule, hogs, sheep or cattle as aforesaid, shall make use of the said road, and with an intent to defraud the said company, or to evade the payment of any **Persons evading paying toll**

of the tolls or duties aforesaid, pass therewith through any private gate or bars, or along or over any private passage, way, or along or over any other ground or land near to or adjoining any turnpike gate which shall be erected in pursuance of this act; or if any person or persons shall, with the intent aforesaid, take off, cause to be taken off any horse or other beast, or cattle of draught or burthen, from any carriage of burthen or pleasure, or shall practise any other fraudulent means, or device, with intent to evade or lessen the payment of any such toll or duty, all and every such person or persons, offending in manner aforesaid, shall for every such offence, respectively, forfeit and pay to the president, directors and company, the sum of five dollars, to be sued for and recovered, with costs of suit, before any justice of the peace in said county of Trumbull: *Provided*, That nothing in this act shall be so construed as to prevent any person from crossing or using said road between the gates, on ordinary business.

how punished.

Proviso.

Company to keep the road in constant order, &c.

If not, how to be proceeded against.

Sect. 14. *Be it further enacted*, That if the said company shall neglect to keep the said road in good and sufficient, perfect order and repair, for the space of fifteen days, and information thereof shall be given to any justice of the peace of the proper county, such justice shall issue a precept, to be directed to any constable, commanding him to summons three judicious free-holders, to meet at a certain time in the said precept to be mentioned, at the place in said road which is complained of, of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto, and the said justice shall, at such time and place, by the oaths or affirmations of the said free-holders, enquire whether the said road or any part thereof, is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made, under the hands and seals of himself and a

majority of the said free-holders ; and if the said road shall be found, by the said inquisition, to be out of order and repair, according to the true intent and meaning of this act, he shall so certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates, between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates, for the immediate distance between them, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put into good and perfect order and repair as aforesaid ; and if any of the keepers of the gates aforesaid, shall take or attempt to exact tolls for the immediate distance between the gates aforesaid, from any travellers during the time the road shall continue out of repair, such keeper shall forfeit and pay to the person who shall prosecute for the same, the sum of five dollars, to be recovered before any justice of the peace as other debts are recoverable. But if the said road shall not be put into good and perfect order and repair, before the next ensuing court of common pleas of the proper county, the said justice shall certify and send a copy of the said inquisition, to the judges of the said court, and the said court shall thereupon cause process to issue, and bring in the bodies of the person or persons intrusted by the company with the superintendance of such part of the said road as shall be found defective as aforesaid, and shall direct a bill of indictment to be sent to the grand inquest, against the person or persons intrusted as aforesaid, and upon conviction, shall give such judgment, according to the nature and aggravation of the neglect, as the said court in their discretion shall judge proper : *Provided*, The fine, in no instance, shall be less than twenty dollars, nor exceeding one hundred dollars ; and the fines so to

Toll shall cease.

If toll is demanded, the forfeiture.

Company may be indicted and punished for neglect.

Proviso.

be imposed; shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said county, which fines shall be paid into the county treasury, for the use of the said county.

Expenditures, and expenses, must be accurately kept, and submitted to the inspection of stock-holders.

For liquidation.

Number of shares may be increased if needful.

Sect. 15. *Be it further enacted,* That the president and directors of the said company shall keep fair and just accounts of all monies which shall be received by them, from the said commissioners, from the subscribers for the stock of the said company, on account of their several subscriptions, and of all penalties for the delay in the payment thereof, and of the amount of the profit on the shares which may be forfeited as aforesaid, and also of all monies by them to be expended in the prosecution of their said work, and shall once at least, in every year, submit such accounts to a general meeting of the stock-holders, until the said road shall be completed, and until all the costs, charges and expences of effecting the same, shall be fully paid and discharged, and the aggregate amount of such expences shall be liquidated and ascertained; and if upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company, at a stated or special meeting, to be convened according to the provisions of this act, or their own by laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the monies subscribed for such shares, in like manner and under the like penalties as are herein before provided for the original subscriptions, or as shall be provided by their by-laws.

Sect. 16. *Be it further enacted,* That the said president, directors and company, shall also keep a just and true account of all and every the monies to be received by their several and respective collectors of tolls, at the several gates or turn-pikes on the said road, which shall not exceed one for every eight miles, after the road is completed, from the beginning to the end thereof, or such part thereof as shall, from time to time, be completed as aforesaid; and after the said road shall be completed, or so much thereof as it may, from time to time, be deemed expedient to make and finish, shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges, and a reasonable fund for repairs, and for the progressive improvement and accomplishment of the said work, being first deducted and reserved among all the subscribers to the stock of the said company, and shall on the first Monday in February and August, in every year, publish the half yearly dividend, to be made of the clear profits, among the stock-holders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Amount of profits to be accurately kept.

Dividends to be publicly declared twice a year, and paid.

Sect. 17. *Be it further enacted,* That the said president and directors shall, at the end of every third year, from the date of the incorporation, until two years next after the whole road shall be completed, lay before the general assembly of this state, an abstract of their accounts, shewing the whole amount of their capital expended in the prosecution of the said work, and of the income and profit arising from the said toll, for and during the said respective periods, together with an exact account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profit thereof may be known and

Company at stated times, may lay before the general assembly their accounts.

ascertained; and at the end of every ten years after the said road shall be completed as aforesaid, they shall render to the general assembly, a like abstract of their accounts for the three preceding years, and if at the end of any such decennial period, it shall appear, from any such abstract, that the clear profits and income of the said company will bear a dividend of more than ten per centum per annum, the surplus of that amount, when sufficient shall arise, shall be appropriated by the said president and directors, to the purchase of such share or shares of said stock, as the money arising from the said surplus will be found adequate to purchase, until all the said shares shall be so purchased, and the said subscribers shall determine by lot, from time to time, whose share or shares shall be paid off by the money arising as aforesaid, for which shares the said company shall pay the sums which were originally paid for each respective share, and when the whole number of the shares shall be purchased as aforesaid, then the said road shall be free, and no toll whatever shall be exacted.

Excess of profits, how to be applied above 10 per cent. per an. **Shares to be purchased, and when all bought.** **The road to be free.**

Direction posts to be erected,
and mile posts,
and rates of tolls to be inscribed on the gates.

Sect. 18. *Be it further enacted,* That the said company shall cause posts to be erected, at the intersection of every road falling into and leading out of the said turnpike road, with boards and an index hand pointing to the direction of such road, on both sides thereof shall be inscribed, in legible characters, the name of the town or place to which such road leads, and the distance thereof in computed miles; and shall also cause mile posts or stones to be placed on the side of said road, beginning at the south line of Poland, whereon shall be marked in plain, legible characters, the respective number of miles from the said place of beginning, and shall also keep at some conspicuous place on each gate, a printed or painted list of the rates of toll which it may be lawful for said company to demand and receive.

Sect. 19. *Be it further enacted,* That if any person or persons shall wilfully break, deface, pull up or prostrate any mile post or stone which shall be placed in pursuance of this act on the side of the said road, or shall obliterate the letters or figures inscribed thereon; shall wilfully break, pull down, deface, destroy, or injure any direction post, which shall be erected in pursuance of this act, at the intersection of any road as aforesaid, or the board or index ~~hand~~ affixed thereto, in conformity with the provisions of this act, or shall obliterate the letters or figures inscribed thereon, or destroy, deface, or obliterate, the letters, figures or other characters marked at any turnpike or gate, which shall be erected in pursuance of this act, for all or any of the purposes mentioned therein, or the whole or any part of any printed list of the rates of toll, which shall be affixed in pursuance of the directions of this act, at any such gate or turnpike—he or they so offending in the premises, shall each of them, for every such offence, severally and respectively, forfeit and pay to the said president, directors and company, the sum of twenty dollars, to be sued for and recovered, with costs of suit, before any justice of the peace in manner aforesaid.

Penalties for defacing the posts.

Mile stones

or gates.

Fine for so doing.

Sect. 20. *Be it further enacted,* That the president and directors of the said turnpike road, for the time being, shall and may, and they are hereby authorised and empowered, at their choice and discretion, to grant, demise and to farm let, to any person or persons with whom they can agree, the tolls and duties which, by virtue of this act, they are authorised to demand and receive, for passage in, upon and along the said road, at any gate or turnpike on the same, or any part of the same, for any term not exceeding seven years, under such rents and convenient reservations and conditions as the said president and directors shall

Tolls may be rented, &c.

for seven years.

agree upon ; which grant and demise shall have the same construction, force and effect, as other the like grants and demises made between private persons, have and receive at law.

Right hand
of the road
to be taken.

Sect. 21. *Be it further enacted*, That all waggons, carters and drivers of carriages, of all kinds, whether of burthen or pleasure, using the said road, shall (except when overtaken or passing by a carriage of slower draft) keep their horses and carriage on the right hand of the said road, in the passing direction, leaving the other side of the road free and clear for other carriages to pass and repass ; and if any waggoner, carter or driver shall offend against this provision, he shall forfeit and pay any sum not exceeding six dollars to any person who shall, by reason thereof, be obstructed in his passage, and will sue for the same before any justice of the peace, to be recovered with costs in like manner as aforesaid.

Penalty for
not so doing.

Toll gather-
er punished
for delay or
extortion.

Sect. 22. *Be it further enacted*, That if any toll-gatherer on said road shall unreasonably detain, or demand, or receive from any person or persons using the said road, any greater or higher rate of toll than by this act is authorised and allowed, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offence, one half to the use of the overseers of the poor in the township in which the forfeiture shall be incurred, and the other half for the use of the person suing for the same, to be recovered before any justice of the peace where such offence shall be committed.

Vexatious
suits. how
guarded a-
gainst.

Sect. 23. *Be it further enacted*, That if in the case of any suit or prosecution which shall be commenced under the directions of this act, for any penalty incurred under the same, whether by or against the said company, their servants or assignees, the said suit or prosecution shall not be sustained by the plaintiff or prosecutor, then and in such case the person or persons prosecuted as

aforesaid, shall recover, by the judgment of the justice before whom such suit or prosecution shall be depending, or by action before the court of common pleas of the proper county, such sum, not exceeding the amount of the penalty for which the suit or prosecution shall be commenced, as shall be deemed a reasonable retribution for the vexation of such suit or prosecution.

Sect. 24. *And be it further enacted,* That no suit or action shall be brought or prosecuted by any person or persons, for any penalty incurred under this act, unless such suit or action shall be commenced within two months next after the fact committed; and the defendant or defendants in such suit or action, may plead the general issue, and give this act and the special matter in evidence, and that the same was done, in pursuance and by the authority of this act.

ALEXANDER CAMPBELL,
Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 20th, 1809.

CHAPTER XL

AN ACT appointing Amos Evans and George Wilson, agents for the heirs of John Wilson, deceased.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That Amos Evans and George Wilson, both of Highland county, state of Ohio, be, and they are hereby appointed agents for the minor heirs of John Wilson, late of Mason county and state of Kentucky, deceased; and they are hereby authorised and empowered, by and with the consent of the guardian or guardians of the said

Agents authorised to sell and convey certain lots, in the town of Chillicothe.

O

minor heirs, to sell and convey, by a good and sufficient deed or deeds, jointly with the other heirs of the said John Wilson, deceased, the interest or estate that the said heirs have to the in-lots, numbered one hundred and eighty-two and ninety-one, upper half of out-lot, numbered one hundred and ten; also, out-lots, numbered one hundred eleven and one hundred and twelve, situated in the town of Chillicothe and county of Ross.

Proceeds of sale, how to be applied. Sect. 2. *Be it further enacted*, That the said Amos Evans and George Wilson, be, and they are authorised to apply so much of the proceeds of the sale of the lots aforesaid, as may belong to the minor heirs of the said John Wilson, deceased, as may be necessary to defray the expense which has or may accrue, on the division of the real estate of the said deceased, so far as the said minor heirs may be in arrears therefor, and the surplus, if any there shall be, shall be applied towards the purchase of lands for the said minor heirs, in such manner as the said guardians and agents may deem most advantageous.

Acts, &c. to be valid in law. Sect. 3. *And be it further enacted*, That all deeds of conveyance duly executed and signed by them as agents for the minor heirs of John Wilson, deceased, for the purpose before mentioned, shall be good and valid in law, as if conveyed by the said John Wilson in his life time.

Commencement. This act shall commence and be in force, from and after the passing thereof.

AL EXANDER CAMPBELL.

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

January 24th, 1809.

CHAPTER XII.

AN ACT to amend an act, entitled " An act for the limitation of actions."

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That where any person or persons against whom there is cause of action, shall have left the state, and remained out of the same, at the time of such cause of action, given or accrued; or shall have left the state or county, and remained out of the same, in a place or places, unknown to the person or persons, in whose name such cause of action may exist, at any time during such time as is limited by the statute aforesaid, within which the several species of actions in said statute mentioned, are required, if at all, to be sued or brought; the person or persons, who shall or may have such cause of action, shall have liberty to bring his, her or their action, or actions, against such person or persons, within such time as is limited by the afore recited act, after his, her or their return to the state or county.

Persons who have left the state.

Subject to be sued on their return.

Sect. 2. *And be it further enacted,* That if in any action or suit, commenced within the time limited by the aforesaid act, judgment be arrested or reversed, and the time limited as aforesaid expire, the plaintiff may bring a new action: *Provided,* he do it within one year after such judgment has been arrested or reversed.

Judgments arrested or reversed.

Proviso.

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

Commencement.

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

January 24h, 1809.

CHAPTER XIII.

AN ACT repealing the act, entitled "An act to encourage the killing of squirrels."

Sect. 1. *Be it enacted by the general assembly of the state of Ohio*, That the act, entitled "An act to encourage the killing of squirrels," passed the twenty-fourth day of December, one thousand eight hundred and seven, be, and the same is hereby repealed.

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

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

January 24th, 1809.

CHAPTER XIV.

AN ACT repealing so much of the act, entitled "An act declaring certain streams navigable," as relates to Still Water.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio*, That so much of the act declaring certain streams navigable, passed on the seventeenth day of February, in the year of our Lord one thousand eight hundred and eight, as relates to Still Water, be, and the same is hereby repealed.

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

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

January 24th, 1809.

CHAPTER XV.

AN ACT directing in what manner certain lands, granted by congress for the use of schools, in the Virginia military tract, shall be surveyed and disposed of.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That there shall be appointed by a joint resolution of the legislature, a surveyor, register and treasurer, who shall each hold their offices for three years, if so long they behave well, and who shall, before they enter upon the duties of their respective offices, enter into bond, with sufficient sureties, of ten thousand dollars each, payable to the treasurer of state, conditioned for the faithful performance of the duties enjoined on them respectively, by this act.

Surveyor, register & treasurer to be appointed.
To give bond.

Sect. 2. *Be it further enacted,* That it shall be the duty of the surveyor to proceed, forthwith, to run off the lands granted by the United States for the use of schools, within the Virginia military district, (by their act, dated the second day of March, eighteen hundred and seven) into quarter-sections, in the same manner they are run off by the United States. Both in the running off and marking the boundaries of said lands, the said surveyor shall be governed and regulated by instructions, in all respects similar to those given by the surveyor-general of the United States, to his deputies in similar cases, and for which he shall receive the same compensation that is allowed by the United States for like services.

Duty of surveyor
His compensation.

Sect. 3. *Be it further enacted* That as soon as the lands aforesaid are laid off into quarter-sections, and a plat of each quarter, township or section (as the case may be) shall be deposited with the register; he shall give public notice in four newspapers of this state, a newspaper at Pittsburgh and

Duty of the register.
To publish the time of sale.

Brownsville, in Pennsylvania, and Wheeling, in Virginia, that the said quarter-sections will be offered for sale, to the highest bidder, on a certain day or days, and at a certain place, therein to be named, and the terms on which said lands will be sold; which notice shall be given at least six weeks previous to the day of the commencement of the sale.

Register and treasurer to attend & offer for the land for sale. Sect. 4. *Be it further enacted,* That it shall be the duty of the register and treasurer to attend at the time and place of sale, and then and there offer for sale, to the highest bidder, the whole of said lands, beginning with the quarter-section which lie in the most north-easterly situation, and thence west until those that lie in the same parallel of latitude be offered; then return eastward, with those that lie in the next parallel of latitude, and so on west and east, until all are offered for sale: *Provided,* No part thereof shall be sold for less than two dollars per acre, together with a proportion of the expense of surveying, advertising and offering for sale, which shall be ascertained and apportioned as is hereafter directed.

Proviso.

Not to be sold for less than \$ 2 per acre.

Conditions of sale.

Sect. 5. *Be it further enacted,* That the said lands shall be sold as aforesaid, and paid for as follows, that is to say: There shall be paid to the treasurer, at the time of making the purchase, such sum as may be found chargeable on each quarter-section, for the expense of surveying, advertising and offering for sale as aforesaid; and on the remaining sum, the purchaser, his heirs or assigns, shall pay yearly and every year forever, at the rate of six per centum per year—subject, however, to alteration by any succeeding legislature, so as to enable the purchaser or purchasers to make such commutation as said legislature may think expedient.

Sect. 6. *Be it further enacted,* That the first payment shall not be required to be made until

the first Monday in the second February after the purchase is made, and from thenceforth, forever, the payments shall become due and payable on the first Monday of February, yearly: And in case payment be not made on the first Monday of February, as aforesaid, it shall be the duty of the treasurer to enter upon the land of the delinquent or delinquents, and give notice in the same manner sheriffs may be required to do, for the time being, in case of the sale of lands for debt, and shall proceed to sell the same in the last week of March, to such person or persons as will pay the arrearages then due, and become bound for the yearly payments as they may become due thereon, forever, agreeably to the conditions of the first sale of such tract or quarter section.

Payments to be made on the 1st Monday of Feb. yearly.

Treasurer's duty in case of non-payment.

Sect. 7. *Be it further enacted*, That the register and treasurer aforesaid, shall in all things appertaining to their respective offices, conduct the business thereof, in the same manner, and be governed by the same rules, so far as they can properly apply, that the registers and receivers are, in the public offices of the United States, for the sale of their lands.

Manner of conducting the sales.

Sect. 8. *Be it further enacted*, That the register shall execute a deed or deeds of lease for ninety-nine years, renewable forever, to the purchaser or purchasers, to his, her or their heirs, executors, administrators, or assigns, conditioned, that the person or persons so purchasing, his, her or their heirs, executors, administrators, or assigns, shall comply with the requisitions of this act, or suffer the treasurer to enter thereon, and make sale as herein before directed, which deed or deeds of lease, he shall execute as other deeds are executed, and record accurately, in a book to be by him provided for that purpose, after which he shall deliver it to the person entitled thereto, who shall have it recorded as other deeds are.

Register to give a deed for lands when sold.

Deeds to be recorded.

Register to audit and settle the surveyor's accounts &c. Sect. 9. *Be it further enacted,* That the register shall audit and settle the account of the surveyor, and shall also audit and settle for such printing, books and stationery as may be necessary, under the provisions of this act, together with the expense attending the offering for sale the said lands; the amount of the sums due on such settlement, shall be paid, with interest thereon, at the treasury, on the certificate of the register.

Land not sold at public sale to be offered at private sale. Sect. 10. *Be it further enacted,* That such of the quarter sections as may not be sold at the public sale, when offered as aforesaid, shall be exposed at private sale, at two dollars per acre, with the addition of the contingent expense aforesaid, payable in the same manner, and at the same yearly period herein before mentioned.

Register, &c. to hold offices at the town of Mansfield. Their compensation. Sect. 11. *And be it further enacted,* That the register and treasurer shall hold their offices at the town of Mansfield, in the county of Richland, and shall each receive yearly the sum of one hundred and fifty dollars out of the avails of said lands, together with one and a half per cent. on the amount of money received in the treasury; subject, however, to such alterations as any future legislature shall think proper to make.

Commencement. This act to take effect, from and after the passage thereof.

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,

Speaker of the senate.

February 17th, 1809.

CHAPTER XVI.

AN ACT to regulate elections.

Future elections to be governed by this act. Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That all elections hereafter to be holden for governor, sheriffs, county commis-

sioners, coroners, senators, representatives to the general assembly and representatives to congress, shall be held and conducted in the manner prescribed in this act.

Sect. 2. *Be it further enacted,* That each township in the several counties, shall compose an election district. The elections to be held at such place as the trustees of each township shall direct.

Each township a district. Elections, when held.

Sect. 3. *Be it further enacted,* That the sheriffs of the several counties shall cause to be procured at the expence of the proper county, a number of boxes equal to the number of townships in such county, and cause one of said boxes, together with a copy of the laws passed at this session of the legislature, to be deposited with each township clerk, whose duty it shall be carefully to preserve the same for the use of the electors, and carry them to the proper place within his township, for holding elections, when and as often as it may be necessary to meet and vote for officers under this act.

Sheriff to provide boxes, &c. to be deposited with township clerk

Sect. 4. *Be it further enacted,* That each box to be provided as aforesaid, shall be of a sufficient size 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 there 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, so as to close the aperture, and exclude the admission of any thing into the box after the close of the poll.

Construction of the boxes.

Sect. 5. *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 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

Sheriff to proclaim when and where elections shall be held.

where the elections are appointed to be holden.

Polls when to be opened. Sect. 6. *Be it further enacted,* That all elections to be holden under this act, the poll shall be opened between the hours of eight and eleven in the morning, and close at four in the afternoon of the same day.

Judges and clerks. Sect. 7. *Be it further enacted,* That at all the elections to be holden under this act, the trustees of the several townships shall serve as judges, and the clerk of each township, and such other person as the aforesaid judges shall choose, shall serve as clerks of the election, who, together with the judges aforesaid, after being duly sworn as herein after directed, shall proceed to discharge the duties of their respective offices, for which they shall receive one dollar per day, each, as a compensation for their services, to be paid out of the treasury of their proper county: *Provided,* That if either of the trustees or clerk of any township, shall fail to attend, at the time and places for holding the aforesaid elections, or if either of them should be a candidate, then it shall be the duty of the electors present to choose, *viva voce*, a suitable person or persons, as may be required, having the qualifications of an elector, to act as a judge or judges, or clerk or clerks, as the case may be, of the election.

Compensation.

Provide,

in case of absence.

Penalty in case of refusal to act. Sect. 8. *Be it further enacted,* That if any of the trustees, or township clerks aforesaid, shall fail to attend, or refuse to discharge the duties imposed on them according to the true intent of this act, or if those who may be chosen to act in their stead (in case of their absence or being candidates) shall refuse to act in the capacity of judges or clerks, as required by the provisions of this act, in either case the person or persons so offending, shall forfeit and pay a sum not exceeding ten dollars, for the use of the county in which he or they may reside, to be recovered with costs, before

any justice of the peace of the township, in an action of debt.

Sect. 9. *Be it further enacted,* That previous to any votes being received, the judges and clerks shall severally take an oath or affirmation, which they are hereby authorised and empowered to administer to each other, in the form following ; “ 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 the best of my abilities ; and that I will studiously endeavor to prevent fraud, deceit or abuse, in conducting the same.”

To be sworn.
Form of oath.

Sect. 10. *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.

Electors to vote by ballot, and in what manner.

Sect. 11. *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 objections be made to him, and the judges be satisfied that the elector is a citizen of the United States, and legally entitled, agreeably to the constitution and laws of this state, to vote at that election, he shall immediately put the ticket into the box, without inspecting the name or names written thereon.

Name of electors to be announced, his qualification.

Sect. 12. *Be it further enacted,* That when objections are made to an elector, and in all other cases where the qualifications 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, or they may enquire into the qualifications of such elector on the oath or affirmation of

Electors may be examined on oath, &c.

disinterested witnesses, which oaths or affirmations either of the judges are hereby authorised to administer.

Poll books to be signed & attested. Sect. 13. *Be it further enacted,* That at the close of the polls, 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 the manner herein after provided, in the form of the poll books.

Ballot boxes to be opened and the judge's duty. Sect. 14. *Be it further enacted,* That after the poll books are signed in the manner herein after provided, in the form of the poll books, 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 ballot box is equal to the number of names contained in the poll books

Clerk's duty to record Sect. 15. *Be it further enacted,* That the clerks shall enter in separate columns, under the names of the persons voted for, as herein after provided in the form of the poll books, all the votes so as aforesaid read by the judges.

Detection of fraud. Sect. 16. *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.

Again. Sect. 17. *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 consi-

dered fraudulent as to the whole of the names designated to fill such office, but no further.

Sect. 18. *Be it further enacted,* That a ballot shall not be adjudged fraudulent for containing a less number of names than that authorised to be inserted. What is not fraudulent.

Sect. 19. *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 as herein after provided, in the form of the poll books, and be publicly proclaimed to the people present. Judges to publicly proclaim the result.

Sect. 20. *Be it further enacted,* That the following shall be the form of poll books to be kept by the judges and clerks of election, held under this act.

“ Poll book of the election held in the township of _____ in the county of _____ on the _____ day of _____ in the year of our Lord, one thousand eight hundred and _____ A B, CD, and E F, judges, and I K, and L M, clerks of this election, were severally sworn as the law directs, previous to their entering on the duties of their respective offices. Form of poll books.

<i>Number and names of electors.</i>		<i>Number and names of electors.</i>	
No. 1	A. B.	No. 3	E. F.
2	C. D.	4	G. H.

It is by us certified that the number of electors at this election, amounts to

A B	}	Judges of	Election.	Certificate.
C D				
E F				

Attest,

I K	}	Clerks.
L M		

We do hereby certify that A B, had votes for
governor, C D, had votes for governor ; A B, Certificate.
had votes for senator in the state legislature ;
C D, had votes, &c.

A B }
C D } Judges of
E F } Election.

Attest,

I K }
L M } Clerks.

Sect. 21. *Be it further enacted,* That after canvassing the votes in manner aforesaid, the judges before they disperse, shall put under cover one of the poll books, seal the same and direct it to the clerk of that county where the return is to be made ; and the poll book 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 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.

Poll books to be put under cover and sealed, and by one of the judges, carried to the clerk of the county.

Sect. 22. *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 associate 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

When and by whom opened.
Abstracts how made and where deposited.

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, coroners and county commissioners, 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. In making the abstract of votes as aforesaid, the judges or justices and clerk, shall not decide on the validity of the returns aforesaid, but shall be governed by the number of votes stated in the poll books.

In case of disability of the clerks, on whom the duty devolves.

Sect. 23. *Be it further enacted*, That whenever it shall so happen that the clerk of any of the courts of common pleas shall die, be absent, or from any other casualty, be prevented from opening the returns of votes at any election, it shall be lawful for his deputy to discharge the duties required of such clerk by law; or if the office of such clerk is not represented by deputy, and such clerk being absent, or in any wise disqualified to serve as aforesaid, it shall be the special duty of the associate judges of the county in which such election was held, to attend immediately, at the seat of justice of such county, and they, or a majority of them, shall there proceed to open all returns of elections for such county or counties, and perform the same duties that are required of the clerk of the court and judges or justices of the peace.

Equal numbers to be determined by lot.

Sect. 24. *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.

Forms not

Sect. 25. *Be it further enacted*, That no electi-

on shall be set aside for want of form in the poll books, provided it contains the substance. essential.

Sect. 25. *Be it further enacted,* That where two or more counties compose a district and elect in common, members of the general assembly, one of the judges of each election district shall carry one of the poll books to the clerk's office of that county in which the election is held, within five days after the day of election, and the clerk shall forthwith proceed to open the returns from the several election districts, in the same manner and under the same regulations, that the clerks of the original counties are bound to do by this act, and make out a fair abstract of the votes given within the county, under the seal of the court of common pleas, and attested by the clerk, and transmit the same, by special messenger, to the clerk's office of the original county, within ten days after the day of election, who shall receive and open the same, in the same manner as returns of election districts, and incorporate the returns from the new county or counties, with the returns of the election districts of the original county, and make out and deliver to the persons elected, certificates of their election, agreeable to the regulations of the twenty-first section of this act. The duty of the judge and clerks in case of two or more counties form a district. Certificates.

Sect. 27. *Be it further enacted,* That the clerk and judges, or justices shall, and they are hereby authorised to adjudge and declare the person having the highest number of votes for sheriff, coroner, or county commissioner, and the person or persons having the highest number of votes for senators or representatives to the general assembly, duly elected, subject to an appeal to the court of common pleas of the proper county, in case of the contested election of sheriff, coroner, or county commissioner: *Provided,* notice of such appeal be entered with the clerk of the county, within twenty days from the day of election, and to that The highest number of votes to be declared by the judges, &c. Appeal. Proviso.

branch of the legislature to which any person may be returned, where an election is contested.

Certificate of election. Sect. 28. *Be it further enacted,* That the clerk shall make out for the sheriff, coroner, county commissioner and each of the senators and representatives to the general assembly, who have the highest number of the votes given, a certificate of such his election, and shall deliver the same to the person entitled thereto, upon demand.

Bribery, how punished. Sect. 29. *Be it further enacted,* That if any person shall, 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 offence, a sum not exceeding five hundred dollars. And if any person shall furnish an elector who cannot read, with a ticket, informing him that it contains a name or 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.

Fraud.

Notice of contest to be delivered in writing, touching the points in dispute. Sect. 30. *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 person 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; and such notice shall be served at least ten days before the day pointed out

therein for taking depositions: *Provided*, That **Provide**
 the time fixed upon for taking such depositions,
 shall not exceed thirty days from the day of electi-
 on. And the said justices, or either of them, shall
 have power, and they are hereby authorised and
 required to issue *subpoenas* to all persons whose **Subpoenas to**
 testimony may be required by either of the parties, **issue,**
 commanding such person to appear and give tes-
 timony at the time and place therein mentioned,
 under the penalty of fifty dollars for every such **punishment**
 offence, to be levied on each and every delinquent **for neglect.**
 who hath been duly 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 contest-
 ed, may be returned to serve at their next session.
 No person shall contest the election of any sena- **Qualification**
 tor or representative, unless he is an elector of that **of a contest-**
 county or district, from which the person is re- **or.**
 turned to serve. No testimony shall be received **Evidence,**
 by the justices, on the part of the person contest- **where depo-**
 ing the election, which does not relate to the point **sited.**
 specified in the notice, a copy of which notice, at-
 tested by the person who delivers or serves the
 same, shall be delivered to the said justices, and by
 them transmitted to that branch of the general as-
 sembly where the contest is to be decided, with
 the other documents.

Sect. 31. *Be it further enacted*, That the me-
 thod to be pursued in contesting the election of **The same as**
 any person proclaimed sheriff, coroner or county **regards the**
 commissioner, shall in every respect, be similar **sheriff.**
 to the method directed as aforesaid to be pursued
 in contesting the election of senator and represen-
 tative to the general assembly, save only that the
 testimony taken as aforesaid, and all matter rela-
 tive to such contest shall be sent to the court of **Evidence**
 common pleas of the proper county, on or before **where de-**
positet.

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.

Certificates for representatives.

Sect. 32. *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, for representatives to congress, he shall give to the person having the highest number, 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.

Returns, by whom opened, and in what manner certified

Compensation.

Sect. 33. *Be it further enacted,* That the judge who carries the poll book to the clerk of the court of common pleas of the proper county, shall be entitled to receive for the same, such compensation, as shall be allowed him by the commissioners of the respective counties, to be paid on the order of such commissioners, out of the respective county treasuries.

Refusal to open returns,

Sect. 34. *Be it further enacted,* That if any associate judge, justice of the peace, clerk of the court of common pleas, or sheriff, who may open the returns, 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.

how punished.

Fines, how recoverable.

Sect. 35. *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, in an action of debt, or by indictment for the use of the county.

Sect. 36. *And be it further enacted,* That an act, entitled "An act to regulate elections," passed 15th of April, 1803, and all other laws and parts of laws, that come within the purview of this act be, and the same are hereby repealed.

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

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 15th, 1809.

CHAPTER XVII.

AN ACT for opening and regulating roads and high-ways

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That all roads and highways, established by law, shall be opened, amended and kept in repair, or vacated, agreeably to the provisions of this act; and the county 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 they shall assemble themselves at their usual place of meeting in their several counties, on the first Mondays of March, June, September and December, yearly and every year, and shall continue by adjournment from day to day, until the business before them be finished.

Sect. 2. *Be it further enacted,* That every application for a road, shall be by petition, specifying particularly where such road shall begin, the remarkable places by which such road is intended to pass, if any, and where the same shall end,

signed by at least twelve land-holders of the county ; and such petition shall be presented to the commissioners by one of the first twelve signers of the same, who shall enter into bond with sufficient security, payable to the treasurer of such county for the costs arising on such petition, survey and view, unless the road so petitioned for, shall appear to said commissioners to be of general and public utility to the citizens of the state or county at large, then the costs attending the same, shall be paid out of the county treasury.

Alterations
of roads to be
advertised.

Sect. 3. *Be it further enacted*, That previous to any application being made for an order to lay out a 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, at least thirty days prior to that meeting of the commissioners to which the intended application is to be made.

Appoint-
ment by
comm'rs.

Sect. 4. *Be it further enacted*, That upon the presenting of a petition, in the form 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 landholders, who, or any two of whom, after having been sworn, before 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 the said commissioners, to view the ground along which said road is proposed to be conducted, as near the prayer of the petitioners, as a good road can be obtained at a reasonable expence, and shall truly and impartially take into consideration the utility and inutility, convenience and inconvenience which will result (as well to individuals) as to the public, if such road should be opened, and

View of
ground.

if a majority of said land-holders shall be of opinion that such proposed road, if established, would not be useful nor of public convenience, they shall report accordingly.

Sect. 5. *Be it further enacted*, That the commissioners shall, at the meeting in which they appoint viewers, to view and report on any particular road as aforesaid, appoint a skilful surveyor, who shall take to his assistance two active men, as chain carriers, and one marker, and he, together with his chain carriers and marker as aforesaid, shall attend with said viewers, at the time and place first appointed by the commissioners, and shall survey such road, according to the view of said land-holders, or a majority of them, 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 the 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 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, and the commissioners are satisfied that the same will be of public utility, they shall order such road to be opened a necessary width not exceeding sixty six feet, and made in other respects convenient for the passage of travellers and carriages, and cause a record thereof to be made, which thenceforth shall be deemed a public highway.

Report of comm'rs.

Appointment of surveyor and assistants.

Mile stones.

Width of road.

Sect. 6. *Be it further enacted*, That objections to a public road shall be made by at least twelve land-holders of that part of the county through which the same runs, which objections

Objections, by whom to be made.

shall be stated in writing, with their names subscribed thereto, previous to a record being made of the same; and when such objections are made in form aforesaid, and presented to the commissioners, by one of the first twelve signers of such objection, who shall enter into bond with sufficient security, payable to the county treasurer, for all costs and charges which may accrue on such review, unless the vicwers who shall be appointed by the commissioners, shall be of opinion that such road will be useless, inconvenient or burdensome, and thereupon the commissioners shall appoint five disinterested land-holders of the county, 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 land-holders to meet where such proposed road shall begin; and the land-holders respectively, having had six days previous notice from some one of the objectors, to meet on the day, and at the place assigned by the commissioners, and after having taken an oath or affirmation before some judge of the the court of common pleas, or justice of the peace, shall faithfully and impartially view and report to the said commissioners, at their next meeting, whether such road, if opened and kept in repair by the public, will be useless, inconvenient and burdensome, or otherwise; and if the viewers being qualified as aforesaid, or any three of them, agree and report in writing, certified and signed by themselves, that such proposed road, if opened, will be useless, inconvenient or burdensome to the public, then unless the petitioners will agree to open and keep in repair such proposed road, at their own private expence, all the proceedings shall be stayed, and the person who presented the first petition for such road, shall pay all costs and charges which may have accrued on the view and review of such road: but if three of the said

On whom
expences
shall fall.

Continued.

Continued.

viewers shall agree and report in form aforesaid, that such proposed road if opened, will be of public utility, then and in that case, the objectors shall pay all costs and charges which may have accrued on such review, and such road shall be ordered to be recorded and opened in manner aforesaid, and shall thenceforth be deemed a public road.

Sect. 7. *Be it further enacted*, That if any person through whose land any proposed county road may run, feels himself or herself aggrieved thereby, such person or persons may, at any time before such road is opened, set forth his or her grievances in writing to the commissioners at their session to which the return of such road is made, and the commissioners shall appoint five disinterested and reputable land-holders of the county, who shall meet on such objector's land, where such road crosses the same, at such time as shall be directed by said commissioners, and after having taken an oath or affirmation before some person authorised to administer oaths, 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 shall be opened and continue through his or her land, having had six days' previous notice by either of the parties, said land-holders shall proceed to review said road through the land of such objector or objectors, and in assessing the damage or damages, the said land-holders shall take into view the value of the objector or objector's estate, and adjudge how much less valuable the same will be rendered, if such road should be established and opened; and in case the said land-holders (being qualified as aforesaid) or any three of them, should agree in assessing damages to the amount of the costs accruing on such review, or upwards, they shall make out a report in writing, and certify and sign the same, which shall be by some one of said

Aggrievan-
ces, how re-
dressed.

Continued.

R

land-holders, delivered to the commissioners at their next quarterly session ; and upon such report made, in manner and form aforesaid, the commissioners shall issue their order on the treasurer of the county, for the amount of the damage or damages, so assessed and returned, payable to the person or persons sustaining such damage or damages ; but if the land-holders appointed and qualified as aforesaid, or a majority of them, should be of opinion, that such objector or objectors is not entitled to damages in form aforesaid, they shall report accordingly, and in that case the objector or objectors shall pay all costs and charges arising from such review, at the suit of either of said land-holders, in the name of the whole of them, before any justice of the peace within the township wherein such objector shall reside, by action of debt or otherwise, and such road, so objected to, shall be ordered to be recorded and opened in like manner as though no such objections had been made : *Provided*, That no public road shall be opened through any objector's land who has received an order from the commissioners for damages as aforesaid, until such money is actually paid, or legally tendered to such objector or objectors.

Continued.

Provision for payment of damages.

Re-examination by commissioners,

Sect. 8. *Be it further enacted*, That in all cases where the county commissioners shall appoint land-holders to assess damages, under the seventh section of this act, such commissioners may (if in their opinion the nature of the case should require it) authorise such land-holders to re-examine the ground through such objector's land, and if a majority of such land-holders are of opinion that such road could be run through such objector's land in any other part thereof than that whereon such road was first run, so as to satisfy the objections raised against the opening of such road, or decrease the damages which must necessarily ac-

crue, if opened, and without increasing the distance to the injury of the public, or increase the labor in opening and keeping such road in repair, such land-holders shall take to their assistance a skilful surveyor, and proceed to survey and measure the ground, and proceed in all other respects as directed by the ninth section of this act, in case of a person wishing to turn a road through another part of his land.

Sect. 9. *Be it further enacted,* That if any person through whose land any road doth or may run, shall be desirous of turning such road through another part of his, her or their land, such person or persons may petition the commissioners while in session, to permit him, her or them, at his, her or their own expence, to turn such road through another part of his, her or their lands, 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 land-holders of the county, who shall proceed to re-view the ground on which such 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 said established road, and after viewing and measuring the same, the said land-holders, or any two of them, shall make out a report in writing, certifying the several distances, together with their opinion respecting the ground on which such proposed road is requested to be run, which shall be signed by said land-holders, and by them returned to the commissioners, at their next session; and if it shall appear to the satisfaction of the commissioners, that the ground on which such new part of the road is designed to be run, is equally good for a road, and the difference in the distance will not be injurious to the public, such commissioners shall permit him, her or them, to turn

with power to revoke.

Comm'rs. to allow an alteration of the original road.

Petitions to open another road, previously.

such road, and on receiving satisfactory assurance that the petitioner or petitioners have opened such proposed road equally convenient for travellers and carriages, they 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.

Roads useless may be vacated,

how, and in what manner.

Charges, by whom to be paid,

provided no part of towns &c. shall be vacated, &c.

Sect. 10. *Be it further enacted,* That when any public road shall be considered useless, and the repairing thereof is an unreasonable burthen, any twelve land-holders within the neighborhood of that part of the county through which the same shall run. may make application in writing to the commissioners, subscribed by themselves, setting forth their reasons wherefore they wish such road vacated, which shall, during the meeting of the commissioners to which it shall be presented, be publicly read in open meeting on two different days of the same 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 land-holders, said commissioners shall, on any day in the said meeting other than the first, proceed to vacate such public road, and the costs and charges shall be paid out of the county treasury; but if obligations are made in form aforesaid, the commissioners shall proceed to appoint viewers, and under the same regulations as directed by the fourth section of this act, in case of appointing viewers on a new road, who shall also report in the same manner (the survey excepted) as viewers are directed to do in laying out new roads: *Provided,* That nothing in this section contained, shall be understood to give authority to said commissioners to vacate any street or alley in any town which hath, or may be laid out by the proprietors thereof, or by any other person

or persons, and given for public use ; and all roads laid out under the authority of the act, entitled, " An act appropriating part of the three per cent. granted for laying out, opening and making roads within this state," and the several acts amendatory thereto, shall be kept in repair, and be liable to the same order as is provided in this act, any thing contained in any other law to the contrary notwithstanding.

Sect. 11. *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,* That such appeal be entered with the clerk of the commissioners within fifteen days after the proceedings were had before said commissioners, by the appellant or appellants entering into bond, with sufficient security, for the costs and charges of such appeal, and the courts of common pleas are hereby 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 do : *Provided, further,* That no order for opening any road shall be issued, until the time allowed by this section for an appeal shall have expired.

Sect. 12. *Be it further enacted,* That if any person or persons shall, for the convenience of themselves or neighbors, wish to have a private road laid out, from the plantation or dwelling place of any person or persons, or from any mill, house of public worship, or public road, or from one road to intersect another, the person or persons applying for the same, shall advertise their intention, as by this law required in case of public roads, and shall petition the trustees of the proper township or townships through which it is designed to be run, who shall proceed in every respect as is by this act provided in case of public roads, and such roads shall

not be obstructed by the owners of the lands through which they may run, without the consent of the party interested in laying out, opening and keeping the same in repair; and if any person or persons shall be desirous of turning any road laid out under the provisions of this section, through another part of his, her or their land, such person or persons may petition the trustees of the proper township for that purpose, who shall proceed in every respect as is required by the ninth section of this act, in case of public roads: *Provided, That* no road laid out in pursuance of this section, shall exceed twenty feet in breadth, and that the petitioner or petitioners shall defray every expense and charge of laying out, opening and keeping the same in repair.

Reference to 9th section.

Proviso.

Duty on public roads.

Supervisor's duty.

Sect. 13. *Be it further enacted,* That all white male persons of the age of twenty-one years and upwards, who have resided three months within this state, and who are not a township charge, shall be liable yearly and every year, to do and perform two days' work on the public roads, under the direction of the superior within whose district they shall be respectively resident, and it shall be the duty of every supervisor to call out every such resident as aforesaid, when in his opinion it may be expedient to work on the public roads within his district, and if any such resident being personally warned by the supervisor, or leaving a written notice at his place of abode, or by some person by the direction of the supervisor, by whom such warning can be proven, shall refuse or neglect (having had three days' previous notice) to attend by himself or substitute, to the acceptance of the supervisor, on the day and at the place directed by the supervisor for working on the public road, with such necessary and common articles of husbandry as the said supervisor shall have directed him to bring, wherewith to labor, or hav-

ing 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 or delinquents shall forfeit and pay, for every such neglect or refusal, the sum of one dollar, to be recovered by action of debt, before any justice of the peace, at the suit of the supervisor within whose district such delinquent or delinquents shall reside, (having first made a personal demand of the same) which shall be accounted for the said supervisor at the annual settlement with the trustees of his township, and be appropriated towards repairing the public roads through the same: *Provided*, That in case any person should remove from one district to another, who shall, prior to such removal, have performed the whole, or any part of the labor, or in other respects have paid the whole, or any part of his road tax, as by this act required, and shall produce a certificate of the same from the supervisor of such district, such certificate shall be a complete discharge (as far as therein expressed) for the like requirement for that year: *Provided, also*, That all persons who may be deemed by the supervisor unable, from bodily infirmity, to perform the service by this section required, such persons shall be exempted from the requisitions of the same.

Forfeitures
of delin-
quents,

how to be
accounted
for.

Extra duty
to be allow-
ed.

Exemption.

Sect. 14. *Be it further enacted*, That the trustees of the several townships within any county in this state, through which one or more public roads may run, shall levy a road tax (in addition to the labor above-required) within their respective townships, having a special regard to levy the same on each individual, in proportion to his or her county tax yearly and every year, on such objects of taxation as are taxable for county purposes, *provided* the situation of public roads should require such tax—to be appropriated for the opening, clearing and repairing the several public roads and

Road tax.

Proviso.

highways within their respective townships, in such manner as shall be by this act directed; *Provided, also*, That such tax shall not exceed the county tax levied in the same year.

Trustees in particular instances may levy taxes.
Proviso.
Rate of exemption of tax, see 14th sect.

Sect. 15. *Be it further enacted*, That the trustees in the several townships within any county through which one or more public roads may run, where there is no county levy collected, shall; if they deem it necessary for opening and keeping in repair public roads and highways in their respective townships, levy a tax for that purpose: *Provided*, That the same do not exceed the rates prescribed by law for county taxes.

Rate of exemption of tax, see 14th sect.

Sect. 16. *Be it further enacted*, That each and every person charged with a tax agreeably to the fourteenth section of this act, may discharge the same by working on the public roads within their respective townships, under the direction of the proper supervisor, within their respective districts, at the rate of sixty-two and a half cents per day; and whenever the supervisor as aforesaid, shall find it expedient to call out the inhabitants within his district, under the provisions of this section, he shall at each time give the same notice, and in the same manner, as is required by the thirteenth section of this act.

Credit to be given for extra labor, &c.

Sect. 17. *Be it further enacted*, That when any person or persons shall do and perform more labor on the public roads, at the rate aforesaid, than his or their tax levied as aforesaid for that year, shall amount to, the supervisor under whom he or they performed such labor in advance, shall certify the same to his successor, who shall place the amount of such extra labor to the credit of such person or persons who shall respectively have performed the same, and it shall be considered as a complete discharge of so much of his or their road tax, for the succeeding year, or to any person within the district to whom he may transfer the same.

Sect. 18. *Be it further enacted,* That the supervisors shall cause to be opened all new roads laid out and ordered to be opened by the commissioners aforesaid, and also effectually to clear and keep in repair the same, and all other public roads within their several districts, and shall respectively have full powers and 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, that he or they may conceive necessary for the purpose aforesaid, and to enter on any lands adjoining or lying near the public roads, within their respective districts, to make such drains or ditches through the same, as he or they conceive necessary to drain the water from such roads: *Provided,* The same be done with as little damage as may be to the owner of such lands; which drains and ditches so made shall be kept open by such supervisor, if necessary, and shall not be stopped up by the owner or occupier of such lands, or any other person or persons, under the penalty of forfeiting the sum of ten dollars for every such offence, to be recovered and appropriated in manner as aforesaid.

Duties of supervisors,

and his rights.

Proviso.

Penalty.

Sect. 19. *Be it further enacted,* That the supervisor (if he deem it expedient) may order any person within his district, to bring a waggon and team for the purpose of conveying any gravel, sand, stone or timber, to any place where the same may be wanted, and such supervisor shall place the amount of such service to the credit of such person, as a discharge of so much of his road tax, levied pursuant to the fourteenth section of this act; and it shall be the duty of the trustees in each township, at their meeting for the purpose of levying a road tax, to fix a certain rate for a waggon and team of four horses, or oxen, and driver, not exceeding two dollars and fifty

Waggons & teams to be at the disposal of supervisors.

mode of payment.

§

Quantum. cents per day, and for a cart or a waggon and team of two horses, or oxen, and driver, not exceeding one dollar and fifty cents per day, and transmit a copy of such rates to each supervisor within the township.

Posts at township expence. Sect. 20. *Be it further enacted,* That each supervisor within his district, shall erect and keep up a post at the forks of every public road, containing an inscription, in legible characters, directing the way to the next town or public place on each road, at the expence of the township, and if any person or persons shall demolish or throw down any such post, deface or alter any inscription thereon, with an intent to destroy or impair the utility of such design, the person or persons so offending, shall, for every such offence, forfeit and pay to the supervisor of such road, or any other prosecuting for the same, ten dollars, to be recovered and appropriated as before directed.

Penalty for defacing, &c.

Supervisor's pay. Sect. 21. *Be it further enacted,* That each supervisor shall receive, for every day he shall be necessarily employed in warning and superintending the workmen on the roads, over and above two days, the sum of seventy-five cents, and such further compensation as the trustees shall think reasonable.

Remedy of supervisors. Sect. 22. *Be it further enacted,* That the several supervisors within their respective districts, shall collect by suit or otherwise, all fines, forfeitures and penalties, arising and accruing under the provisions of this act, and also all taxes levied in pursuance of this act, which are not discharged agreeably to the provisions of the sixteenth section of this act, and pay the same into the township treasury, on or before the first Monday of March, annually, (except such part of the same, which from the amount in the hands of any one individual, shall by law be entitled to stay of execution, in which case he shall render a full and

Where and when to be paid.

perfect account of his proceedings therein, at the time and place above specified) and the treasurer's receipt shall be his voucher to the trustees of his proper township, at a settlement with them.

Sect. 23. *Be it further enacted,* That the trustees of the respective townships, shall meet at the place of holding the annual township elections, on the first Monday in March annually, at which time and place the several supervisors of the township shall attend and produce the township treasurer's receipt for all taxes, fines, penalties and forfeitures by him collected, as also, a full and clear statement of all suits by him instituted against any person or persons, where by law he or they would be entitled to a stay of execution, which return shall be by the supervisor making the same, on oath or affirmation, and the trustees are hereby authorised and required to adjust and settle all accounts so produced to them as aforesaid, and to allow such charges and sums for delinquencies, as they or a majority of them shall think just and reasonable; and if upon a fair and accurate settlement as aforesaid, there shall appear to be a balance due to such supervisor, for services rendered under this act, the said trustees shall give him or them, an order on the township treasurer for the amount of the sum that shall appear to be due, which order shall be the treasurer's voucher for the same, and if any supervisor or supervisors shall neglect or refuse to render their accounts as aforesaid, any court having cognizance thereof, on application made to the same, by the trustees or any two of them, upon satisfactory proof of such neglect or refusal being made, shall fine such delinquent or delinquents in any sum not exceeding ten dollars, and shall moreover be subject to the suit of the trustees, for the amount of his duplicate; and if any supervisor shall think himself aggrieved, by the settlement of his accounts as aforesaid, he may appeal to

When and where trustees shall meet.

Supervisors to attend with receipts, &c.

Amount to be liquidated,

and how.

Delinquents to be fined.

Appeal. the next court of common pleas of such county, who shall take such order therein, and give such relief as to them shall appear just and reasonable, and the same shall be conclusive and binding on all parties.

Penalty of supervisor for neglect, &c. Sect. 24. *Be it further enacted,* That each and every supervisor who shall refuse or neglect to perform the several duties enjoined on them by this act, shall forfeit and pay a sum not exceeding fifty dollars for every such offence, to be recovered at the suit of the trustees of their respective townships, before any justice of the peace within such township, which shall be appropriated in the same manner as other fines are appropriated under this act: *Provided,* That if any supervisor or supervisors shall conceive himself or themselves aggrieved, by the judgment of such justice, he or they may (on giving sufficient security for the payment of costs) appeal to the court of common pleas, who shall make such order therein as to the said court shall appear just and reasonable.

Proviso.

Remedy.

Penalty for obstruction of roads. Sect. 25. *Be it further enacted,* That if any person or persons shall obstruct any public road or highway laid out, or that shall hereafter be laid out, or to be kept in repair by law, and suffer such obstruction to remain to the hindrance or inconvenience of travellers, every person or persons, so offending, shall for every such offence, forfeit and pay a sum not exceeding twenty dollars, nor less than two dollars, to be recovered by action of debt, at the suit of any party suing for the same, before any justice of the peace within the township where such offence was committed, to be appropriated in manner aforesaid.

Appropriation.

Penalty for obliterating, &c. advertisements. Sect. 26. *Be it further enacted,* That if any person shall with intent to injure, take down, obliterate or destroy, any advertisement, or written notice, necessary to be put up under the provisions of this act, the person or persons so offending shall,

for every such offence, forfeit and pay five dollars, to be recovered by action of debt, at the suit of any person prosecuting for the same, before any justice of the peace within the township wherein such offence was committed, to be appropriated in manner aforesaid. Appropriation.

Sect. 27. *Be it further enacted,* That if any person appointed by the county commissioners, as a viewer of any public road under the provisions of this act, shall refuse or neglect to perform the duties required by this act, without making to the commissioners a satisfactory excuse for such refusal or neglect, the person so refusing or neglecting, shall be fined in a sum not exceeding ten dollars, to be recovered by action of debt at the suit of some one of the petitioners for such view, before any justice of the peace within the township wherein the person so appointed and refusing or neglecting may reside, to be appropriated in manner aforesaid. Penalty, of a viewer for neglect, &c. Appropriation.

Sect. 28. *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. General issue may be plead, within 3 months.

Sect. 29. *Be it further enacted,* That the following persons required to render service under this act, shall receive as compensation for each day they shall be necessarily employed, and allowed by the commissioners, the following sums; viewers seventy five cents each; surveyor one dollar and fifty cents; chain carriers and marker seventy cents each, to be charged as costs and expences, and to be paid out of the county treasury. Viewers, surveyors, &c. fees, how paid.

Sect. 30. *And be it further enacted,* That the act for opening and regulating roads and high- Repeal.

ways, passed the twenty-second day of January, eighteen hundred and six, and an act amendatory thereto, passed the third day of February, eighteen hundred and seven, and all other acts on that subject, be, and the same are hereby repealed :
Provided nevertheless, That all suits now pending, or business unsettled under the above recited acts, shall be prosecuted to final judgment and execution, and settled under the regulations in such acts contained as fully and completely, as though this act had not been passed.

All suits now pending, are subject to former laws.

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

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 20th, 1809.

CHAPTER XVIII.

AN ACT to attach part of the county of Jefferson to the county of Tuscarawas.

What part attached to Tuscarawas county.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That so much of the county of Jefferson, as lies west of the fifth range, be, and the same is hereby annexed to, and made a part of the county of Tuscarawas.

Suits pending how determined.

Sect. 2. *Be it further enacted,* That all actions, suits and prosecutions now pending in the county of Jefferson, shall be determined in the court of said county, and that all fines, forfeitures, and public dues, which are owing to the county of Jefferson, shall be collected by the sheriff or collector of the county, in the same manner as if this act had never taken place.

Fines and forfeitures, public dues, &c. how collected.

This act shall take effect and be in force, from Commence-
and after the passage thereof. ment.

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 11th, 1809.

CHAPTER XIX.

*AN ACT to attach part of the county of Ashtabu-
la, to the county of Trumbull.*

Sect. 1. *Be it enacted by the general assembly
of the state of Ohio,* That all that part of the coun-
ty of Ashtabula, which lies south of the township
number nine, be annexed to, and become a part
of Trumbull county.

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 20th, 1809.

CHAPTER XX.

*AN ACT supplementary to the act regulating
the Muskingum salt works.*

Sect. 1. *Be it enacted by the general assembly* In giving
of the state of Ohio, That the agent to be ap- leases, actual
pointed in pursuance of the act to which this is a settlers to
supplement, to manage the Muskingum salt works, have the pre-
shall on giving leases, always give the preference. ference.
to any person or persons who may have made im-
provements, for which he or they may not have
received adequate compensation for the improve-

Proviso. ments so made, under such regulations as the said agent may think most consistent with justice and the public good: *Provided*, Said preference do not extend to a longer period than three years.

Spring on township 11 in range 13 to be leased to the present occupier. Sect. 2. *And he it further enacted*, That the salt springs on the bank of the Muskingum river, in township number eleven and range number 13, shall be leased to the present occupier, under the restrictions and regulations referred to in the first section of this act, for any length of time not exceeding seven years.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.

THOMAS KIRKER,
Speaker of the senate.

February 20th, 1809.

CHAPTER XXI.

AN ACT to attach part of the township of Fearing, to the townships of Marietta and Adams.

Part of the township of Fearing attached to those of Marietta, &c. Sect. 1. *Be it enacted by the general assembly of the state of Ohio*, That the western tier of sections in the third township in the eighth range of townships, in the county of Washington, be, and they are hereby attached to and made a part of the townships of Marietta and Adams, in the same manner as they were previous to the incorporation of the township of Fearing.

School sections to be divided. Sect. 2. *And be it further enacted*, That the inhabitants of the said western tier of sections shall be entitled to an equitable dividend of the proceeds of school sections, number eight, located by the trustees of the township of Fearing.

This act to take effect and be in force, from and ^{commence-} after the passage thereof. ^{ment.}

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

February 8th, 1809.

CHAPTER XXII.

AN ACT making appropriations for the year one thousand eight hundred and nine.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That the sum of nine hundred dollars, appropriated last year as a contingent fund, be appropriated as a contingent fund for the year one thousand eight hundred and nine, or so much thereof as remains unexpended, subject to the order of the governor, who shall make report of the disbursements thereof to the next session of the legislature.

Sect. 2. *Be it further enacted,* 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 nine, not more than the following sums, viz.

To the governor, judges of the supreme court, presidents of the courts of common pleas, secretary of state, auditor of public accounts, and treasurer, a sum not exceeding ten thousand dollars :

To Joseph Collins & co. for printing the laws, and journals, and other necessary printing done for the present general assembly, the amount of their accounts, to be paid at the terms specified in their contract, and to be settled by the auditor, treasurer and secretary of state.

To Robert D. Richardson, for printing the report of the auditor and treasurer, the sum of seventy dollars :

To the members and officers of the present general assembly, in addition to the sum already appropriated, a sum not exceeding six thousand, six hundred dollars :

To the clerk of the senate, and clerk of the house of representatives each, the sum of five dollars per day :

To the door-keeper of the senate, and door-keeper of the house of representatives each, one dollar and fifty cents per day :

To James Philips, for thirty chairs, furnished for the use of the legislature, the sum of fifty dollars :

To Hugh Cochran, for fire wood furnished the present session, the sum of one hundred and thirty-two dollars and seventy-five cents :

To George Parsons, for his attendance as a witness in the impeachment of Calvin Pease, and furnishing a copy of the records of Trumbull county, required in that case, the sum of eighty dollars :

To James and M^cCoy, for stationary furnished the present legislature, the sum of two hundred and sixty dollars and seven cents :

To James Barns, for two maps of this state, lined and bound, the sum of eight dollars :

To Joseph Miller, for sheet iron, and mending fenders, the sum of six dollars and six and a fourth cents.

To William Wallace, for attending on the committee of enquiry, on the conduct of the officers of government, and taking depositions, the sum of three dollars :

To the sheriffs of the several counties, for their services in advertising the elections of president and vice-president of the United States, in their several townships ; attending at the seat of justice of their several counties, to receive the poll-books, carrying the poll-books to the office of the secre-

tary of state, attending at the seat of government and returning, a sum not exceeding hundred dollars, agreeable to their several accounts, which shall be audited and settled by the auditor, by the following rule;—

For advertising and attending at the seat of justice to receive the poll-books, five dollars each—

For travelling to the seat of government and returning therefrom, two dollars for every twenty-five miles of the distance from the seat of justice by the usual road, to the seat of government :

To John Ward, for his attendance as a witness in the impeachment of Calvin Pease, and furnishing a copy of the record of Jefferson county, required in that case, the sum of seventy-eight dollars:

Sec. 3. *Be it further enacted*, That there shall also be paid, as aforesaid—

To Thomas Patton, for his attendance as a witness on the impeachment of Calvin Pease, the amount of his account, including mileage and travelling expences, the sum of fifty dollars :

To James Bonner, for a desk for the clerk, the sum of fifteen dollars :

To Henry Johnson, for tables, nails, boards and carpeting, the sum of seven dollars :

To William and Robert Robertson, for a desk for the speaker and clerk of the senate, a plat torn and alterations thereof, the sum of forty-five dollars :

To James Cloyd, for his attendance as a witness in the impeachment of Calvin Pease, and a copy of the records of the court of Belmont county, required in said case, the sum of fifty-five dollars :

To Benjamin Hough, for a book-case, books, stationary and postage, from the first day of March, eighteen hundred and eight, the sum of two hundred & sixty three dollars, and three cents ; for clerk hire, from the first day of March, eigh-

teen hundred and eight, to the first day of March, eighteen hundred and nine, the sum of four hundred and fifty dollars :

To William Leedham, for carrying the votes of the electors to the district judge, the sum of nine dollars and twelve and a half cents :

To major Henry Rodgers, and the party under his command, in January, 1807, for their services as stated in the memorial of said Rodgers, dated December, 1807, to be settled by the auditor and adjutant-general, a sum not exceeding one hundred and seventy-two dollars and twenty-nine cents :

To William Creighton, sen. for his services as serjeant at arms, the sum of one hundred and eleven dollars and forty cents :

To Edward Sherlock, for sundry articles furnished the present general assembly, the sum of eighteen dollars :

To John Waddle & co. for carpeting, the sum of five dollars and sixty-nine cents :

To Adam Beiz, for sundry articles furnished the present general assembly, the sum of two dollars and seventy-five cents :

To Robert Steel, for sundry work done to the senate chamber, the sum of eighteen dollars and twenty cents :

To the adjutant general and brigade inspectors, such sums as may be due to them respectively, in part of their salaries heretofore allowed, up to the time of the taking effect of the act for disciplining the militia, passed the day of

Sect. 4. *Be it further enacted*, That the sum of three thousand dollars be, and the same is hereby appropriated, as a contingent fund, for the purpose of refunding money received for taxes on land twice, or improperly charged.

To major Thomas Moore, the sum of ninety-eight dollars and ninety-nine cents, which the said

Moore is authorised and required to pay the several detachments of the militia, the several sums annexed to their names, as stated in the report of the committee of claims, on the memorial of major Thomas Moore, of Saturday the 18th day of February, eighteen hundred and nine :

To the door-keepers of the senate and house of representatives, for extra services, attending on committees, &c. the sum of ten dollars each :

To Benjamin Hough, for painting Mansfield's map, distinguishing each county, the sum of two dollars and fifty cents.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

February 21st, 1809.

CHAPTER XXIII.

AN ACT to amend the several acts levying a state tax.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That the commissioners of each county shall annually, after receiving from the listers the returns of lands of resident proprietors, compare such returns with the duplicate received from the auditor for the same year, and if there shall be found on said returns any land the property of residents, which is not charged with taxes on the resident duplicate received from the auditor, the commissioners of the county in which such land may lay, shall tax all such lands as other lands of the same quality and rates are directed to be taxed by the act to which this is an amendment,

County commissioners, their duty on receiving listers' return.

and make out a duplicate or duplicates (as the case may be) and cause the taxes charged thereon to be collected and paid over as other taxes are by the act to which this is an amendment ; and also make out another duplicate which they shall transmit to the collector of non-resident tax of the district in which such county may be situated and the district collector shall, on receiving such duplicate, compare the same with their district duplicate, and credit thereon all lands charged on the duplicate received from the county commissioners, and said duplicate shall be a sufficient discharge to said district collector, at his settlement with the auditor, for the amount so credited. And no lister or board of commissioners shall hereafter receive any list or return of any resident lands unless the same is made out and each tract of land described as is required by the act to which this is an amendment.

District collector, his duty on receiving duplicate from commr's.

Duty of lister.

One third part of land-tax to be paid into county treasury.

Sect. 2. *And be it further enacted,* That one third part of the taxes arising from lands situated within each county, shall be appropriated to county purposes, and paid into the proper treasury for the use of each county.

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,

Speaker of the senate.

February 20th, 1809.

CHAPTER XXIV.

An act to incorporate the Franklinton Turnpike road company.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That William C. Schenck, Daniel C. Cooper, Lucas Sullivant,

Six commissioners appointed, and

Matthias Denman, David Moore, William Wells made a body and Jonas Stansbury, and their associates be, and politic, &c. they are hereby erected into a body corporate and politic in deed, and in law, by the name, stile and title of the Franklinton Turnpike road company ; and by the said name, they and their successors, shall have perpetual succession ; and all the privileges and franchises, incident to a corporation,

Sect. 2. *Be it further enacted,* That the said William C. Schenck, Daniel C. Cooper, David Moore, William Wells, and Lucas Sullivant, of the state of Ohio, and Matthias Denman, of New-Jersey, and Jonas Stansbury, of New-York, be, and they are hereby appointed commissioners to do, and perform the several duties hereinafter enjoined, that is to say, they shall, on or before the first day of June next, provide five books, and in each of them enter, as follows : we, whose names are hereunto subscribed, do promise to pay to the president and directors of the Franklinton Turnpike road company, the sum of twenty-five dollars for every share of stock, set opposite to our respective names, in such manner, in such proportions, and at such times, as shall be determined by the president and directors of said company, pursuant to the provisions of an act, entitled "An act to incorporate the Franklinton Turnpike road company." Witness our hands this day of

Sect. 3. *Be it further enacted,* That when one hundred shares are subscribed for as aforesaid, it shall be the duty of the commissioners or a majority of them, to give notice in three of the most public newspapers printed in this state, to the stock-holders, to meet at such time and place, as is directed in said advertisement.

Sect. 4. *Be it further enacted,* That the afore-said Turnpike may extend from the town of Franklinton, in the county of Franklin, to the

town of Zanesville, in the county of Muskingum.

To be conducted in the same manner as the Boardman turnpike company.

Sect. 5. *Be it further enacted*, That the commissioners appointed to receive subscriptions, president, directors, stockholders, and all other officers, appointed and to be appointed by authority of this act; and all persons concerned, shall be governed by the provisions and regulations of an act, entitled "An act to incorporate the Boardman Turnpike road company," as effectually as though they were particularly enumerated in this act.

Road to commence opposite the town of Franklinton.

Sect. 6. *And be it further enacted*, That in all cases where the act aforesaid refers to the county of Trumbull, said reference shall, in this act, apply to the county of Franklinton; and that the work on said road shall commence opposite the town of Franklinton, and the commissioners shall have the power of fixing on the place or places for opening books of subscriptions.

Commencement.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.

THOMAS KIRKER,
Speaker of the senate.

February 21st, 1809.

CHAPTER XXV.

AN ACT to stay proceedings on executions for a limited time.

Executions when levied, duty of officer levying the same.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio*, That in all cases where execution hath been or may be issued, and levied on the goods and chattels of any person or persons for any debt of a private nature, it is hereby made the duty of the officer levying such execution, to

summons three disinterested, reputable householders, who after being duly sworn or affirmed to do justice (which oath or affirmation the officer aforesaid is hereby authorised and required to administer) shall proceed to view and appraise the property aforesaid, at such price as they shall think to be just ; then the appraisers or a majority of them, shall immediately certify to the officer who levied said execution, the appraised value of the property aforesaid ; the officer then shall proceed to advertise and sell said property agreeable to law : *Provided*, It shall not sell for less than one half of its appraised value. But if the property cannot be sold as aforesaid, it shall in that case be returned by the proper officer to the defendant or debtor from whom it was taken, and all further proceedings on the said judgment shall then be stayed for the space of one year from that time, and the officer shall not in anywise be accountable for the property so returned : *Provided always*, That the defendant or debtor shall give the plaintiff or creditor bond and security, either for the debt, interest and costs, or for the delivery of the property aforesaid, or for so much other property as that one half of its appraised value shall be equal to the sum in demand, at the expiration of the time aforesaid.

Property to be appraised by 3 householders, under oath.

Property not to be sold for less than one half of its appraised value.

If not sold, to be returned to the owner.

Proviso.

Sect. 2. *And be it further enacted*, that nothing herein contained shall apply to or affect debts which may be contracted with any of the banks established within this state, the collection and paying over of the public revenue, or money received by any sheriff, justice, constable or attorney, and not paid over to the person legally entitled thereto, when demanded, but said officer shall be proceeded against in the same manner as if this act had not been passed.

This act not to apply to certain cases.

This act to be in force from and after the passage thereof, and continue in force for one year.

Commencement.

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER;

Speaker of the senate.

February 20th, 1809.

CHAPTER XXVI.

AN ACT authorizing John Bever and Thomas Moore, and their associates, to build a toll-bridge across Little Beaver.

Toll bridge authorised to be built. Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That John Bever and Thomas Moore, and their associates, are hereby authorised, at their own private expence, to build a bridge across Little Beaver creek, in the county of Columbiana, at or near the Little Beaver mills and the place where the road, leading from New-Lisbon to Georgetown, crosses the same, in section No. 36, in township No. 6, of range No. 1, in the district of lands offered for sale at the land office in Steubenville; and that they, the said John Bever and Thomas Moore, and their associates, if any, and their legal representatives, be, and they are hereby authorised to ask, demand and receive, from passengers who may cross the said bridge, as follows, to wit: for each footman, the sum of two cents; for each horse, mule or ass, one year old or upwards, the sum of four cents; for each horse and rider, six and one fourth cents; for each waggon or other four wheeled carriage, drawn by two horses or oxen, including the driver, twelve and one half cents; for each and every horse or ox in addition, four cents; for each cart or other two wheeled carriage, sled or sleigh, drawn by two horses or oxen, including the driver, ten cents; for each horse or ox in addition, four cents; for each head of neat cattle, six months

Rates of toll.

old and upwards, one cent; *Provided, always, Provide.*

That all public mails, expresses and passengers which are exempted from the payment of ferriages within this state, or which hereafter may be exempted, shall pass and repass on the said bridge, free from the payment of the toll aforesaid: *Provided, also,* That if the said John Bever and Thomas Moore, and their associates, their heirs or legal representatives, shall demand and receive any higher or greater toll than is provided by this act, they shall be subject to the like fines and forfeitures, as are or may be provided in the case of ferries.

Sect. 2. *Be it further enacted,* That the said John Bever and Thomas Moore, and their associates or legal representatives, shall set up and keep up, on the margin of the creek, near the aforesaid bridge, a post or board, on which shall be written the rates of toll allowed by the first section of this act.

Rates of toll to be written and set up on the margin of the creek.

Sect. 3. *Be it further enacted,* That if the said John Bever and Thomas Moore, and their associates or their legal representatives, or any of them, shall build and complete a bridge with hand-rails on the sides, at the place aforesaid, sufficient for the passage of waggons, within twelve months, and continue to keep the said bridge in repair, then this act shall be in force, for the term of fifty years.

To be completed in 12 months.

Sect. 4. *Be it further enacted,* That the said John Bever and Thomas Moore, and their associates or legal representatives, shall keep a fair and accurate account of all and singular the expenditures which may accrue on the erection of said toll-bridge; and if at any time after the erection of the same, and within the said fifty years as aforesaid, the inhabitants of Columbianna county; with the assistance of the adjoining counties, should raise, by subscription or otherwise, the same sum of money expended on said bridge, and the same

To keep account of all the expence of erecting said bridge.

To become public property, on certain conditions.

being tendered or paid to the said John Bever and Thomas Moore, and their associates or legal representatives, then the said toll-bridge shall be- come public property.

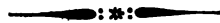
The associ- John Bever and Thomas Moore, and their associ- ates to enter into articles with each other. **ates,** the said parties, shall enter into articles of agreement, so as to secure to each associate his certain share ; and the parties aforesaid, shall cause the same to be recorded in the recorder's office in said county, within one month after said bridge is completed, together with a statement of the ex- penditures accrued on the erection of the same :

Proviso. *Provided, also,* That all customers to said Beaver mills, and hands employed in carrying on the bu- siness thereof, shall pass and repass said bridge, free from paying any toll.

Commence- ment. This act to take effect and be in force, from and after the passage thereof.

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

February 17th, 1809,



CHAPTER XXVII.

AN ACT to attach a part of the county of Franklin, to the county of Delaware.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That all that part of Franklin county lying north of the county of Delaware, be, and the same is hereby annexed to the county of Delaware.

Sect. 2. *And be it further enacted,* That all suits and actions, now pending in all that part of the county of Franklin, shall be determined in the court of said county, in the same manner as if this act had not passed.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
 THOMAS KIRKER,
Speaker of the Senate.

February 17th, 1809.



CHAPTER XXVIII.

AN ACT authorising the treasurer to apply the balance of the three per cent. fund, towards the redemption of the bills drawn on him by the auditor.

Sect. 1. *Be it enacted by the general assembly* of the state of Ohio, That the treasurer of this state, be, and he is hereby authorised to apply the sum of nine thousand dollars, a part of the three per cent. fund, granted by the United States, for laying out, opening and making roads in this state, which is now in the treasury, and not yet appropriated to the use for which it is intended, towards the payment of the public debt, on which sum, or so much thereof as may be applied towards the payment of the public debt, there shall be allowed interest at the rate of six per cent. per annum. And the principal, together with the interest thereon, be returned, so as to be applied to the purposes for which it was, and is intended, so soon as an appropriation is made thereof.

Sect. 2. *Be it further enacted,* That the auditor of public accounts, shall forthwith charge the treasurer of this state with the said sum of nine thousand dollars, and raise an account for the three per cent. fund, on his books, for which sum, the said three per cent. fund, shall have a credit, and from thenceforth said sum shall be applied towards the payment of the public debt, as other monies are, until appropriated for laying out, opening and making roads in this state.

9000 dollars
of the 3 per
cent. fund
appropriated
towards the
payment of
the public
debt.
Auditor to
charge the
treasurer &
credit the 3
per cent.
fund with
9000 dollars.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate,

February 20th, 1809.

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CHAPTER XXIX.

AN ACT authorising Christian King, James Hampson, and their associates, to build a toll bridge across the river Hockhocking,

Bridge across the Hockhocking.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That Christian King, James Hampson, and their associates, are hereby authorised, at their own private expence, to build a bridge across Hockhocking, in the county of Fairfield, where the road leading from Wheeling to Chillicothe crosses the same; and that they, the said Christian King, James Hampson, and their associates, if any, and their legal representatives, be, and they are hereby authorised to ask, demand and receive from passengers who may cross the said bridge, as follows, to wit: For each footman, the sum of two cents; for each horse, mule, or ass, one year old or upwards, the sum of four cents; for each horse and rider, six and one fourth cents; for each waggon or four wheeled carriage, drawn by two horses or oxen, including the driver, twelve and one half cents, and each and every horse or ox in addition, four cents; for each head of neat cattle, six months old and upwards, one cent: *Provided always,* That all public mails, expresses and passengers, which are exempted from the payment of ferriages within this state, or which hereafter may be exempted, and also the citizens of Fairfield county, going to, returning from mill, meeting, funeral, market, court, elec-

Rates of toll.

Exemptions.

tion and muster, shall pass and repass on the said bridge, free from the toll aforesaid: *Provided also*, That if the said Christian King, James Hampson and their associates, their heirs, or legal representatives, shall demand and receive any higher or greater toll than is by this act provided, they shall be subject to the like fines and forfeitures, as are or may be provided in the case of ferries. Penalty.

Sect. 2. *Be it further enacted*, That the said Christian King, James Hampson, and their associates, or legal representatives, shall set up and keep on the margin of the river, near the aforesaid bridge, a post or board, on which shall be written the rates of toll allowed by the first section of this act. Rates to be posted.

Sect. 3. *Be it further enacted*, That the said Christian King, James Hampson, and their associates, or legal representatives, or any of them shall build and complete a bridge, and hand-rails on the sides, at the place aforesaid, and shall so causeway or bridge the prairie from bank to bank, that at all seasons of the year it shall be passable for waggons and other carriages, within twelve months, and continue to keep the said bridge and causeway in repair, then this act to be in force, for the term of fifty years. Limitation of the toll.

Sect. 4. *Be it further enacted*, That the said Christian King, James Hampson, and their associates, or legal representatives, shall keep a fair and accurate account of all and singular the expenditures which may have accrued on the erection of said toll bridge and causeway or turnpike; and if at any time after the erection of the same, and within the said fifty years as aforesaid, the inhabitants of Fairfield county, with the assistance of the adjoining counties or state of Ohio, shall raise by subscription or otherwise, the sum of money expended on said bridge, and the same being tendered or paid to the said Christian King, Account to be kept of expenditures.
May be redeemed by the county, &c.

James Hampson, and their associates, or legal representatives, then the said toll bridge shall become public property.

Penalty. Sect. 5. *Be it further enacted,* That if the said Christian King, James Hampson, and their associates, their heirs, or legal representatives, shall demand and receive any higher or greater toll than is provided by this act, they shall be subject to the like fines and forfeitures as are or may be provided in the case of ferries.

Each associate to be made secure Sect. 6. *Be it further enacted,* That the said Christian King, James Hampson, and their associates, the said parties, shall enter into articles of agreement, so as to secure to each associate his certain share ; and the parties aforesaid shall cause the same to be recorded in the recorder's office in said county within one month after said bridge is completed, together with a statement of the expenditures accrued on the erection of the same.

Toll-bridge leading to Athens and Marietta. Sect. 7. *And be it further enacted,* That the aforesaid Christian King, James Hampson, and their associates may, and they are hereby authorised to erect a toll bridge across the river Hockhocking where the road leading from Lancaster to Athens and Marietta crosses the same, between the town of Lancaster aforesaid and Carpenter's mills : *Provided,* The said Christian King, James Hampson, and their associates, cause to be made a good and sufficient causeway across the prairie adjoining, or in such places as may be necessary, and keep the bridge and causeway in good repair —then the said Christian King, James Hampson, and their associates, shall be entitled to the same toll, and be governed by the same exemptions, restrictions and regulations, to which they are entitled and liable, in the provisions of this act, for building a bridge across the said river Hockhocking where the road leading from Wheeling to Chillicothe crosses the same : *Provided,* The

Subject to the same limitations, &c. as the one at Lancaster.

Proviso.

causeways mentioned in this section, be completed within eighteen months from the passage of this act.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

February 20th, 1809.

CHAPTER XXX.

AN ACT Supplementary to the act, entitled "An act making appropriations for the year one thousand eight hundred and nine."

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That a sum not exceeding sixteen hundred dollars, be appropriated to defray the expences of distributing the laws and journals of the present session :

To the adjutant general and brigade inspectors, such sums as may be due to them respectively, in part of their services heretofore allowed, up to the time of taking effect of the act for disciplining the militia, passed this session.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

February 21st, 1809.

CHAPTER XXXI.

AN ACT making appropriations for military services, &c.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That the auditor be, and he is Auditor to issue bills to

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**the pay-mas-
ter.** hereby required to issue bills, payable at the treasury of this state, to Luke Foster, paymaster to the detachment under the command of col. John S. Wallace, in the month of September, one thousand eight hundred and seven, for two thousand five hundred dollars, it being the amount of pay and subsistence of said detachment, together with the contingent expences of settlement.

**Quarter-
master to
take charge
of camp e-
quipage, &c.** Sect. 2. *And be it further enacted,* That William Ludlow, quarter master and contractor for the detachment of militia assembled at camp Ludlow, in the months of September and October, 1807, under the command of col. John S. Wallace, be, and he is hereby required to receive and carefully preserve, all the camp equipage, which have been provided for the aforesaid detachment, and to be subject always, to the order of the commander in chief.

**Commence-
ment.** This act to be in force, from and after the passage thereof.

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

February 15th, 1809.

CHAPTER XXXI.

AN ACT providing that the repealing an act, shall not revive a former act.

Sect. 1. *Be it enacted, by the general assembly of the state of Ohio,* That whenever a law shall be repealed, which repealed a former law, the former law shall not thereby be revived, unless specially provided for.

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

February 14th, 1809.

CHAPTER XXXII.

AN ACT for the relief of James Hillman.

Sect. 1. *Be it enacted, by the general assembly of the state of Ohio,* That if James Hillman, late collector of the sixth collection district, and his securities, shall appear before the next court of common pleas to be holden in the county of Trumbull, and confess judgement for the amount which he is indebted to the state, the auditor shall stay all further proceedings against said Hillman, until the first day of December next.

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 15th, 1809.

CHAPTER XXXIII.

AN ACT for the relief of John Collet and Michael Blair.

WHEREAS, John Collet, of the county of Ross, on the twenty third day of October, one thousand seven hundred and ninety-eight, did, by a warranty deed, convey to Michael Blair, then and still a minor, the full half of an inn-lot, in the town of Chillicothe, situate on the north side of Main Water-street, and the lower half of said lot, adjoining to John M'Dougal's, three poles in front, and twelve poles back, including the improvements that the said Blair then lived on, and described in said deed, as being number twenty-one, by mistake, when in fact, the said number was, and ought to have been stated as number two hundred and sixty-one; by reason of which mistake, a different number was conveyed to the said Michael Blair, from that which was intended to be conveyed, and one which the said John Collet had no title to; which deed was recorded in the office of the re-

Preamble.

cord for Ross county, on the 27th day of December, one thousand seven hundred and ninety-eight : Therefore, that the aforesaid mistake may be rectified, and the conveyance aforesaid, take place, agreeably to the intention and meaning of the parties.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That the said John Collet, shall have full power and authority to convey the aforesaid half lot of ground, to the said Michael Blair, by its proper number ; which title, when so conveyed, shall be a complete bar and release to the said John Collet, from any liability to the said Michael Blair, his heirs or assigns, on account of executing the deed for said half lot before described.

Authority to convey by the proper number.

Commencement. This act to take effect, from and after the passage thereof.

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

February 17th, 1809.

CHAPTER XXXIV.

AN ACT to authorise the auditor to employ clerks to transcribe such of the books and papers of the former auditor, as are not on durable books.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That the auditor is hereby authorized and empowered to procure proper books, at the expense of the state, and hire clerks by the month, to transcribe such of the books and papers of the former auditor, as are not on durable books ; and the auditor shall take to his assistance, the secretary of state, and carefully compare the books so transcribed, with the original books and papers in his office, and after causing

To procure books at the expense of the state, and hire clerks by the month

Secretary of state, to assist in comparing.

them to correspond with the original, they shall certify the same under their hands and seals, and the books and papers so transcribed and certified, shall become a part of the record in said office. To certify the books thus transferred.

Sect. 2. *And be it further enacted,* That the auditor is hereby authorised and required to issue bills, redeemable at the treasury, in favor of the clerks that may be employed in transcribing the books and papers aforesaid, for the amount of their wages, respectively, as it shall become due, at the end of each quarter, and lay before the legislature, at the next session, an account of the monies thus expended, accompanied with the vouchers relative thereto : *Provided,* The bills so issued, shall not exceed the sum five hundred dollars. Auditor to issue bills in favor of clk's. for their wages quarter-ly To lay an account of expence before the next legislature.

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

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 20th, 1809.

CHAPTER XXXV.

AN ACT supplementary to an act for leasing sections Nos. sixteen and twenty-nine, in fractional township, within the Ohio Company purchase.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That no person who is, or hereafter may be possessed of any of that part of section number twenty-nine which is included within the town of Marietta, shall be compelled to pay, per annum, to the trustees for managing lands granted for religious purposes in the coun- Holders of section No. 29, not to pay more than at the rate of nine dollars per acre.

ty of Washington, within the Ohio Company's Purchase, for rent, more than nine dollars per acre, or in that proportion for a larger or smaller quantity than one acre ; any thing in any lease or former law to the contrary notwithstanding.

Also entitled to a lease, conditions thereof.

Proviso.

Commencement.

Sect. 2. *And be it further enacted*, That every person or persons, who is or may be possessed of any of the land aforesaid, shall have a right to demand and have of the trustees aforesaid, a lease therefor, either for ninety-nine years, or for ten years, as heretofore, renewable to the lessee, or his executors, administrators, or assigns, forever, which lease shall specify the sum or sums payable yearly therefor ; and in affixing the sum, the trustees shall have particular reference to the situation and value of the said land, proportioning the rent to the value, under the restrictions herein above mentioned, according to the laws heretofore in force : *Provided always*, That nothing herein contained, shall be so construed as to enable the trustees to give a lease or leases for any land heretofore reserved for streets, county purposes or commons, or to compel them so to lease any land reserved for a meeting-house, woodland, or which may heretofore have been, or hereafter may be forfeited for non-compliance with covenants in the said leases ; and in all cases where old leases have been given, the said trustees may require the production of such leases, that they may be destroyed, before they shall be compellable to give a new lease for the same tract or tracts.

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

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 20th, 1809.

CHAPTER XXXVI.

an act amendatory to the several acts appointing trustees to the Ohio University, and for other purposes.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That Robert G. Wilson, Jesup N. Couch, John P. R. Bureau, Elijah Hatch, junr. and Henry Abrams, be, and they are hereby appointed trustees of the Ohio University.

Five trustees appointed.

Sect. 2. *Be it further enacted,* That the trustees shall have power and authority, until the year one thousand eight hundred and eleven, to receive of any of the lessees in payment of rent, such article or articles of produce as may by them be agreed on at any regular meeting of said trustees ; *Provided* it shall not exceed two thirds of the annual rents.

Power of trustees to receive certain articles of produce.

Sect. 3. *Be it further enacted,* That nine of the trustees of said University, shall be hereafter necessary to form a quorum to transact the business of said corporation, any law to the contrary notwithstanding.

Number of trustees necessary to form a quorum.

Sect. 4. *Be it further enacted,* That the trustees shall have authority to re-survey, or cause to be re-surveyed, any large tract of land (at the request and expense of the lessee) and the same to lay off in such lots as they shall think will best promote the interest of said institution.

Trustees to re-survey certain tracts of land.

Sect. 5. *And be it further enacted,* That when a tract of land has been surveyed and leased to one or more persons, and by him or them sold to one or more persons, he, she, or they, shall be entitled to receive from the treasurer of said institution, separate leases in their own names, by paying a reasonable compensation therefor, to be agreed on by the trustees at a regular meeting.

Certain persons entitled to leases in their own name, on certain conditions.

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

Commencement.

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
 THOMAS KIRKER,

Speaker of the senate.

February 15th, 1809.

CHAPTER XXXVII.

AN ACT appointing Notaries Public.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That there shall be appointed and commissioned, by the governor of this state, four notaries public (viz.) one to reside in the town of Cincinnati, one in the town of Chillicothe, one in the town of Marietta, and one in the town of Steubenville; and upon the death, resignation, or removal of any such notaries public, to appoint others in his or their room; which said notaries public shall hold their respective offices during three years, if he so long behaves well; shall use, exercise the said office of notary public for such places as by their commissions shall be directed, to whose protestations, attestations and other instruments of publication, due credence is hereby given: *Provided nevertheless,* That every notary public shall, previous to his executing the said office, give bond to the governor for the time being, in the penalty of fifteen hundred dollars, conditioned for the due discharge of his office, and take an oath or affirmation, that he will, without favor or partiality, honestly, diligently and faithfully discharge the duties of notary public.

Sect. 2. *Be it further enacted,* That every notary public shall provide a public notarial seal, with which seal shall be engraved the arms of this state and place of his office; which seal, together with the registers and official documents, shall not be

Four notaries public to be appointed by the governor, their place of residence.

Term of office.

Proviso.

To give bond and take an oath.

To provide a seal. Seal & exempt from seizure.

liable to be seized on execution for debt or any demand, but in case of the death or removal of said notary, be lodged in the office of the recorder of deeds in the respective county.

Sect. 3. *And be it further enacted,* That every notary public shall and may demand and receive **His fees** for every attestation, protestation, under his seal of office, the sum of one dollar and no more, and for recording in a book to be kept for that purpose, each attestation, protestation, and all other instruments of publication, the sum of one dollar, and no more.

This act shall take effect, from and after the **Commence-**
 passage thereof. **ment.**

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
 THOMAS KIRKER,
Speaker of the senate.

February 20th, 1809.

CHAPTER XXXVIII.

AN ACT to incorporate the stock-holders of the bank of Steubenville.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That a bank shall be established at Steubenville, the capital stock whereof shall not, for the present, exceed one hundred thousand dollars, to be divided into one thousand shares, each share being one hundred dollars; and the subscriptions towards constituting said stock, shall on the fifteenth day of March next, be opened at Steubenville, under the superintendence of Samuel Hunter, John M'Dowell and Bazeleel Wells, who are hereby appointed commissioners, and authorised to conduct every operation of the said institution until they shall be superseded by

Capital
 \$100,000.
Divided into
 1000 shares.
Subscrip-
tions opened
 on 15th
 of March next.
3 commis-
sioners.

directors; and the subscriptions aforesaid shall continue open until the whole of the shares are subscribed for.

Shares how payable. Sect. 2. *Be it further enacted,* That the shares subscribed for, shall be payable, one tenth part at the time of subscribing to the said commissioners, and the balance shall be payable in such instalments, and at such times, as the directors, for the time being, shall direct: *Provided,* That whenever the payment of any instalment is required by the directors, for the time being, they shall give at least two month's notice thereof, in a newspaper printed at Steubenville, Marietta and Chillicothe; *and provided also,* That no one instalment shall exceed ten dollars on each share.

Proviso.

Subscribers to be incorporated. Sect. 3. *Be it further enacted,* That all those who shall become subscribers to said bank, their successors and assigns, shall be, and are hereby created and made a corporation and body politic, by the name and style of "The President, Directors and Company, of the bank of Steu-enville," and shall so continue until the first day of January, one thousand eight hundred and nineteen, and by that name shall be, and they are hereby made able and capable in law, to have, purchase, receive, possess, enjoy and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of what kind, nature and quality soever, and the same to sell, grant, demise, alien and dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place whatever—and also to make, have, and use a common seal, and the same to break, alter and renew, at their pleasure; and also to ordain, establish and put in execution, such by-laws, ordinances and regulations, as shall seem necessary and convenient for the government of the said corporation, not being contrary to the

Their name and stile.

Their powers.

To sue and be sued, &c.

To have one common seal.

To make by laws, &c.

constitution and laws of the United States, or of this state, and generally to do and execute all and singular acts, matters and things, which to them it shall, or may appertain to do; subject, nevertheless, to the rules, regulations, restrictions, limitations and provisions herein prescribed and declared.

Sect. 4. *Be it further enacted*, That the stock, property, affairs and concerns of the said corporation, shall be managed and conducted by ~~nine~~ ^{Nine directors.} directors, one of whom to be president, who shall hold their offices for one year, each of which directors shall be stock-holders to the amount of four shares, and residents in the county of Jefferson, and be elected on the first Monday of January of every year, at such time of day, and at such place in the town of Steubenville, as a majority of the directors, for the time being, shall appoint, and public notice shall be given by the said directors, in the newspapers printed in the said town, of such time and place, not more than fifty, nor less than thirty days previous to the time of holding said election; and the said election shall be held and made by such of the stock-holders of the said bank as shall attend for that purpose in their own proper persons, or by proxy, and all elections shall be by ballot, and a majority of the votes given shall be necessary to a choice, and those who shall be duly chosen at any election, shall be capable of serving for one year and until others are chosen. And the said directors, at their first meeting after the election, shall proceed to elect, ^{Elections how conducted.} by ballot, one of their number to be their president, and one of the directors who shall be chosen at any year, excepting the president, shall be ineligible to the office of director for one year after the expiration of the time for which he shall be chosen director; and in case a greater number ^{President to be elected. Directors to serve only one year.} than five of the directors, exclusive of the presi-

Except. **President** who served for the last year, shall appear to be elected, then the election of such person above the said number, and who shall have the fewest votes, shall be considered as void, and the stock-holders present as aforesaid, shall proceed to elect one of the two stock-holders who are eligible, and shall have the next highest number of votes for a director. **The resident eligible for two years.** The president, for the time being, shall be always eligible to the office of director ; and if any director shall remove out of the county of Jefferson, or cease to be a stock-holder, as aforesaid, his office shall be considered as vacant : and if any vacancies shall at any time happen among the directors, by death, resignation or removal, as aforesaid, ceasing to be as stock-holders, or otherwise, such vacancy shall be filled for the remainder of the year in which they may happen, by an election to be held and made by the remaining directors.

Vacancies how filled.

When two thirds of the shares subscribed for how to proceed.

Elections not made on the proper

Sect. 5. *Be it further enacted,* That so soon as two-thirds of the shares aforesaid are subscribed for, and the third instalment paid thereon, according to the provisions of this act, the commissioners aforesaid shall give notice thereof in the newspaper printed at Steubenville, and shall at the same time, in like manner, notify a time and place within the said town, at the distance of four weeks from the time of such notification, for proceeding to the election of directors, and it shall be lawful for such election to be then and there made, agreeably to the provisions of this act ; and the persons that shall be then and there chosen, shall forthwith thereafter, commence the operations of the said bank, at the said town of Steubenville, and shall be capable of serving by virtue of such choice, until the end or expiration of the first Monday of January ensuing the time of making the same.

Sect. 6. *Be it further enacted,* That in case it shall, at any time, happen that an election of directors should not be made on any day when,

pursuant to this act, it ought to have been made, day, how to proceed.
the said corporation shall not, for that cause, be deemed to be dissolved, but that it shall and may be lawful, on any other day, to hold and make, directors in such manner as shall have been, or may be regulated by the laws and ordinances of the said corporation, the directors for the time being, giving not more than twenty, nor less than five day's notice of such election.

Sect. 7. *Be it further enacted,* That each stockholder shall be entitled to a number of votes proportional to the number of shares which he, she or they shall hold in his, her or their own proper names, according to the following ratios, that is to say: For each share, and not exceeding ten shares, one vote—for every two shares above ten, and not exceeding fifty, one vote—for every five shares above fifty, and not exceeding one hundred, one vote—and for every ten shares above one hundred, one vote. One vote for each share under 10. Stockholders actually resident within the United States, and none others, may vote in elections by proxy, and none but stockholders may, at any time, serve as proxies: *Provided,* That after the first election, no share or shares shall confer a right of suffrage, which shall not have been holden three calendar months previously to the day of election. Stockholders resident in the United States, to vote by proxy. Shares to be holden 3 months, &c.

Sect. 8. *Be it further enacted,* That the directors, before they execute any of the duties of their offices, except to choose their president, shall severally take an oath or affirmation, that they will faithfully, diligently and honestly perform the duties of their respective offices, according to the best of their skill and abilities; which oath, or affirmation, either of the directors is hereby authorised to administer to the president, and then the president shall be, and he is hereby authorised to administer to the other directors, and to all such other officers, clerks and servants of the said cor- Directors to take an oath. By whom administered,

poration, who shall by the ordinances and laws of the said corporation, be required to take an oath or affirmation for the faithful execution of the duties of their respective offices or situations.

Directors to make by laws, &c. Sect. 9. *Be it further enacted*, That the directors, for the time being, or a majority of them, shall have power to make and prescribe such rules, regulations, by-laws and ordinances, as to them shall appear needful and proper, touching the management and disposition of the stock, property, estate and effects of the said corporation, and touching the duties and conduct of the officers, clerks and servants employed therein, and all such other matters as appertain to the business of said bank, and shall also have power to appoint such officers, clerks and servants, under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services respectively as shall be reasonable: *Provided*, That such rules, regulations, by-laws and ordinances, be not repugnant to the constitution and laws of the United States or of this state, or to the provisions of this act.

And appoint officers and servants.

Proviso.

When the first dividend to be made. Sect. 10. *Be it further enacted*, That it shall be the duty of the directors to make a dividend of so much of the profits of the said bank, as to them or a majority of them shall appear advisable on the first day of July, one thousand eight hundred

When made, afterwards. and ten, and thereafter half yearly dividends of so much of the profits of said bank, as to them or a majority shall be deemed advisable, and at the end of two years, a dividend of the surplus profits, if any, after deducting losses and dividends, shall be made by the directors. If there should, at any time, be a failure of payment, in any part of any sum subscribed by any person, co-partnership or body politic, the party failing shall loose the benefit of any dividend which may have ac-

Persons failing to pay, not entitled to any dividend.

erued prior to the making such payment, and during the delay of the same.

Sect. 11. *Be it further enacted*, That no president, or other director, shall be entitled to any emoluments for their services, unless the same shall have been allowed by the stock-holders, at a general meeting. Five directors shall constitute a board for the transaction of business, of whom the president shall be one, except in case of sickness or necessary absence, in which case he shall in writing, appoint one of the directors to act as president, *pro tempore*; but for making ordinary discounts, such a number of directors shall constitute a board, as shall be regulated by the laws of the said corporation.

Directors not entitled to pay unless allowed by a general meeting. What number to constitute a board.

Sect. 12. *Be it further enacted*, That a general meeting of the stock-holders may be called whenever the directors, or a majority of them, shall judge proper, of which meeting the directors shall give five weeks' previous notice in the newspapers printed at Steubenville, and specifying in such notice the object or objects of such meeting: *Provided*, That if no paper is printed at Steubenville, then the publications in this act directed to be made, shall be inserted in the several newspapers published within this state.

Directors authority to call a meeting of stock-holders, by giving notice. *Proviso.*

Sect. 13. *Be it further enacted*, That the stock of the said corporation shall be assignable and transferable, according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same; but no assignment or transfer shall be valid or effectual, until such assignment or transfer shall be entered or registered, in a book or books to be kept for that purpose, by the directors; nor shall any stock holder be capable of assigning or transferring his, her or their stock in the said bank, until all notes, dues and debts, of whatever nature, due or that may hereafter become due to the said corporation from such stock-hol-

Stock assignable.

Assignment to be registered.

der, either as drawer or endorser of any note or bill, or otherwise shall be first paid and discharged.

Bills obligatory how transferred. Sect. 14. *Be it further enacted,* That the bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereon; under the hand or hands of such person or persons, and of his, her, or their assignee, or assignees, so as absolutely, to transfer and invest the property thereof in each and every assignee, or assignees, successively, and to enable such assignee or assignees, to bring and maintain an action therefor, in his, her or their own name or names; and bills or notes which may be issued by order of the said corporation, signed by the president, and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her or their order, or bearer, though not under the seal of the said corporation, shall be obligatory and binding upon the same, in like manner and with like force and effect, as upon any private person or persons, if issued by him or them, in his, her or their private or individual capacity or capacities, and shall be assignable and negotiable in like manner as if they issued by such private person or persons, that is to say, those which shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement, in like manner and with like effect, as foreign bills of exchange now are, and those which are payable to bearer shall be negotiable and assignable by delivery only.

When made payable to any person, his order &c. How transferred.

What real estate corporation authorised to hold. Sect. 15. *Be it further enacted,* That the lands, tenements and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its accommodation, in relation to the convenient transaction of

its business, or such as shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts ; and the said corporation shall not directly or indirectly deal or trade in buying or selling any goods, wares, or merchandize, or commodities, whatever, except in selling the same when truly pledged to it by way of security for any debts due the said corporation, or purchasing the same at sales on judgments which shall have been obtained for any debts previously contracted in the course of its dealings.

Sect. 16. *Be it further enacted*, That the total amount of the debts which the said corporation shall at any time owe, whether by bond, bill, note or other contract, over and above the monies then actually deposited in the bank, shall not exceed three times the sum of the capital stock subscribed and actually paid into the bank, and in case of such excess, the directors under whose administration it shall happen, shall be liable for the same in their natural and private capacities : But this shall not be construed to exempt the said corporation, or any estate real or personal, which they may hold as a body corporate, from being also liable for, and chargeable with the said excess ; but such of the said directors who may have been absent, when such excess was contracted, or who may have dissented from the resolution or act whereby the same was so contracted, may respectively exonerate themselves from being so liable, by giving immediate notice of the fact, and of their absence or dissent, to the stockholders at their next general meeting, which they shall have power to call for that purpose. And further, it shall not be lawful for the said corporation to emit any notes, or contract debts which

Debts not to exceed three times the capital stock.

shall be payable in the bills of credit emitted by the laws of this state.

Cashier and clerk to give bond. Sect. 17. *Be it further enacted,* That every cashier and clerk, before he enters into the duties of his office, shall give bond with two or more securities, to the satisfaction of the directors, with condition for the faithful discharge of his duty.

The state may subscribe for one fifth of the shares. Sect. 18. *Be it further enacted,* That this state shall have a right to subscribe any number of shares to the said bank, not exceeding in the whole, one fifth part of the whole number of shares, which may be subscribed at any time when it shall, by law, authorise any person or persons for that purpose, and the state shall have a right to increase the number of shares and stock, which the said corporation may hold to the amount of the number of shares so to be subscribed, before such subscription shall take place on the part of this state, and for the number of shares so subscribed, the state shall be entitled to a credit of one year, without interest, and at the same time to its proportional dividend, payable in one year after subscribing : *Provided,* That if at the end of the year, the state shall not pay into the bank an equal sum on each share it has subscribed, as at that time has actually been paid in, on each share belonging to the stock-holders, it shall not be entitled to any dividend, and for all instalments which may be called for, the state shall have the same credit, subject to the same conditions ; and if the state neglects to pay any instalment called for, it shall not, on that account, forfeit any dividend due, or that may become due on such payments as it may have made. Whenever the state shall own any shares in said bank, equal to one tenth part of the whole, it shall have the right to appoint two directors ; and for any less number of shares, shall have a right to appoint a

Proviso.

State to appoint two directors, or proxy.

proxy, who shall be entitled to give a number of votes in proportion to the whole number of shares held by the state, subject to the regulations on that behalf contained in the seventh section of this act.

Sect. 19. *Be it further enacted,* That the stock-holders may augment at any time hereafter, the capital stock of said bank, at the special meeting called for that purpose, two-thirds of all the votes given therefor, under such regulations, restrictions and conditions as they shall, at such meeting, judge proper, to any amount not exceeding five hundred thousand dollars. *Provided, always,* That the state shall be entitled to subscribe for a number of shares equal to the one-fifth of the increase of stock which may be made at any time within one year after such augmentation takes place, on the same terms as are provided by the eighteenth section of this act.

Sect. 20. *Be it further enacted,* That the said corporation shall not take more than at the rate of six per centum per annum, in advance, on its loans or discounts.

Sect. 21. *Be it further enacted,* That this act of incorporation shall in no wise be forfeited for any non-user, whatever, at any time before the second Monday of January next.

Sect. 22. *And be it further enacted,* That this act be, and is hereby declared to be a public act, and the same shall be construed in all courts and places, benignly and favorably for any beneficial purposes thereby intended.

This act shall take effect, from and after the passage thereof.

ALEXANDER CAMPBELL,

Speaker of the house of representatives,

THOMAS KIRKER,

Speaker of the senate.

February 15th, 1809.

CHAPTER XXXIX.

AN ACT directing the manner of paying over monies due to the new counties in this state.

Proportion of tax to be allowed to new counties.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That the Auditor is hereby directed to give to the treasurer of all new counties, established during the last session of the general assembly, an order or draft on the treasurer of the original county, or on the collector of the proper district, within which such county may lie, for the full amount of the proportion of tax arising from lands within such county, due to the same for county purposes : and the treasurer or collector to whom such order may be presented, shall pay over the amount of such order as therein directed ; which sum shall be considered as a part, and be deducted from the sum which otherwise would have been due to the original county, had no division of the same taken place.

Repealing act of Muskingum and Tuscarawas counties.

Sect. 2. *And be it further enacted,* That the act, entitled " An act to enable the treasurer of Muskingum county, to pay certain monies to the treasurer of Tuscarawas county " be, and the same is hereby repealed.

Commencement.

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

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 9th, 1869.

CHAPTER XL.

AN ACT to prevent the selling of spirituous liquors to the Indians.

Tavern keepers &c. act.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That if any tavern-keeper, or

other person or persons, shall sell or barter any spirituous or other liquids of intoxicating quality, to any Indian or Indians within this state, or convey or attempt to convey, or be instrumental in conveying any of the aforesaid liquors or liquids out of this state, with an intent to dispose of the same to any Indian or Indians, unless authorised by the proper authority, such person or persons shall forfeit and pay a fine not exceeding one hundred dollars, nor less than five dollars, to be recovered with costs of suit, by indictment, in the county where the offence was committed, to be paid into the county treasury ; and the person so offending, shall moreover forfeit the article, of whatsoever nature or kind, he, she, or they may have received in exchange ; which shall be restored to any Indian or Indians claiming the same, on giving satisfactory proof to any justice of the peace, or judge of any court within this state, that the articles so claimed, are actually the property of the Indian or Indians who make the claim ; and all grand jurors, justices of the peace, and judges, are hereby authorised and required to be aiding and assisting, in carrying this law into effect.

ling liquors to Indians without license.

How punished.

Fines how disposed of. Articles received in payment for liquors forfeited and restored to the Indian claiming the same.

Judges, Justices, &c. authorised to carry this act into effect.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.

THOMAS KIRKER,
Speaker of the senate.

February 11th, 1809.

CHAPTER XLI.

AN ACT to amend the act, entitled " An act to provide for the incorporation of townships."

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That each and every person elected and qualified for the office of township treasurer to give bond, &c.

surer, agreeably to the fourth section of the before recited act, shall, previous to entering into the duties of his said office, give bond with approved security to the trustees of such township and their successors in office, in such sum as such trustees may deem proper, conditioned for the faithful receiving and paying over all monies which may come into his hands for the use of the township; which bond shall be lodged with the clerk of such township, for safe keeping.

Commencement.

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

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 17th, 1809.

CHAPTER XLII.

AN ACT amendatory and repealing in part, " An act for granting license and regulating ferries, taverns and stores."

Persons licensed to keep tavern, &c.

Permitting rioting, sporting or gambling, drunkenness, or disorder.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* 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 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, shade, arbour or other place in their occupancy, or shall suffer any disorder, revelling, or drunkenness therein; every such tavern-keeper or retailer, on being thereof legally convicted, before any court having cognizance

thereof, shall for every such offence, be fined in any sum not exceeding twenty dollars, at the discretion of the court, with costs, on the presentment, or indictment of a grand jury, who is hereby required to take cognizance of all offences specified in this section. And the license of such person shall thereupon become void, and the offender incapable of being again licensed for one year thereafter.

How punished.

His license forfeited.

Sect. 2. *And be it further enacted,* That so much of the aforesaid act, as prohibits the sale of cider or beer by less quantity than one gallon, and likewise the fifth section of said act, 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.

Commencement.

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the Senate.

February 14th, 1809.

CHAPTER XLIII.

AN ACT authorising county commissioners to provide and fix upon a place for holding courts in their respective counties, in certain cases.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That until proper accommodation is made at the place fixed on by the commissioners for the permanent seat of justice, it shall be the duty of the county commissioners to provide some suitable place for holding the courts of such counties: *Provided,* the provisions of this act shall not extend to any county for a longer time than three years, after the commissioners appointed for fixing the permanent seat, shall have made their return.

County commissioners to provide a suitable place for holding courts in certain cases. *Provided.*

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

February 17th, 1809.

CHAPTER XLIV.

AN ACT to establish the Miami University.

Name and
style of the
university.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That there shall be an University established and instituted, in the manner hereafter directed, within that part of the country known by the name of John Cleve Symmes' purchase, which University shall be designated by the name and style of the Miami University, for the instruction of youth in all the various branches of the liberal arts and sciences, for the promotion of good education, virtue, religion and morality, and for conferring all the literary honours granted in similar institutions; and the benefits and advantages of the said University shall be open to all the citizens within this state.

Body politic
established.

Sect. 2. *Be it further enacted,* That the president and trustees of the Miami University, are hereby created a body politic and corporate by the name of "the president and trustees of the Miami University," which body politic shall consist of a president, and not more than fourteen, nor less than seven trustees, whose time of service or appointment shall be for three years.

Names of
trustees.

Sect. 3. *Be it further enacted,* That Hiram Mirach Curry and William Ward, of Champagne county; James Brown, and David H. Morris, of Miami county; William M'Clure and Benjamin Van Cleve, of Montgomery county; Benjamin Whiteman and Andrew Reed, of Green county; John Bigger and Icabod B. Halsey, of Warren county; John Reily and Thomas Irwin, of Butler county; John Riddle and Joseph Vanhorn, of Hamilton county, together with the president for the time being, be, and they are hereby erected a body politic and corporate, by the name of the president and trustees of the Miami University; and that they and their succes-

gors and such others as shall be duly elected members of the said corporation, shall be and remain a body politic and corporate in law, by that name.

Sect. 4. *Be it further enacted,* That the said trustees shall have power and authority to elect a president, who shall preside in the said University; and also to appoint a secretary, treasurer, collector, professors, tutors, instructors, and all such officers and servants in the University, as they shall deem necessary for carrying into effect the design of the institution, and shall have authority, from time to time, to establish the name and number, and prescribe the duties of all the officers and servants to be employed in the University, except herein otherwise provided, and may empower the president or some other member of the corporation, to administer such oaths as they shall authorize, for the good government and well ordering of the said University: *Provided,* That no business of the corporation shall be transacted at any meeting, unless seven of the said trustees shall be present.

Trustees to elect a president, &c.

Oaths by whom administered.

Proviso.

Sect. 5. *Be it further enacted,* That the said corporation shall have power and authority from time to time, to make and ordain rules, ordinances and by-laws for the government of the corporation, not incompatible with the laws of the United States or this state, and the same to repeal as occasion may require, and also to determine the salaries, emoluments and tenures of their several officers.

Trustees may make rules, &c.

Sect. 6. *Be it further enacted,* That the said corporation shall have power and authority to suspend and dismiss the president, or any member of the said corporation, who shall by his misconduct render himself unworthy of the office, station or place he sustains, or who from age or other infirmity, is rendered incapable to perform the duties of his office; and the said corporation shall

President members &c for what and by whom dismissed from office.

have power and authority to suspend, dismiss and remove from the University, any professor or instructor, whensoever the corporation shall deem it expedient for the interest and honor of the University, provided that two thirds of the corporation shall be present, when any such person shall or may be suspended, removed or dismissed.

Vacancies how filled. Sect. 7. *Be it further enacted,* That the trustees shall have power to fill all vacancies, which may happen in their board, during the recess of the legislature, out of the counties where such vacancy shall happen, who shall continue in office until the end of the next session of the legislature; and the president shall make report thereof to the governor, to enable him to lay the same before the next legislature.

Style of the president & professors. Sect. 8. *Be it further enacted,* That the president and such professors as the corporation shall appoint, shall be styled the faculty of the University, and shall have power with the approbation of the corporation or trustees, from time to time, to ordain, regulate and establish the mode and course of education and instruction to be pursued in the University, and also with the approbation of the corporation as aforesaid, to make public and execute such code of rules, regulations and by-laws as they shall deem necessary for the well ordering and good government of the University, and to repeal or amend any part thereof, which rules, regulations and by-laws, shall continue in force until altered or repealed by the corporation, and the faculty shall lay before the corporation from time to time, accurate statements of all their proceedings; moreover, the faculty shall direct and cause to be holden in the said University, at least once in every year, a public examination, at which time the faculty shall attend, when each class of the students shall be examined relative to the proficiency they shall

To make by laws, &c.

To lay before the corporation their proceedings.

Examination of students.

have made in the particular branches of education in which they shall have been instructed.

Sect. 9. *Be it further enacted*, That the said Corporation shall have and keep one common seal to have one common seal. which they may change, break or renew at pleasure, and that all deeds and instruments of writing, signed and delivered by the treasurer, and sealed with the corporation seal, by order of the president and trustees, shall, when made in their corporate name, be considered in law as the deed and act of the corporation, and the said corporation shall be capable of suing and being sued, To sue and be sued. pleading and being impleaded in any action, real, personal or mixed, and the same to prosecute or defend to final judgment and execution by the name of the president and trustees of the Miami University: *Provided*, That whenever any suit shall be commenced against the said corporation, the process shall be a summons, and the service made by the officer leaving an attested copy of such process with the treasurer of the said corporation, and the said corporation shall be capable of To hold estate real or personal. having and holding in fee simple, or any less estate, by gift, grant, devise or otherwise, any lands or other estate, real or personal.

Sect. 10. Whereas the congress of the United States, by their act of the third of March, one thousand eight hundred and three, did vest in the legislature of the state of Ohio, one complete township in the state of Ohio, and district of Cincinnati, or so much of any one complete township within the same, as there remained unsold, together with as many adjoining sections as should 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 state of Ohio, on or before the first day of October, then next, with the register of the land-office at Cincinnati, for the purpose of establishing an academy For what purpose.

in lieu of the township then granted for the same purpose, by virtue of the act, entitled "An act, authorising the grant and conveyance of certain lands to John Cleve Symmes, and his associates."

And whereas the said lands have been located and surveyed for the purpose aforesaid: Therefore, *be it further enacted*, That the said lands so as aforesaid be, and the same are hereby vested in the said corporation, which by this act is created, and their successors forever, for the sole use, benefit and support of the said University, to be holden by the said corporation, in their corporate capacity, with full power and authority to divide, sub-divide and expose the same to sale in tracts of not less than eighty, nor more than one hundred and sixty acres, and for the term of ninety-nine years, renewable forever, subject to a valuation every fifteen years, always considering the land in an unimproved state, for the purpose of valuation, and provided that the land shall be offered at auction for not less than two dollars per acre, and the tenants or lessees shall pay six per cent. per annum on the amount of their purchase, during the continuance of their leases; and the said tenants or lessees shall enjoy and exercise all the rights and privileges which they would be entitled to enjoy, did they hold the said lands in fee simple, any law to the contrary notwithstanding:

Corporation to sell lands.

Conditions.

proviso. *Provided*, That the trustees shall have power to reserve one mile square, for the purpose of laying out a town, which they may lay out, and lease in lots of such size, as they or a majority of them shall think proper.

Proceeds of sale how appropriated. Sect. 11. *Be it further enacted*, That the clear annual rents, issues and profits of all the estate real, personal or mixed, of which the said corporation shall be seized or possessed in their corporate capacity, shall be appropriated to the endowment of the said University, in such manner as

shall most effectually promote virtue, morality, piety and knowledge of such languages, liberal arts and sciences, as shall hereafter be directed from time to time, by said corporation : *Provided*, Proviso. That in case any donation shall hereafter be made for particular purposes, relative to the design of this institution, and the corporation shall accept and receive the same, every such donation shall be applied in conformity to the intention to the donor.

Sect. 12. *Be it further enacted*, That the treasurer of the said University shall be chosen by the trustees once in three years, who shall not be of the body of trustees ; he shall, before he enters upon the duties of his office, give bond to the corporation, in such sum, and with such security, as the said corporation shall approve, conditioned for the faithful discharge of the duties of said office, and rendering a just and true account when thereunto required, and also for delivering over to his successor in office, all monies and securities, and other property that shall belong to the president and trustees of the said University, together with all the books and papers in which his proceedings as treasurer, shall be entered and kept, that shall be in his hands at the expiration of his office, and all money that shall be recovered by virtue of any suit at law, upon such bond, shall be paid over to the president and trustees aforesaid, and be subject to the appropriations above directed in this act.

Treasurer chosen once in 3 years.

To give bond.

His duty.

Sect. 13. *Be it further enacted*, That the lands appropriated and vested in the corporation, with the buildings which may be erected thereon for the accommodation of the president, professors and other officers, students and servants of the University, and any buildings appertaining thereto ; and also the dwelling house and other buildings which may be built and erected on the lands, shall be exempt from all state taxes.

Lands, houses, &c. exempt from taxes.

Vacancy of President,
how suppli- ed.

Sect. 14. *Be it further enacted,* That until a president of the said University shall be elected and shall have entered upon the duties of his office, and also in case of vacancy or the absence of the president, the said trustees shall appoint one of their body to preside, and all the proceedings of the trustees, while acting under such circumstances, shall be considered in law as the acts of the corporation, as fully and completely as when the president of the University shall preside.

Legislature power to extend or limit the powers vested by this act,

Sect. 15. *Be it further enacted,* That the legislature of this state may grant any further and greater powers to, or alter, limit or restrain in any of the powers by this act, vested in the said corporation, as shall be necessary to promote the best interest of the said University, with all necessary powers and authority for the better aid, preservation and government thereof.

Rent due for 3 months.
Treasurer's du y.
Collector power to restrain property.
Advertise & sell the same.
No goods &c. found to re-enter on the bond.

Sect. 16. *Be it further enacted,* That the treasurer shall, in all cases where the rent of any person or persons have been due for three months, immediately transmit a certified copy under his hand and seal of the said corporation, to the collector of the said corporation, an accurate list of all such delinquents, which said list, certified as aforesaid, shall be sufficient power for said collector to distrain on the goods and chattels of each and every delinquent; and the same to advertise in three public places in the township in which said goods and chattels are distrained, ten days previous to the sale; and the said collector shall then proceed to sell the same at public vendue, and the rents and costs forthwith to pay to the treasurer, and the overplus, if any, to refund to the said delinquent. But for want of goods and chattels whereon to levy, then to re-enter and take possession of the premises for the use of the trustees of the said University; and the said collector shall receive the same compensation for his services as sheriffs do in si-

similar cases : *Provided however*, That if any delinquent or delinquents shall think himself aggrieved, he shall have his action against the said treasurer or collector (as the case may be) or both, and shall recover all damages which he may have unjustly sustained.

Sect. 17. *Be it further enacted*, That Alexander Campbell, the Rev. James Kilbourn, and the Rev. Robert G. Wilson, be, and they are hereby appointed commissioners, who shall fix on the place for the permanent seat of the University, and shall receive such compensation out of the state treasury, as the ensuing legislature shall direct.

Three commissioners to fix the seat of the said University.

Sect. 18. *Be it further enacted*, That the commissioners aforesaid, shall meet on the first Tuesday in June next, in the town of Lebanon, in the county of Warren, and after having taken an oath or affirmation, before some officer legally authorized to administer the same, faithfully to discharge the duties assigned them by this act, shall then proceed to examine and select the most proper place for the seat of the University, in such part of John Cleve Symmes' purchase, as an eligible place can be found, paying regard to the health and convenience of the situation, and such other circumstances as in their opinion will tend to advance the interest and promote the welfare of the institution, and the decision of a majority of all the commissioners in favor of any one place, shall be sufficient for fixing the seat of the said University ; and it shall be the duty of the trustees, at least twenty days previous to the meeting of the commissioners, to have their time and place published in at least three newspapers, within John Cleve Symmes' purchase ; and the commissioners, or such of them, as may attend on the day above required for their attendance, shall have power to adjourn to such time and place within

To meet 1st Tuesday in June.

To take an oath.

A majority to decide.

Time of meeting, to be published

Power to adjourn.

Authority to receive gifts, &c.

said district, as they may think proper, until they have performed the duties required of them by this act. And the commissioners shall have power to receive any gift or donation, for the benefit of the institution, which may be given by any individual or body corporate, and the same to deliver over to the trustees, who shall apply such donation or gift to the purposes for which it was intended by the donor.

First meeting of corporation where holden.

Sect. 19. *Be it further enacted*, That the first meeting of the said corporation shall be at the town of Lebanon, in the county of Warren, on the first Tuesday in April next, and for ever after the corporation shall have full power and authority to determine their own time and places of meeting.

Commissioners neglecting to serve. Governor to appoint others.

Sect. 20. *And be it further enacted*, That in case either of the aforesaid commissioners shall neglect or refuse to act, the governor is hereby authorised to appoint; and should the time fixed on by this act for them to meet, have expired, to direct at what time they shall meet.

Commencement.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

February 17th, 1809.

CHAPTER XLVI.

AN ACT for leasing sections sixteen and twenty nine, in fractional townships within the Ohio company's purchase.

School and religious sections, to be leased.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio*, That the inhabitants of each and every fractional township within the Ohio company's purchase, are hereby authorised to proceed to lease sections number sixteen, granted for

the support of schools, and sections number twenty-nine, granted for religious purposes, in the same manner, as is already pointed out by law, for leasing the said sections, any want of the number of electors, required by the act entitled "An act to incorporate the original surveyed townships" to the contrary notwithstanding; and whenever any of said sections do not contain one hundred and sixty acres, the trustees aforesaid may lease the same, in such small tracts as they may think most advisable.

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

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 9th, 1809.

CHAPTER XLVII.

AN ACT supplementary to the act entitled "An act making a further appropriation of the three per cent. granted by the United States for laying out, opening and making roads in this state," passed February 4th, 1807.

WHEREAS in the second section of an act entitled "An act making a further appropriation of the three per cent. granted by the United States for laying out, opening and making roads in this state," passed February 4th, 1807, the sum of three hundred dollars was appropriated for laying out, opening and making a road from the mouth of Short creek, to where the same intersects the state road from Wheeling to Chillicothe. Recital of an act for appropriating the 3 per cent on a road from Short creek.

And whereas, a mistake took place in enrolling the said act, by inserting the word "that" instead of the word "short," so that the sum aforesaid, appears from the enrolled bill to have been appropriated for a road leading from the mouth of "That" Error in the enrolment.

creek, &c.” instead of a road leading from the mouth of “~~Short~~ creek, &c.” in consequence of which the money aforesaid, has not been applied to the purpose intended by the said appropriation : Therefore,

Rectified. Sect. 1. *Be it enacted, by the general assembly of the state of Ohio,* That the commissioner appointed by a resolution of both houses for said road, and the treasurer of state, shall be, and they are hereby authorized to proceed in every respect, as though the said mistake had not taken place.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

February 9th, 1809.

CHAPTER XLVIII.

AN ACT to set off a part of the Connecticut western reserve, into a separate county.

Boundaries. Sect. 1. *Be it enacted, by the general assembly of the state of Ohio,* That ~~that~~ part of the Connecticut western reserve called the Fire lands, beginning at the south west corner of said reserve, then north to the north boundary line of the United States ; then easterly along said line, to where the east line of the twentieth range would intersect said boundary line ; then south along the east line of the twentieth range, to the south line of the said reserve, which east line of the twentieth range, is the east line of the Fire lands, so called ; then west along the south line of said reserve, to the place of

When to be organized. beginning, be, and is hereby erected into a county, by the name of Huron, to be organized whenever

the legislature shall hereafter think proper, but to remain attached¹ to the counties of Portage and Geauga, as already by law provided, except as herein after provided. To what counties attached.

Sect. 2. *And be it further enacted,* That Almon Ruggles, be, and is hereby appointed recorder of the county of Huron, who shall give bond, to be approved of by the court of common pleas of the county of Geauga, and continue in office until said county is organised, and be governed in all respects, by the laws in force, regulating the duty of recorders. Recorder appointed to give bond. And the recorders of the counties of Trumbull and Geauga, is directed and required to deliver all books or records, relating to the title of lands, in the county of Huron aforesaid, which have been kept in separate books for that purpose, to the recorder of Huron aforesaid. Term of his office. His duties. To receive monies from Trumbull and Geauga counties.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

February the 7th, 1809.

CHAPTER XLIX.

AN ACT to amend "An act authorising the citizens of Cincinnati and its vicinity, to raise six thousand dollars for certain purposes."

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That the commissioners appointed by the act entitled "An act authorising the citizens of Cincinnati and its vicinity, to raise six thousand dollars for certain purposes," be, and they are hereby authorised and empowered to alter, modify or reduce their former Lottery scheme, and also to divide the said Lottery into as many classes as they may judge expedient, and regu- Commissioners. Their authority.

late the sale of the tickets and the drawing of the Lottery, in such manner as they may deem necessary.

Alterations in the scheme, to be published
Persons holding tickets, to receive new tickets, or money refunded.

Sect. 2. *Be it further enacted,* That if the said commissioners shall alter, modify or reduce their present scheme, they shall at the time they publish their first scheme, under the provisions of this act, modify and invite all persons who may have purchased tickets under the former scheme, to return said tickets, if they may think proper, and on the return of any such tickets, to call upon the commissioners, or either of them, and receive any money which they may have paid.

Four new commissioners appointed.

Sect. 3. *Be it further enacted,* That William Ruffin, William Ramsey, Martin Baum and Jacob Burnet, be, and they are hereby appointed commissioners in the room of Ethan Stone, Samuel Hildridge, Matthew Nimmo and Daniel Symmes, who have refused to act as commissioners.

Repealing clause.

Sect. 4. *Be it further enacted,* That so much of the first section of the before recited act, as provides that there shall at least be laid out one thousand five hundred dollars in books and astronomical apparatus for said University, and also that part of the fourth section as requires the commissioners to commence the drawing of said Lottery on or before the first day of September, one thousand eight hundred and nine, and the drawing fully completed within ninety days, from the time of commencing the same, be, and the same are hereby repealed

Commencement of drawing last class.

Sect. 5. *And be it further enacted,* That the commissioners shall commence the drawing of the last class of said Lottery, on or before the first day of September, one thousand eight hundred and thirteen.

Commencement of this act.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.

THOMAS KIRKER,
Speaker of the senate.

February 17th, 1809.

CHAPTER L.

*AN ACT for the more speedy distribution of the
 Laws, Journals, and for other purposes.*

Sect. 1. *Be it enacted by the general assembly of* Persons con-
the state of Ohio, That whenever the legislature, tracting with
 or any person or persons, by their instructions, printer.
 shall make a contract with any printer or printers,
 for the necessary printing for the use of the
 state, the secretary of state shall, on the part of the
 state, take from such printer or printers, a bond Secretary of
 or bonds, with sufficient security, conditioned for state to take
 the true and faithful performance of such public a bond.
 printing, agreeable to contract ; or shall enter in-
 to an article or articles of agreement, with such Conditions
 printer or printers, on such conditions as the le- of bond for-
 gislature may direct ; and when the conditions of feited.
 any such bond or article of agreement shall be for-
 feited, the secretary of state shall, (if the nature of
 the contract be such that damages will lie) com- Suit to be
 mence and prosecute an action or suit against such commenced
 delinquent printer or printers, before any court thereon.
 having competent jurisdiction.

Sect. 2. *Be it further enacted,* That the secre- Secretary of
 tary of state shall, at the close of each session of state to lay
 the legislature, lay off the state into convenient off the state
 districts, and give notice in a newspaper, printed into districts
 at the seat of government, that he will on a day and give no-
 certain, receive separate proposals for carrying the notice for con-
 laws and journals into the several counties in each tracting with
 district mentioned in said notice ; and the person persons to
 or persons who may undertake to carry the laws carry the
 laws, &c.

To take a bond for performance and journals for the lowest sum, shall have the contract, on giving bond with sufficient security, conditioned for the faithful delivery of the laws and journals at the office of the clerk of the court of the proper county, on or before a day certain, to be fixed on by the secretary of state; and in

Persons failing in performance, to be prosecuted. case of the failure of any person or persons, who may undertake to carry the laws or journals as aforesaid, the secretary of state shall prosecute such delinquents in the same manner that he is authorised to prosecute delinquent printers.

What officers intitled to copies of laws, &c. Sect. 3. *Be it further enacted,* That each associate judge, justice of the peace, sheriff, coroner, recorder, and each county commissioner, shall be entitled to one copy of the laws; and

Duty of county clerk's. each member of the general assembly shall be entitled to one copy of the laws, and one volume of the journals of both houses of the general assembly, annually; and the clerk of the court of common pleas, of each county, shall deliver to each officer above mentioned, one copy of the laws, on demand, and distribute the balance, if any there may be, to the trustees of the several townships, in proportion to the number of inhabitants, to be delivered to the township clerks on demand, and by them to be distributed amongst the several officers in said township: *Provided however,* That if any, or all of the above named officers shall fail in making a demand at the clerk's office, for a volume of the laws, within twenty days after the clerk shall have received the same, in that case, the clerk shall keep in his office, so many volumes as he may deem sufficient for the officers aforesaid, and distribute the remainder among the several townships, as before directed.

Journals how distributed. Sect. 4. *And be it further enacted,* That there shall be forwarded, by the secretary of state, as aforesaid, to each county in this state, an equal proportion of the journals of each house of the

general assembly, according to the number of volumes of the laws sent to each county, annually, to be distributed by the clerk of such county, among the several townships in his county; to each township clerk, at least two volumes of the journals of each house.

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

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 17th, 1809.

CHAPTER LI.

AN ACT to prevent the abatement of suits in certain cases.

Sect. 1. *Be it enacted by the general assembly of the state of Ohio,* That it, in any action or suit commenced in any court of record within this state, the plaintiff or defendant shall die, after interlocutory judgment, and before final judgment, such action or suit shall not abate, by reason of such death; *provided* such action or suit be of such a nature, that the right thereof would survive to the executors, administrators or heirs of such plaintiff, or against the executors or administrators of such defendant; but the plaintiff, in such action or suit, if he be living, or in case of his death, his executors, administrators or heirs, shall be entitled to a writ or writs of *scire facias* from the court in which such action or suit is pending, against the defendant, if he be living, or in case of his death, against his executors, administrators, or heirs, to shew cause why damages, on such interlocutory judgment, should not be assessed, and final judgment be thereon entered. Suits not to abate in certain cases.

Proviso.

Scire facias to issue.

Proceedings thereon.

the return of such *scire facias*, the defendant, or in case of his death, his heirs, executors or administrators, should appear and fail in shewing cause, why such assessment of damages and judgment should not be had ; or if such defendant, or in case of his death, his heirs, executors and administrators being summoned, should make default, or if two writs of *scire facias* be duly taken out and returned *nihil*, or that the defendant or defendants, in such *scire facias* has or have nothing whereby he, she or they can be summoned ; then the court, before whom such action or suit is pending, shall proceed therein to assess damages, enter judgment, and award execution, in the same manner as though the parties to the said *scire facias* had been the original parties to the said action or suit.

Sect. 2. *Be it further enacted*, That if any
 Two or more action or suit, commenced in any court of record
 plaintiffs, or within this state, in which action or suit there are
 defendants, two or more plaintiffs, or two or more defendants,
 Suit not to it should happen that one or more of the plaintiffs,
 abate by one or more of the defendants should die, be-
 death of one. fore final judgment, such action or suit shall not
 abate thereby : *Provided*, The right of such action
 Proviso. or suit would survive to the surviving plaintiff,
 or against the surviving defendant, as the case
 may be ; but such death being suggested on the
 record, such action shall be proceeded in to final
 judgment ; and the plaintiff or plaintiffs, his or
 their survivor or survivors, may have execution
 against the defendant or defendants, his or their
 survivor or survivors ; and if the said judgment
 shall not be fully satisfied by such execution the
 plaintiff or plaintiffs may proceed by *scire facias*,
 as in other cases, to make the heirs, executors, or
 administrators of the deceased defendant or de-
 Scire facias to issue in certain cases fendants, parties to such judgment ; on which
scire facias the said heirs, executors or adminis-

trators shall have liberty to make the same defence, and to proceed in all respects, in the same manner as if final judgment had not, as aforesaid, been entered in such action or suit, and if sufficient cause be not shewn by such heir, executor or administrator, why they or either of them should not be made parties to such judgment, and judgment be thereupon entered against them on such *scire facias*, the plaintiff may sue out execution against the said defendant or defendants in *scire facias* for the whole or the residue of such judgment, as the case may require.

Proceed-
ings there-
on.

Sect. 3. *Be it further enacted*, That if the plaintiff or defendant in any action or plaint instituted in any court of record within this state, shall die after issue joined in such action or suit, and before final judgment, such action or suit shall not abate thereby, if the same would survive to the heir or heirs, executor or executors, or administrator or administrators of the plaintiff, as against the heir or heirs, the executor or executors, administrator or administrators of the defendant, in case of his death ; but such death being suggested on the record, the legal representative of the deceased shall be permitted, during the same term, at which such suggestion is made, or during the succeeding term, to appear and become a party on the record ; but if the legal representative do not appear and prosecute or defend in said suit before the last day of the term succeeding that in which such suggestion was made, the same shall be proceeded in to final judgment in the same manner, as though the original parties to the said action or suit were still living : *Provided*, That no execution shall issue on such judgment until the same shall have been revived by *scire facias* in the same manner as though the plaintiff or defendant had died after final judgment, and before execution had thereon, to the intent, that the defendant,

Plaintiff or
def. dying
after issue
joined & be-
fore judg-
ment.

Proviso.

his heirs, executors or administrators may have an opportunity of shewing cause why such execution should not issue ; and the defendant or defendants in such *scire facias* shall have the same privilege of pleading and defending on the merits of the original cause of action, as if such judgment had not been rendered as aforesaid.

No execution to issue for one year after the deceased of the party. Sect. 4. *And be it further enacted,* That in no case arising under this act, in which judgment shall be given against the heir or heirs, executor or executors, administrator or administrators of a defendant, shall execution be issued against such executor or executors, administrator or administrators, until the expiration of one year from the decease of the testator, or intestate, any thing herein contained to the contrary notwithstanding.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

February 15th, 1809.

CHAPTER LII.

AN ACT defining the duties of auditor and treasurer of state.

To keep their offices at the seat of government. Sect. 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 all duties appertaining thereto, that may be enjoined on them by law ; and previous to entering on the duties of their respective offices, they shall each enter into bond with two or more securities, such as the governor may approve, in the sum of ten thousand dollars, payable to the governor and his successor in office, for the use of the state, con-

To give bond.

ditioned for the faithful discharge of their duties ; which bond shall be filed in the office of the secretary of state.

Sect. 2. *Be it further enacted,* That the auditor shall, from time to time, issue bills payable at the treasury of state, with interest, for the payment of all such monies that may be by law directed to be paid out of the state treasury ; which bills shall be printed in separate sheets, leaving sufficient space at one end of each sheet to indent and number them ; and shall also indent and number each bill, and enter the number corresponding thereto, on that part of the sheet from which such bill was cut, in the indenting ; which indented part of said sheet, shall be by him carefully preserved in his office ; and no bill shall be issued as aforesaid, except for twenty dollars, ten dollars or five dollars ; and for any sum less than five dollars, the precise balance of the account which is thereby intended to be closed.

Auditor to issue bills.

Bills to be indented.

Sect. 3. *Be it further enacted,* That the auditor of public accounts, shall make and preserve fair and accurate records in his office, on books to be by him provided, at the expence of the state, of all the public accounts, and keep a regular file in progressive order, of all the vouchers relative thereto ; and also make fair and accurate records of all such other documents as have been or may be by law made returnable to his office, and shall also receive, examine and liquidate all accounts against the state, and issue bills payable at the treasury of state, agreeably to the provisions of the second section of this act, for all monies due from the state, and make out true and accurate statements of the amount thereof, and report to each house of the general assembly, on the third day of their annual session ; at which time he shall also make out and report to each house, a true and accurate account of the amount of the receipts and ex-

Fair and accurate records to be kept of all public accounts.

Auditor to issue bills for all liquidated accounts.

And make report to the general assembly.

penditures of the preceding year ; and he shall also report the amount of all land charged with tax, within each district or county, with the several rates therein designated, as returned to his office, stating the residents' and non-residents' separately, together with such observations on the fiscal system of this state, as he shall conceive proper for the consideration of the legislature.

To make out collector's accounts. Sect. 4. *Be it further enacted*, That it shall be the further duty of the auditor, after the district collectors have made their several returns to his office, to make out an accurate statement of each collector's account, shewing the amount of money by each collector paid into the state treasury ; the balance (if any) due to the state, together with the balance due from the collector to each county within his district, or from the county to the collector, as far as the documents in the auditor's office will enable him to make a statement : *Provided*, That if any of the collectors should fail to make his or their return to the auditor, as required by law, on or before the fifteenth day of January in each year, the auditor shall immediately proceed to make his report as aforesaid.

Proviso.

Auditor to examine & settle all accounts. Sect. 5. *Be it further enacted*, That all accounts against the state, shall be presented to the auditor, who shall examine and adjust the same, and issue bills redeemable at the state treasury, for such balance as may be due from the state, which bill shall specify the name of the person to whom payable, and bear the date of settlement ; a list of all such bills ; the auditor shall keep in a book, or books, to be by him kept for that purpose, in which he shall enter, in progressive order, the number of the bills or orders by him issued, the name of the person to whom issued, the date of issuing, and the amount of the bill or order issued, entering all bills of the same amount in separate columns.

Numbers of bills issued to be entered in a book.

Sect. 6. *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, and keep an accurate account of the receipts and payments, in a book, or books, to be by him provided, at the expence of the state, for that purpose, in which 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.

Sect. 7. *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 warrant, or order, 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 as aforesaid, 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 second, the name of the person to whom issued ; in the third, the date of issuing ; in the fourth, the date of redemption ; in the fifth, the amount of the warrant or order ; in the sixth, the amount of the interest ; and in the seventh, the amount of the principal and interest, keeping an account of all warrants or orders of the same amount, and of the same year's emission, separate and distinct ; that the auditor of public accounts shall make out, and attach the aggregate amount of all the warrants by him issued or drawn on the treasury in each year, and make it a part of his annual report to the legislature, and the state treasurer shall, in like manner, make out and attach the aggregate amount of all such bills or war-

Treasurer to receive & keep all monies for the use of the state.

To receive the warrants of the auditor,

Persons paying to endorse the same.

Manner of keeping books.

Auditor and treasurer to submit their books, &c to the general assembly. warrants by him received in each year, and make it a part of his annual report.

Sect. 8. *Be it further enacted,* That the auditor and treasurer shall, at any time when required, submit their books, accounts and vouchers, to the inspection of the general assembly, for their examination.

Auditor and treasurer not to speculate on warrants or accounts. Sect. 9. *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 and benefit, any emolument or gain for negotiating or transacting any business in either of their departments, other than is allowed them by law; neither shall either of them offer or receive any warrant, audited order, or account, on any pretence whatever, at less value than is expressed therein.

Treasurer to redeem all warrants with specie. Sect. 10. *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 provision of this act, and the treasurer shall (when such warrants are presented to him for that purpose) redeem the same with such money as may be in the treasury, (not otherwise appropriated) in the same manner and form as is by this act directed; and when warrants are redeemed as aforesaid, the auditor and treasurer shall so mark the same as to prevent their further circulation,

Treasurer to deposit redeemed warrants with the auditor. Sect. 11. *Be it further enacted,* That it shall be the duty of the treasurer, on the first Monday of March, June, September and December, in each and every year, to deposit the bills redeemed at the treasury, in the office of the auditor, and take the auditor's receipt therefor, and file the same in his office; and the auditor shall enter a credit to the treasurer for the amount of redeemed bills, by him thus deposited in the office of the auditor.

Sect. 12. *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 a sum not exceeding one thousand dollars, at the discretion of the court having jurisdiction thereof, and shall also be liable for damages.

Auditor or treasurer for neglect of duty.

How punished.

Sect. 13. *Be it further enacted*, That from and after the passage of this act, there shall be paid to the auditor of public accounts, annually, as his salary, the sum of twelve hundred dollars, to be paid out of the state treasury, as shall become due quarterly; and there shall be paid to the state treasurer, annually, as his salary, the sum of five hundred dollars, to be paid out of the state treasury, as it shall become due quarterly, and that so much of the act defining the salaries of certain officers, as defines the salaries of the auditor and treasurer of state, be, and the same is hereby repealed.

Auditor his salary.

Treasurer his salary.

To be paid quarterly yearly.

Sect. 14. *Be it further enacted*, That it shall be the duty of the auditor to deliver to any person calling therefor, any certified copy of surveys, or other documents in his office: *Provided*, The party so applying, shall pay to the said auditor, twenty-five cents for each copy of survey, and twelve and an half cents for every hundred words contained in any copy of documents.

Auditor to give copies of entries, &c.

Compensation.

Sect. 15. *And be it further enacted*, That the act defining the duties of auditor and treasurer, passed the twenty-first day of February, one thousand eight hundred and five, and the act amendatory thereto, passed the twenty-second day of January, one thousand eight hundred and six, and all other acts, and parts of acts heretofore passed on that subject, be, and the same are hereby repealed.

Repealing clause.

**Commence-
ment.** This act shall take effect and be in force, from
and after the passage thereof.

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 18th, 1809.

CHAPTER LIII.

AN ACT providing for the election of justices of the peace.

Justices to take oath forthwith.	Sect. 1. Be it enacted by the general assembly of <i>the state of Ohio</i> , That whenever a person is elect- ed to the office of justice of the peace, and re- ceives a commission from the governor, he shall forthwith take the necessary oaths or affirmations, appertaining to said office, before the clerk of the court of common pleas, of his respective county,
To be cer- tified within 10 days.	(who is hereby authorized to administer the same) or before some other person duly authorized to administer oaths, who shall, within ten days, cer- tify the same to the clerk of the court aforesaid, and who in either case shall make a record of it, in a book to be by him provided, and every jus- tice of the peace so qualified, shall within five days
Enter into bond in five days.	thereafter, enter into bond, with at least two suffi- cient securities, with a penalty of not less than two hundred dollars, nor more than one thousand dollars, at the discretion of the trustees of the
Condition.	township, conditioned that he will well and truly pay over, according to law, all monies that may come into his hands, by virtue of his commission, which bond may be sued for by any person injur- ed in like manner, and with like effect as bonds given by sheriffs are, and transmit the date of his qualification to the clerk of his proper township,
How reco- vered.	who shall forthwith make an entry of the same, in a book to be by him provided for that purpose.

Sect. 2. *Be it further enacted,* That every justice of the peace, now holding a commission, and acting as such, shall forthwith transmit to the clerk of his proper township, the date of his qualification to office, who shall make an entry of the same as heretofore provided, and at least sixty days previous to the expiration of the time for which any justice is elected, the said clerk shall give to the trustees of his township, a written notice, specifying the day on which said justice's time of service will expire, and thereupon the said trustees shall immediately advertise an election to fill such vacancy.

Justices to transmit within sixty days of the expiration of their commissions.

Vacancies how filled.

Sect. 3. *Be it further enacted,* That whenever 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 day of election, and the clerk of the said court shall transmit a copy of the proceedings thereon, to the trustees of the same, who shall immediately warn a meeting of the electors, to elect the said justices so determined on; and if there be no trustees within the bound of said township, the said court shall cause their clerk to give notice of such election; and at all times when a vacancy happens, by death, removal or otherwise, it shall be the duty of said trustees to cause an election, to fill such vacancy.

In case of a division of townships.

How to proceed.

Vacancies by death, &c.

Sect. 4. *Be it further enacted,* That whenever it shall be made to appear, to the satisfaction of the court of common pleas, of any county, within this state, that there is not a sufficient number of justices of the peace within any township thereof, the said judges are hereby authorized to add one or more justices to such township, (as to them may appear just) and the trustees shall warn a meeting of the electors of such township, to elect the said justice or justices so added;

Additional Justices.

How to be supplied.

and whenever it is made to appear to the court aforesaid, that it is expedient to decrease the number of justices of the peace in any township, the court may restrict the number of justices of the peace in such township (thereafter to be elected) to such number as they may deem proper.

How the number may be decreased

Notices of elections.

How and in what manner to be given and held.

Sect. 5. *Be it further enacted,* That all notices of elections under this act, shall be by setting up (at least ten and no more than twenty days before such election) three advertisements in three of the most public places in the proper township, specifying the number of justices to be elected, and the time and place where the election is to be held; and all elections shall be held and conducted in the same manner, and under the same regulations, as is required in the election of members to the general assembly.

Contests how to be carried on.

Sect. 6. *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 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 of such county, within six 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 whose election is contested, citing him to appear on such day, at some convenient place appointed by the judge aforesaid, in the township where the election was held, allowing the person whose election is contested, five days' notice of said contested election, specifying the name of the person who contests the same, and shall at the same 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.

Notices to be given to the parties.

Clerk's duty.

Sect. 7. *Be it further enacted,* That the judge aforesaid, on the same day that he issues notice to

the person whose election is contested, shall issue a summons to three respectable free-holders, 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.

Freeholders to be summoned.

Sect. 8. *Be it further enacted,* That when the said free-holders have met and taken the necessary oath or affirmation, before any judge or justice of the peace, they shall then proceed to hear and try such contested election, agreeable to the evidence, and when the contest is closed, they shall then sign and seal their decision, and if, by reason of the same, there should be a vacancy in the office of justice of the peace, they shall transmit it within three days to the trustees of said township, who shall forthwith warn a meeting of the electors to fill such vacancy, as in other cases; and if, by the decisions of the aforesaid free-holders, the election so contested remains good, and is not set aside, they shall transmit their said decisions to the clerk of the court of common pleas, who shall proceed thereon as if no contest had taken place.

Their duty.

If a vacancy.

How to be supplied.

Sect. 9. *Be it further enacted,* That in case the said free-holders, or any one of them, should fail to attend at the place and day pointed out in such notice, the said associate judge shall appoint such other free-holders as may enable them to proceed to try such contested election, who shall proceed in the same manner as is pointed out in the preceding sections.

In case of non-attendance.

Other free-holders to be summoned.

Sect. 10. *Be it further enacted,* That all resignations of justices of the peace shall be made to the clerk of the township wherein the officer so resigning, was elected, who shall forthwith make an entry of the same, and transmit within three days thereafter, a written notice of the same to the trustees of said township, who shall proceed there.

Vacancy by resignation, how supplied.

Books, &c. upon as in other case of vacancy ; and the said justice resigning shall, on doing so, deliver over to said township clerk, all books in his possession to be delivered up to clerk. belonging to the state, who shall deliver the same to the successor of said justice, when demanded.

Abstracts to be delivered to another justice Sect. 11. *Be it further enacted,* That all actions pending, and judgments unsatisfied, remaining on the docket of a 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 authorised 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 his 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.

Within 20 days.

Proviso.

In case of death.

Compensation of township clerks. Sect. 12. *Be it further enacted,* That the township clerk shall be allowed by the trustees of the proper township, a reasonable compensation for money expended in purchasing blank books, and for services rendered under this act, which shall be paid on the order of said trustees, out of the treasury of their proper townships.

Penalty for officers not performing their duty. Sect. 13. *Be it further enacted,* That if any officer who is required to perform any duty by this act, fails so to do, by neglect or otherwise, he shall forfeit, for each offence, a sum not exceeding five dollars, which penalty may be recovered be-

fore any justice of the peace, by action of debt, one half to the informer, and the other half to the use of the township where the offence shall have been committed.

Sect. 14. *And be it further enacted*, That all ^{Repeal.} laws and parts of laws heretofore passed on the subject of the election of justices of the peace, 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.}

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,
Speaker of the senate.

February 17th, 1809.

CHAPTER LIV.

AN ACT regulating the Muskingum Salt works.

Sect. 1. *Be it enacted by the general assembly* ^{Agent to be} of the state of Ohio, That there shall be appointed ^{appointed.} by the governor, an agent to superintend the public salt works in the county of Muskingum, to con- ^{Term of of-} tinue in office three years, commencing on the first ^{day of} day of March next, whose duty it shall be to lease the same, as herein after provided, and who shall ^{His duty.} previous to entering on the duties of his office, enter into bond, with sufficient security to the governor for the use of the state, in the penal sum of ^{To give} five hundred dollars, conditioned for the faithful ^{bond.} performance of the duties required by this act.

Sect. 2. *Be it further enacted*, That it shall be ^{Further du-} the duty of the aforesaid agent, previous to grant- ^{ty of agent.} ing a lease, to give at least fifteen days' notice by advertisement, in three public places in the aforesaid county, that he will attend at the aforesaid salt works, on a day certain, for the purpose of receiving proposals.

Agent's duty continued. Sect. 3. *Be it further enacted,* That the said agent shall attend at the time and place specified in his advertisements, to receive proposals from such persons as may wish to lease the works aforesaid ; and after receiving such proposals, he shall proceed to rent said works, together with the premises thereto belonging for the term of five years, to commence on the first day of April next, to the person or persons he may find to have made proposals, best calculated to promote the interest of the state, thereby granting to him or them, exclusively the right of making salt at the aforesaid works, and the privilege of cutting timber and fuel, sufficient for carrying on said works on the premises.

To take bond from persons leasing. Penalty. Condition. Sect. 4. *Be it further enacted,* That the aforesaid agent shall take a bond with sufficient security, from the person or persons so leasing, in a sum at least double the amount of the rents so promised to be paid, conditioned that the said lessee or lessees, shall well and truly pay unto the aforesaid agent, the rents that shall become due on the first day of April, annually ; and if the lessee or lessees shall fail to pay the rents that may become due as aforesaid, the agent may re-enter said premises, and shall again let the same as heretofore prescribed, and shall commence suit on such bond for the rents so due : and the aforesaid agent shall prohibit any unnecessary waste of timber, and bring suit or suits in behalf of the state, against any person or persons, who may have, or shall hereafter trespass on the aforesaid premises.

On failure to pay rent.

Agents further duty.

Property bound for payment of rent. Sect. 5. *Be it further enacted,* That for the better securing said rents, the kettles of the lessee or lessees, shall be considered to stand pledged to the state, until all arrears of rents are satisfied and paid ; and any private sale thereof made, while such rents remain due and unpaid, shall be void and of none effect.

Sect. 6. *Be it further enacted*, That the said Agent shall pay, annually, to the treasurer of this state, all monies he shall receive for the rents of the aforesaid works and premises; and the treasurer is hereby required to receipt for the same.

Sect. 7. *Be it further enacted*, That the agent aforesaid shall, on or before the sixth day of every annual session of the legislature, lay before, or transmit to the general assembly, an accurate statement of the rents contracted for, and also the amount by him received from the lessee or lessees aforesaid.

Sect. 8. *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 fifty dollars for each year he may continue in office: *Provided*, The annual rents of the aforesaid works and premises, by him paid to the treasurer of state, shall amount to the sum of one hundred dollars; but if the rents so paid shall not amount to that sum, the agent shall receive a sum equal to one half the rents he may, from time to time, pay into the treasury during his continuance in office; which compensation shall be audited by the auditor of public accounts, and paid by the treasurer of state, annually, out of any public monies in the treasury not otherwise appropriated.

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

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 15th, 1809.

CHAPTER LV.

AN ACT for the prevention of certain immoral practices.

Sect. 1. *Be it enacted by the general assembly of*

Sabbath breaking. *the state of Ohio*, That if any person or persons shall be found on the Sabbath day, sporting, gaming, rioting, quarreling, hunting, horse racing, shooting, or at common labor, (works of necessity excepted) the person or persons so offending, shall be fined in a sum, not exceeding five dollars:

How punished.

Proviso. *Provided*, That nothing herein contained, shall be so construed as to prevent families emigrating, from travelling, watermen from landing their passengers, or ferry-men from conveying over the waters, travellers or persons removing with their families, on the Sabbath day.

Persons disturbing religious societies, &c. Sect. 2. *Be it further enacted*, That if any person shall, at any time, interrupt, molest or disturb any religious society, or any member thereof, when meeting or met together for the purpose of worship, or of performing any other duties enjoined on, or appertaining to them as members of such society, the person or persons so offending, may be arrested and detained in custody not exceeding six hours at any one time, and shall be fined in a sum not exceeding twenty dollars.

How punished.

Profane swearing. Sect. 3. *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, each and every person so offending, shall be fined in a sum not exceeding one dollar, nor less than twenty-five cents, for every such offence.

how punished.

Persons disturbing the citizens when met at elections, &c. Sect. 4. *Be it further enacted*, That if any person or persons shall be found making or exciting any contention or disturbance, at any tavern, court, election or other meeting of the citizens, for the purpose of transacting or doing any business appertaining to, or enjoined on them, the person or persons so offending, shall be fined in a sum not exceeding five dollars, nor less than fifty cents, each—and, if necessary, imprisoned

how punished.

until such meeting shall be ready to disperse :
Provided, The time for which such person or persons may be confined, shall not exceed six hours. Proviso.

Sect. 5. *Be it further enacted*, That if any person or persons shall play bullets, or run any horse or horses along any street, in any town or village, every person or persons so offending, shall be fined in a sum not exceeding five dollars, nor less than fifty cents. Bullet playing and horse racing in towns, &c. how punished.

Sect. 6. *Be it further enacted*, That if any person or persons shall be found cock-fighting, horse-racing, bullet playing, billiard playing, card playing, or engaged in any other species, kind or way of gambling, at any game of hazard or chance, under any pretence whatever, for any sum or sums of money, or other article of value, every person or persons so offending, shall be fined in any sum not exceeding twenty-five dollars, nor less than two dollars for every such offence : And if any person or persons shall lose any money or other article of value, by practising or playing at any of the games aforesaid. or betting thereon, the person or persons 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 such sum or sums of money or other valuable article, lost as aforesaid, or any part thereof, shall be utterly void and of no effect. Gaming, how punished. Persons losing money, &c. at play, not bound to pay. Obligations given for money lost at play, to be void.

Sect. 7. *Be it further enacted*, That if any person or persons shall lose any money, or other thing of value, at or upon any game of hazard or chance, as aforesaid, and shall pay or deliver the same, or any part thereof, the person or persons so losing and paying, or delivering the same, (or any friend or relation for his or their use) shall have a right within thirty days thereafter, to sue for and recover the same. Persons losing money or goods at play, and paying the same, to recover the same.

ver the money or goods so lost and paid or delivered, or any part thereof, from the respective winner or winners thereof, with costs of suit, by action of debt or case, for the value of the money or thing so lost, founded on this act, and to be prosecuted in any court of competent jurisdiction.

Duty of the supreme judges, president of the courts of com. pleas, and justices of the peace. Sect. 8. *Be it further enacted,* That the judges of the supreme court, severally, throughout this state—every president of the courts of common pleas within his circuit—every associate judge of the courts of common pleas within his proper county, and every justice of the peace within his township, are hereby empowered, authorised and required to proceed against and punish every person offending against this act; and for that purpose each of the said judges or justices severally, may, upon view and hearing, or on information, shall issue (if need be) a warrant or summons (according to the circumstances of the case) to bring the body of the person accused before him, and shall, in a summary way, enquire into the truth of the accusation, and upon the testimony of one or more credible witnesses, shall convict the person who shall be guilty, and shall enforce the penalty by this act annexed to the offence.

Fines collected to be paid into the township treasury. Sect. 9. *Be it further enacted,* That all fines collected under the provisions of this act, shall be paid into the township treasury, for the use of the township in which the offence shall have been committed, within twenty days.

Repealing clause. Sect. 10. *And be it further enacted,* That an act for the prevention of certain immoral practices, passed February fourteenth, eighteen hundred and five, is hereby repealed.

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

ALEXANDER CAMPBELL,
Speaker of the house of representatives.
THOMAS KIRKER,

February 9th, 1809.

Speaker of the senate.

CHAPTER LVI.

AN ACT for the laying out and leasing section number sixteen, in fractional township number four, second fractional range of the townships in the Miami purchase.

Sect. 1. *Be it enacted by the general assembly* **Three trustees and one treasurer to be elected on the first Monday of March, annually.**
of the state of Ohio, That the electors within the fractional township number four, in the second fractional range of townships, in the Miami purchase, shall meet at the house of Samuel Muckmore, at ten o'clock, on the first Monday of March, annually, ten days' notice having been previously given by advertisement, set up at three of the most public places, by two or more of the citizens of said township, and proceed to elect, by ballot, three trustees and one treasurer, to perform the duties required by this act ; the election to be conducted in the same manner, as elections for township officers.

Sect. 2. *Be it further enacted,* **To take an oath, &c. and appoint a clerk.**
 That the trustees and treasurer thus elected, shall severally take an oath or affirmation, before any justice of the peace or associate judge, to discharge, with fidelity, the duties of their respective offices ; and when thus organized, the said trustees, or any two of them, shall appoint a clerk, who may or may not be of their own body ; and the said clerk being duly sworn to discharge the duties of his office, with fidelity, shall keep a fair and accurate record of their proceedings in a book or books, by him procured for that purpose.

Sect. 3. *Be it further enacted,* **Their continuance in office.**
 That the trustees and treasurer shall hold their offices one year, and until their successors in office, are chosen and qualified. And it shall be the duty of the clerk of said board, to demand and receive from the trustees, all leases by them executed, and make a fair record of the same.

Sect. 4. *Be it further enacted,* **Further duty of the clk.**
 That the trustees

Justices to appoint a surveyor or three free-holders. **tees aforesaid, shall appoint a skilful surveyor to lay off such section into such lots, as they shall direct; also, they shall appoint three disinterested free-holders, living in said township, who, after being duly sworn to discharge the duties of their offices, with fidelity, shall proceed to value the several lots of land laid out as aforesaid: *Provided*, That none of said land shall be valued at a less sum than two dollars per acre, and subject to a re-valuation every fifteen years, without taking into view the improvements made thereon, by any lessee or lessees.**

Proviso. ***Provided*, That none of said land shall be valued at a less sum than two dollars per acre, and subject to a re-valuation every fifteen years, without taking into view the improvements made thereon, by any lessee or lessees.**

Trustees authorised to grant leases, &c. **Sect. 5. *Be it further enacted*, That the said trustees be, and they are hereby authorised to lease out, to any person or persons, such part or parts of said section, for the term of ninety-nine years, and renewable forever: *Provided*, That any person or persons holding more than one lot of land, he shall be entitled to have the whole amount of acres included in one lease, so that it does not exceed fifty acres; *and provided*, That no lot shall be leased for less than six per centum on its valuation.**

Proviso. ***and provided*, That no lot shall be leased for less than six per centum on its valuation.**

Surveyor to lay out streets and roads. **Sect. 6. *Be it further enacted*, That the trustees aforesaid shall direct the surveyor, by them appointed agreeably to the provisions of this act, to lay out such streets or roads through the aforesaid section, as they shall deem necessary for the convenience of the lessees and the public in general. In all cases where lots are to be let out, it shall be the duty of the trustees to advertise the same, in three of the most public places in the township, at least three weeks, specifying the lots to be let out.**

3 weeks' notice to be given. **it shall be the duty of the trustees to advertise the same, in three of the most public places in the township, at least three weeks, specifying the lots to be let out.**

Rent to whom and when to be paid. **Sect. 7. *Be it further enacted*, That the rent of the land aforesaid, shall be paid by the lessee or lessees, to the treasurer above mentioned, on or before the first day of April, annually; the first payment to be made on the first day of April, one**

thousand eight hundred and ten. On failure of the payment, it shall be the duty of the treasurer aforesaid, when so directed by the trustees, to bring a suit in the name of the trustees, before any court having cognizance thereof; and, on final process, if no goods and chattels can be found, whereby distress can be made—or if *mesne* process cannot be served, upon the return of the same, the trustees are thereupon authorised to re-enter upon the land of the delinquent or delinquents, and sell, at public vendue, his or their right and title in the said lease or leases, to satisfy such rent and costs; in which case the trustees shall give twenty days' previous notice of the time and place where the said lease or leases will be sold, by advertising the same in three of the most public places in the county, subjecting the purchaser or purchasers to the conditions contained in the lease or leases of the delinquent or delinquents; and in case the said lease or leases shall sell for more than the rent and costs, the surplus shall be paid over to the delinquent or delinquents.

On failure, treasurer to bring suit.

Proceedings thereon.

Sect. 8. *Be it further enacted.* That all funds arising from the sale of the leases of the aforesaid section, number sixteen, shall be appropriated for the use of schools, as the trustees shall direct, within the township.

Fines arising how appropriated.

Sect. 9. *Be it further enacted,* That the trustees, treasurer, clerk, surveyor and appraisers, shall receive, for their services under this act, the following sums, viz: For the time they are necessarily employed on said business—to the surveyor, one dollar and fifty cents per day; each chain-carrier and marker, seventy-five cents per day, and the treasurer three per cent. on all monies he shall receive; the trustees, seventy-five cents per day, each; the appraisers, seventy-five cents per day, each; and the clerk, such a sum as the trustees shall think proper. The expences of

Trustees, treasurer, clerk and surveyor, &c.

Compensation.

surveying, laying out and leasing the section aforesaid, shall be paid by the lessee or lessees in such proportion as the trustees shall direct, and all expences afterwards shall be paid out of the funds arising out of the leases, by orders drawn on the treasurer by the said trustees.

Repealing
clause.

Sect. 10. *And be it further enacted*, That so much of the act, entitled "An act to incorporate the original surveyed townships," as respects fractional township, number four, second fractional range of townships in the Miami purchase, be, and the same is hereby repealed.

Commence-
ment.

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

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

January the 24th, 1809.

RESOLUTIONS, &c.

Resolution instructing our senators and representative in congress, to endeavor to procure an extension of the time for completing the payment of the purchase money on the lands heretofore purchased from the United States.

IN SENATE—SATURDAY, DECEMBER 10th, 1808.

WHEREAS it is well known to this general assembly, that a very great number of our citizens have purchased lands of the United States, at the several land offices within this state, and have paid part of the purchase money, and made large improvements on the lands so purchased, thereby increasing the value of them, and the public lands unsold: That many of them, at the time they purchased, had money due to them in the states from whence they emigrated, upon the collection of which they depended, to enable them to fulfil their engagements with the United States. Others considering the terms of payment generous, particularly since the very interesting (and to the people of the western country, all important purchase of the Louisianas) were induced to rely on the produce of their improvements, which they confidently expected would enable them punctually to pay for their lands.

And whereas the unprovoked aggressions of both England and France, which could neither be foreseen or evaded, has so materially affected

the whole commerce of the United States, that it has almost put a stop to our circulating medium, and rendered the payment of the instalments of the purchase money for the said lands almost impracticable; forfeitures of interest for two, three and four years, are daily accruing, and the loss of the lands, with all the improvements made thereon, must ensue, unless relief is obtained by the interference of congress :

Therefore,—*Resolved by the general assembly of the state of Ohio,* That our senators in congress be instructed, and our representative be requested to use their best endeavors to procure the passage of a law to extend the time for completing the payment of the purchase money on the lands heretofore purchased from the United States, upon such conditions, and for such a length of time, as to them, under existing circumstances, may seem just and right. And also, that the governor be requested to forward copies of the foregoing resolution, to our senators and representative in the congress of the United States.

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the Senate.

December 15th, 1808.

Resolution instructing our senators and requesting our representative in congress, to use their endeavors to procure an appropriation of money therein specified.

Resolved, by the general assembly of the state of Ohio, That our senators be instructed, and our representative be requested to use their endeavors to have such a sum of money appropriated for the payment of the expenditure occasioned by an order from the acting governor, for calling out and embodying the militia, in the first brigade and first division of Ohio; which documents have heretofore been forwarded to the secretary of war, by the governor of the state of Ohio: Also an appropriation of four hundred and thirty-two dollars and forty-six cents, which has been paid by the state of Ohio, to carry into effect, an act of the legislature of said state, to prevent certain acts hostile to the United States within the state of Ohio. And, that the governor be instructed to forward copies of this resolution to our senators and representative in the congress of the United States.

ALEXANDER CAMPBELL,

Speaker of the house of representatives,

THOMAS KIRKER,

Speaker of the senate.

December 18th, 1808.

Attest,

TH: SCOTT, c. s.

Resolutions approving the measures pursued by the general government, &c.
STATE OF OHIO.—IN GENERAL ASSEMBLY.

At a moment, when the rights of our country have been assailed, by the repeated aggressions of Great Britain and France, who, regardless of the law of nations, and every tie heretofore held sacred among men, have violated our neutral rights, impressed, and murdered our unoffending citizens, attacked our national independence, and attempt-

ed to prostrate our commerce at the feet of their tyranny ; the citizens of Ohio, inspired with an ardor for the preservation of their rights, do cordially join heart and hand, with our sister states, in the common defence of our country ; and are ready at all times to rally round the standard of liberty, to chastise the arrogance of those who attempt to invade our sacred independence : Therefore,

Resolved, by the general assembly of the state of Ohio, That this state do highly approve of the firm, patriotic conduct of the general government, in adopting the pacific measures to which they have resorted for the preservation of our property, our seamen and our national honor.

Resolved, That should war be our fate, however deplorable the evil, when called by our country, we are ready to share in its calamities ; and trusting in the God of battles, we do pledge our lives and fortunes to preserve and maintain the independence, so dearly purchased by the heroes of the revolution.

Resolved, That the governor of this state, be requested to transmit copies of the foregoing resolutions to the president of the United States, the vice president, the speaker of the house of representatives in congress, and to our senators and representative in the general government.

Attest,
TH : S. HIND, C. H. R.

ALEXANDER CAMPBELL,
Speaker of the house of representatives.

THOMAS KIRKER,
Speaker of the senate.

February 11th, 1809.

Resolution directing the public printer to print an extra number of the act for disciplining the militia.

IN GENERAL ASSEMBLY.

Resolved, by the general assembly of the state of Ohio, That the public printer be directed to print two thousand five hundred copies of the militia law, separate from the other laws of the state, to be forwarded as soon as possible by the secretary of state, to the maj. Generals, who shall cause one copy to be delivered to each of the commissioned and staff officers, in their several divisions.

Attest, TH : S. HINDE, C. H. R. ALEXANDER CAMPBELL,
February 14th, 1809. *Speaker of the house of Representatives.*

Attest,
TH : SCOTT, C. S. THOMAS KIRKER,
Speaker of the senate.

A resolution for distributing the proportion of non-remainants' tax, due the several counties in the Virginia military district.

IN GENERAL ASSEMBLY.

Resolved, by the general assembly of the state of Ohio, That the auditor of public accounts be, and he is hereby directed to issue his orders on the collector of the non-resident tax for the second collection district, in favor of the following counties, for the sums attached to each, as hereafter mentioned, it being the proportion of non-residents' tax, due for the year one thousand eight hundred and eight, on lands situated in the Virginia military district, to wit :

To the treasurer of Adams county, for the sum of three hundred and ninety dollars : To the treasurer of Champaign county, for the sum of two hundred dollars : To the treasurer of Clermont county, for the sum of four hundred dollars : To the treasurer of Delaware county, for the sum of four hundred and fifty dollars : To the treasurer of Franklin county, for the sum of seven hundred dollars : To the treasurer of Green county, for the sum of one hundred dollars : To the treasurer of Hamilton county, for the sum of fifty-five dollars : To the treasurer of Highland county, for the sum of two hundred and eighty-two dollars : To the treasurer of Scioto county, for the sum of two hundred dollars : To the treasurer of Warren county, for the sum of two hundred and seventy dollars ; deducting from the several sums herein before mentioned, twenty per cent. to make good their part of the appropriations of defalcations, occasioned by lands being twice, or improperly charged for tax.

Attest,

TH : S. HINDE, C. H. R.

ALEXANDER CAMPBELL,
Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 18th, 1809.

Resolution on the subject of appointing commissioners for ascertaining; running and marking the western and northern boundary lines of the state of Ohio.

WHEREAS great inconvenience has been, and is daily occurring, in consequence of the western and northern boundary lines of the state not being ascertained : Therefore,

Resolved, by the general assembly of the state of Ohio, That our senators in congress be instructed, and our representative requested, to use their best endeavors to have a commissioner appointed on the part of the United States, to act jointly with such commissioner as may be appointed on the part of this state, to ascertain, run and mark the western and northern boundaries thereof.

Attest, TH. S. HINDE, C. H. R.

February 17th, 1809.

ALEXANDER CAMPBELL,
Speaker of the house of representatives.

Attest,

THOMAS SCOTT, C. S.

THOMAS KIRKER,
Speaker of the senate.

Resolution instructing and requesting our senators and representative in congress, to use their endeavors to procure a road to be made from the Indian boundary line to Sandusky bay.

WHEREAS salt is an article of primary demand—and notwithstanding the many salt springs abounding in the western countries, through the rapid emigration to the state of Ohio, a much greater quantity of said article is necessary to supply the demands of the inhabitants, than can at all times be procured, (especially in the interior parts of this state) without having recourse to a more foreign market ; and inasmuch as a competent supply may be had from Onandago salt-works, by way of Lake Erie, provided a road can be had from the north boundary of

Champaign county, through the territory of the Indian tribes, to Sandusky bay, and notwithstanding some of the chiefs of said tribes have signified their approbation to such a measure, yet the object cannot be obtained without the interference of the general government: therefore,

Resolved, by the general assembly of the state of Ohio, That our senators and representative in congress of the United States, be instructed and requested to use their endeavors to have such measures adopted as will procure from the Indian tribes who own the land between the heads of Mad river and the Sandusky bay, the privilege to lay out, survey, open and keep in repair, a road from the Indian boundary line, at or near the head of Mad river, on the most eligible route to said Sandusky bay; and that the governor be requested to forward a copy hereof to our senators and representative in congress.

Attest, TH. S. HINDE, C. H. R. ALEXANDER CAMPBELL,
Speaker of the house of representatives.

February 18th, 1809.

THOMAS KIRKER,
Speaker of the senate.

Resolution appointing commissioners to fix the seats of justice of certain counties.

Resolved, by the general assembly of the state of Ohio, That John Hackewalder, of Muskingum county, John McConnel, of Columbiana county, and Moses Ross, of the county of Jefferson, be, and they are hereby appointed commissioners to fix the seats of justice in the counties of Wayne and Richland; and after having agreed on the place for the seat of justice in the county of Wayne, they shall make report thereof to the next court of common pleas to be held in the county of Stark: And in like manner, after having agreed on the place for the seat of justice for the county of Richland, they shall make report thereof to the next court of common pleas to be held in the county of Knox.

Resolved, also, That Rudolph Bair, Abraham Tappin and William Harper, be, and they are hereby appointed commissioners to fix upon the proper place for the seat of justice for the county of Cuyahoga, who shall make their report to the court of common pleas for the county of Geauga, and be paid for their services out of the treasury of said county; and,

Resolved, also, That David H. Morris, John Miller and William Brown, be, and they are hereby appointed commissioners to fix upon a proper place for the seat of justice in the county of Dark, who shall make their report to the court of common pleas for the county of Miami.

Attest, TH. S. HINDE, C. H. R. ALEXANDER CAMPBELL,
Speaker of the house of representatives.

February 20th, 1809.

THOMAS KIRKER,
Speaker of the senate.

Resolution for the distribution of the laws to the several counties.

IN GENERAL ASSEMBLY.

Resolved, by the general assembly of the state of Ohio, That when the

laws of the present session are printed, the secretary of state shall immediately transmit to the clerks of the courts of common pleas for the several counties, the numbers, as follows, to wit :

	Copies.
To the clerk of Geauga,	65
To the clerk of Portage,	55
To the clerk of Trumbull,	100
To the clerk of Columbiana,	150
To the clerk of Muskingum,	85
To the clerk of Jefferson,	200
To the clerk of Stark,	35
To the clerk of Tuscarawas,	40
To the clerk of Belmont,	160
To the clerk of Galia,	70
To the clerk of Washington,	90
To the clerk of Athens,	40
To the clerk of Fairfield,	110
To the clerk of Licking,	50
To the clerk of Knox,	45
To the clerk of Delaware,	40
To the clerk of Franklin,	65
To the clerk of Ross,	200
To the clerk of Scioto,	60
To the clerk of Adams,	160
To the clerk of Highland,	90
To the clerk of Clermont,	100
To the clerk of Hamilton,	160
To the clerk of Butler,	130
To the clerk of Preble,	50
To the clerk of Montgomery,	80
To the clerk of Miami,	55
To the clerk of Champaign,	80
To the clerk of Green,	80
To the clerk of Warren,	140
To the clerk of Richland,	33
To the clerk of Wayne,	35

And such a number of the journals of both houses, as shall be proportioned to the laws.

Resolved, That the number of laws given to the counties of Richland and Wayne, be sent to the clerks of the counties to which they are attached, to be distributed in the said new counties.

Resolved, That the governor of this state be requested to transmit to the executive of the several states, one copy of the laws of the present session.

Attest,
TH : S. HINDE, C. H. R.

ALEXANDER CAMPBELL,
Speaker of the house of representatives,
THOMAS KIRKER,
Speaker of the senate.

February 20th, 1809.

Resolution appointing a surveyor, register and treasurer, for the lands granted by congress for the use of schools in the Virginia military district.

Resolved, by the general assembly of the state of Ohio, That Abraham Shepherd be, and he is hereby appointed surveyor, Winn Winship jr. register, and Cadwallader Wallace treasurer, agreeable to the provisions of the act, entitled "An act directing in what manner certain lands granted by congress for the use of schools in the Virginia military tract, shall be surveyed and disposed of"; and that Michael Thomas be appointed a commissioner to act with the commissioners already appointed, to lay out and make a road from Chillicothe to Franklinton.

Attest, TH: S. HINDE, C. H. R. ALEXANDER CAMPBELL,
Speaker of the house of representatives
 THOMAS KIRKER,
Speaker of the senate.

February 20th, 1809.

A Resolution allowing the further time of two weeks, to Joseph S. Collins and company, to complete the public printing.

IN GENERAL ASSEMBLY.—Resolved, by the general assembly of the state of Ohio, That Joseph S. Collins and company, be allowed two weeks, in addition to the time specified in their contract, to complete the public printing of the present session.

Attest, TH: S. HINDE, C. H. R. ALEXANDER CAMPBELL,
Speaker of the house of representatives.
 THOMAS KIRKER,
Speaker of the senate.

February 20th, 1809.

A Resolution authorizing the governor to appoint commissioners for certain purposes.

IN GENERAL ASSEMBLY.—Resolved, by the general assembly of the state of Ohio, That in the event of commissioners being appointed on the part of the United States, to ascertain and mark the northern and western boundaries of this state, during the recess of the legislature, the governor be authorized to appoint two suitable persons for that purpose, on the part of this state.

Attest, TH: S. HINDE, C. H. R. ALEXANDER CAMPBELL,
Speaker of the house of representatives.
 THOMAS KIRKER,
Speaker of the senate.

February 20th, 1809.

Resolution directing that the door-keepers of the senate and house of representatives, take charge of and preserve the furniture of their respective houses.

IN GENERAL ASSEMBLY.—Resolved, by the general assembly of the state of Ohio, That the door-keeper of the senate, and the door-keeper of the house of representatives, shall take charge of and preserve in good order, the furniture of their respective houses, and have the same in proper order and place for the general assembly, on the

first Monday in December next, or at any preceding time, should the legislature be convened, and that each door-keeper shall forward to the secretary of state, all books in possession of their respective houses, the property of the state.

Resolved, That immediately after the rising of this legislature, the clerks of the respective branches shall make a true and perfect inventory of all papers belonging to the state, in their possession, and within ten days thereafter shall deliver the same, properly filed, together with the inventory, to the treasurer of state, whose duty it shall be to receive and keep the same, subject to the order of any future legislature.

ALEXANDER CAMPBELL, Speaker of the house of representatives.
 THOMAS KIRKER, Speaker of the senate.
 Attest, TH. S. HINDS, C. H. R.
 February 20th, 1809.

A resolution, supplementary to the resolution fixing the seats of justice in certain counties.

Resolved, by the general assembly of the state of Ohio, That the resolution to which this is an amendment, be altered so as to read John Hoekewolder, of Tuscarawas county.

ALEXANDER CAMPBELL, Speaker of the house of representatives.
 THOMAS KIRKER, Speaker of the senate.
 Attest, TH. S. HINDS, C. H. R.
 February 21st, 1809.

A resolution instructing the public printer to print a certain number of copies of the laws of the present session of this legislature.

IN GENERAL ASSEMBLY.—*Resolved*, by the general assembly of the state of Ohio, That the public printer be instructed to print three thousand copies of the laws of the present session, for the use of the state, and such other laws of a general nature as is agreed upon by the present legislature.

ALEXANDER CAMPBELL, Speaker of the house of representatives.
 THOMAS KIRKER, Speaker of the senate.
 Attest, TH. S. HINDS, C. H. R.
 February 21st, 1809.

A resolution directing what laws of a general nature shall be printed for the use of the new counties.

IN GENERAL ASSEMBLY.—*Resolved*, by the general assembly of the state of Ohio, That one thousand copies of the laws herein after mentioned, be printed for the use of such new counties as have been organized since the year eighteen hundred and five, viz.

An act regulating the fees of civil officers, in civil and criminal cases. An act allowing and regulating writs of attachment. The act defining the duties of persons taking up estray animals, and the several acts supplementary thereto. An act defining a lawful fence, &c. An act establishing board of commissioners. An act to provide for the

incorporation of townships. An act regulating the mode of petitioning the legislature.

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 21st, 1809.

Resolution for the distribution of extra number of the militia law, ordered to be printed.

Resolved, by the general assembly of the state of Ohio, That the secretary of state be, and he is hereby directed to have the extra copies of the militia laws which are now printing, distributed immediately to the respective major generals, as near as may be according to the number of officers in each division, and that the expences of distributing said militia laws, be paid out of the money appropriated for distributing the laws and journals of the present session.

Attest, TH. S. HINDE, C. H. R. ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

February 21st, 1809.

A resolution recommending to the members of the next legislature, to appear clothed in home manufacture.

Resolved, by the general assembly of the state of Ohio, That it be recommended to the next legislature to appear on the first Monday in December next, at the seat of government, clothed in home manufacture.

ALEXANDER CAMPBELL,

Speaker of the house of representatives.

THOMAS KIRKER,

Speaker of the senate.

Attest, TH. S. HINDE, C. H. R.

February 21st, 1809.

Secretary of state's office,

CHILLICOTHE, OHIO.

I CERTIFY the foregoing laws and resolutions of the general assembly of the state of Ohio, to be correct copies of the original rolls remaining in this office.

Attest,

JEREMIAH M'LENE,

April 24th, 1809.

Secretary of the state of Ohio.

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